

Sinclair v. Town of Smiths Falls (2022)

Beth and Craig Sinclair expressed their environmental ethic by cultivating a biodiverse front lawn. The couple's natural garden offered ecosystem services and habitat to native species. With over 150 native species planted in their garden, the Sinclairs had thoroughly researched how to best support wildlife through naturalization. Part of this investigation identified the potential of habitat features, such as dead logs, to meet the unique needs of the various native plant species.

Issue:

Following complaints from neighbors, the Sinclairs were informed that their habitat logs were in violation of the Town of Smiths Falls Property Standards bylaw as these habitat features were considered to be waste. The Sinclairs decided to appeal this decision and the issue was brought forth to municipal council, where the councilors endorsed the wording of the outdated Property Standards Bylaw. In January 2022, the Sinclairs and expert witnesses, including Lorraine Johnson and Nina-Marie Lister, appeared before the Property Standards Appeals Committee. The Committee rules to uphold the order and maintain that the Sinclairs needed to remove their habitat logs, cut their grass and weeds to be 20 cm or less, remove or rebuild their compost bin, and finally, remove all landscaping within 3 meters of the curb in order to be in compliance with the Town's Property Standards bylaw. With the support of environmental lawyer David Donnelly, the Sinclairs appealed this decision to the Ontario Superior Court. The Town of Smiths Falls has since rescinded the original order, compensated the Sinclair's legal fees and committed to reviewing their property standards bylaw to recognize and better respect naturalized gardens in the future.

Concern:

Since committing to a review, the Town of Smiths Falls has released a survey to consult with the community regarding bylaw reform to support natural lawns. The Sinclairs and other subject matter experts have expressed concerns that this survey was biased and led against biodiverse gardens. Based on this survey information and further research, the Town will make a report to advise future bylaw development.

What does the bylaw say?

The Town of Smiths Falls is updating the Property Standards bylaw (8723-2014) and Yards bylaw (7122-96). The drafts of these bylaws are currently available for comment. The alterations regarding biodiverse gardens to the Yards bylaw are as follows:

- Addition of "naturalized area" as defined as "means a landscape area that has been deliberately implemented to produce ground cover which consists of one or more species of wildflowers, annuals, perennials, shrubs and grasses or a combination thereof."
- Section 5.1 clarification of what is meant by a "weed"
- Section 5.3 Landscaping is further elaborated as "trees, shrubs, ornamental grasses or flowers; decorative stonework, walkways or screening; any commercially-available horticultural or landscape architectural elements."

The complete Draft Bylaw can be found [here](#).