

## **Barnes vs. City of Burlington**

Karen Barnes, a resident of Burlington had been cultivating a naturalized garden on her front lawn for the last decade. In November 2022, the City of Burlington gave Karen notice that her lawn needed to be cut to the 20 cm to conform to the bylaw.

### **Issue:**

Native species, which included the New England Aster, Milkweed and White Panicle Aster, were specifically named as species to be addressed in this order. All of these species are native plants that support pollinator thriving. The family was also faced with a 10,000 fine should they fail to comply. While attempting to appeal this order, the cultivated naturalized garden of Karen Barnes was forcibly mowed by municipal employees later that month.

Karen's full account of the experience can be read [here](#).

### **Concern:**

In 2018, another Burlington gardener, Doreen Nicoll, was ordered to cut down her milkweed plants, which resulted in the City of Burlington revising its bylaw. However, a new bylaw was passed in 2022 that specifically allows “naturalized areas”, and it is under this new bylaw that enforcement action was taken against Karen's natural garden in June of 2023.

### **What does the bylaw Say?**

The updated 2022 Burlington Grass and Weeds Bylaw considers naturalized as an area with vegetation “deliberately planted or cultivated with one or more species of wild flowers, shrubs, annuals, perennials, ornamental grasses, or combination [of] them, that is monitored and maintained by a person.”

Section 3.4 For property that is equal to or less than 0.4 ha in area, every owner shall cut all vegetative growth on the lot of their property whenever the growth exceeds 20 centimeters in height or length, excluding:

- (a) ornamental plants;
- (b) shrubs or trees;
- (c) cultivated fruits or vegetables;
- (d) plants buffering or otherwise protecting a natural feature such as a watercourse; or
- (e) naturalized area that is in compliance with this By-law.

This bylaw therefore does not support the action taken by the City of Burlington to give Karen a notice of violation or mow her pollinator garden. This is because her garden met the deliberate and cultivation requirements identified by the City to be exempt from the height restriction. It is also important to note that her garden did not interfere with sightlines, access to fire hydrants or other safety concerns further identified in section 3.8 of the City of Burlington [By-law 49-2022](#).

A more in-depth summary and analysis of this case is available by expert Lorraine Johnson [here](#).