

**Deputation to Prince Edward County, Committee of the Whole:
Draft bylaw on Lawn Naturalization Thursday April 14, 2023**

Thank you for the opportunity to comment today on an important issue before Council and this Committee. My deputation is offered in the context of my work as Professor in the School of Planning and Director of the [Ecological Design Lab](#) at Toronto Metropolitan University. Our work in the lab focuses on urban biodiversity, and in particular, on [bylaws and ordinances that support and enhance biodiversity through lawn naturalization and healthy yard practices](#). We have developed a [model bylaw](#), a [toolkit](#) for planners, [planting guidelines](#) for communities, and several published [reports](#) that analyse and compare municipal bylaws for biodiversity across North America. We also have an in-depth guide to lawn naturalization available on our website. We were pleased to provide advice before PEC's Environmental Advisory Committee in 2021 during the development of this draft bylaw. In the past three years, we have been regularly asked to provide advice and support for municipalities across Ontario (and elsewhere) which are updating their bylaws to support biodiversity, pollinator pathways and healthy landscapes for climate resilience.

We also provide advice in court, as expert witnesses in legal cases brought by citizens against municipalities whose bylaws are being challenged as unconstitutional. We have won and settled two of those cases, with another two in progress. I offer this context to underscore that lawn naturalization and the support of biodiversity on private property is very much a current issue and bylaws are under scrutiny across the province. I commend PEC for undertaking this timely and important revision of this bylaw at an opportune moment.

The public benefits of this bylaw are clear and many. In 2019 PEC declared in climate emergency. In the same year, the global [Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services \(IPBES\)](#) released a dire [report](#), naming the global biodiversity crisis, and warning of a catastrophic loss of species in progress. The UN recognizes that [biodiversity is our strongest natural defence against climate change](#). We know that to address climate resilience, we must protect biodiversity and create habitats for other species. While public spaces such as parks and protected areas are important, most of the lands here in southern Canada and in PEC are in private ownership. The role of the private property owner is critical and we can, with good policies and supportive bylaws, support biodiversity on and across private land within our communities. Specifically, can ground and amplify support for biodiversity (for nature) at home, in our yards and gardens. Research shows that climate anxiety is growing, and people often feel helpless. ***But hope lies in the garden, at home in our yards: PEC's draft bylaw offers our community both hope and opportunity to do something tangible, something positive and healing that builds connections and supports biodiversity and climate resilience.***

Of the 14 municipalities' updated and draft bylaws that were recently reviewed and advised through our lab, the PEC draft bylaw is one of the better examples. For this we offer kudos to Prince Edward County. (You may wish to know that we advised the City of Kingston to review PEC's draft bylaw as a helpful example.) Yet there is still work to be done to improve and

strengthen this draft. **We offer the following advice and recommend you address these in the bylaw before approval:**

1. We urge you to amend the language of “allowing” lawn naturalization. The Ontario Superior Court has already ruled that a person has the right to naturalize their yard. In 1996, in *City of Toronto vs. Sandra Bell*, Justice Fairgreaves ruled that a person’s yard or garden is place for their freedom of expression, and specifically he upheld “the right to express their environmental values”. Our legal team successfully argued this point before the Ontario Court again in 2022, against the Town of Smith’s Falls, which was ordered to pay costs to the property owner who brought the case. To this end, we respectfully advise that PEC’s bylaw cannot “allow for the naturalization of yards” because property owners already have this right. The County simply needs to *uphold that right* in the bylaw. **We recommend the language of the bylaw is better stated as “supporting the rights of property owners to naturalize their yards”.**

2. The draft definition in 1B of “lawn area” is incorrect: a “lawn” means a monocultural crop of maintained turfgrass. A more **appropriate definition for 1B is “yard”** which here means a privately owned area of ground on a lot (per 1C) that may include (but is not restricted to) uses such as garden, playspace, lawn, treed area, vegetable beds, or vacant lot etc.

3. The draft definition in 1D of “naturalized areas” as “a reproducing population of native species” is problematic. We commend the County for supporting both “natural regeneration” and “deliberate plantings of native species”. However, it would be impractical and worrisome to exclude ANY non-native species from naturalization. **We recommend against defining naturalization to mean exclusively native plants.** A better course of action would be to define “naturalization” as “spontaneous and deliberately planted native species and selected cultivars” (so long as none of these are on the prohibited plants list).

4. The **prohibited plant list (1L; Schedule A) should be restricted to and aligned with the species listed as Noxious Weeds under the Provincial Weed Control Act.** The additional 6 prohibited local “weed” species list is concerning for FOUR reasons:

- First, there is no evidence that the bylaw enforcement officer or staff member will be able to correctly identify these plants or distinguish them from native or cultivated species.
- Second, there is no provision for additional and ongoing staff education to ensure County staff receive training in plant identification specific to the provincial and local plant lists.
- Third, it’s unclear if or how the County will maintain the same standards on municipal properties, which should be subject to the same maintenance requirements as private property. Unmaintained public lands can be a significant source of weed seeds for local gardeners. If not using herbicides, it can take a lot of time, resources, and ongoing effort to eliminate many of the species on this list.
- Fourth, any local prohibited plant list should be made through early and regular consultation and engagement with farmers as well as Indigenous communities and the list should be developed together. Advice should be sought from the [Kenhteke Seed](#)

[Sanctuary](#) and the Tyendinaga community (Mohawks of the Bay of Quinte) to ensure that all plants being considered for prohibition or restriction are vetted for medicinal, spiritual and cultural values before inclusion on a list. This process takes time and trust-building and is unlikely to be complete before the bylaw is enacted. It should also take place in tandem with Staff training and public education programs.

For these reasons, we **advise the County to align with the Provincial Noxious Weed list and to adopt an educational and training strategies instead of prohibition of additional plants.**

Education programs should be two-pronged: aimed at internal training for staff and external education opportunities and structured programs with community partners for the public at large.

and finally,

5. We recommend that PEC follow the examples of the City of Fredericton and the City of Brampton and **eliminate the 20cm height restriction on turfgrass**. Our research shows that most property owners begin a naturalization process by converting small pockets of lawn. If the bylaw forces people to continuously cut their lawns, it will be difficult to support naturalization initiatives. For example, Master Gardeners groups report that most people don't undertake a complete, major lawn conversion. It's much easier to start planting within an existing lawn. In this way, a 20cm height limit on turfgrass poses a barrier to biodiversity as well as to the tentative gardener who wishes to experiment gently with naturalization, because for many people, this is the most manageable option. In anticipation and support of *No Mow May*, there are many helpful options on our lab and partners' websites for converting turfgrass to a living lawn. See for example the info session online provides by Kingston's Master Gardeners: <https://rideau1000islandsmastergardeners.com/2023/03/18/biodiversity-starts-with-a-living-lawn/>

Overall, we commend PEC for this initiative and we look forward to continuing to support garden naturalization, healthy yards and bylaws for biodiversity. Thank you for this opportunity to work together towards this important goal. (Please see this highlighted links for references and reports mentioned in this deputation.)

Respectfully submitted,

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