

## **KEY FEATURES OF BIODIVERSITY-SUPPORTING BYLAWS:**

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### **INCLUDE (DO'S):**

- List prohibited plants (using their common and botanical names) that are locally relevant and relate to matters of health and safety issues only.
- Engage Indigenous communities and rights holders to develop list of prohibited plants.
- Specify that height restrictions apply only to mowed lawns (turfgrass).
- Define “turfgrass.”
- Explicitly allow habitat elements such as fallen leaves, habitat logs and standing plant stalks.
- Accompany bylaw with complaint intake screening procedures that “weed out” aesthetic and subjective complaints.
- Clear enforcement policies and procedures, available via municipal website.
- Appeals provision.
- Explicitly define sightline requirements, ideally using a diagram with defined measurements as well as a narrative description.
- Allow gardening on the boulevard, with restrictions related to safety sightlines.
- Send advisory or violation notices to residents only after a bylaw officer has determined that a violation actually exists.
- Train bylaw officers in prohibited plant identification and to recognize naturalized landscapes.
- Reasonable timelines for residents to rectify any violations.
- Fines for non-compliance that are commensurate with the infraction.

### **DO NOT INCLUDE (DON'TS):**

- Unconstitutional (and illegal) language that relates to subjective judgements, and aesthetically-based terms such as “weeds,” “excessive growth,” and “untidy / tidy.”
- Overly broad term “grass” (which applies to roughly 12,000 species).
- Definitions of “waste” or “garbage” that disallow habitat elements such as fallen leaves, habitat logs and standing plant stalks.
- Special category / exemption requiring permit for “natural gardens.”
- Height restriction specifications for non-turfgrass plants that do not obstruct sightlines.

## **CHECKLIST OF BIODIVERSITY-SUPPORTING BYLAWS:**

### **1. All terms used are clearly defined and enforced with procedures that are focused only on health and safety:**

- Implement complaint screening to “weed out” unconstitutional aesthetic and subjective complaints:
  - Use an online web portal with a drop-down menu of complaint categories, that are limited to matters of health and safety.
  - Phone operators can screen to restrict complaints only to matters of health and safety.
  - Regardless of the platform for making the complaint, onus is on the complainant to state the infraction (e.g., prohibited plants present; sightline issue; obstruction).
- Enforcement procedures are not arbitrary:
  - Bylaw officers are trained in prohibited plant identification and are trained to recognize naturalized landscapes.
  - Enforcement policy includes a provision for dealing with repeat vexatious complaints.
  - Advisory and Violation Notices are sent to residents only after a bylaw officer has determined that a violation actually exists.

### **2. No vague terms:**

- Clear criteria:
  - Avoid use of unconstitutional (and illegal) language that relates to aesthetic, subjective judgements.
  - Avoid vague, aesthetic terms such as “weeds,” “excessive growth,” and “untidy / tidy.”
- Prohibited plant list:
  - List prohibited plants (using both their common and botanical names) in the bylaw or as Appendix to the bylaw.
  - Restrict prohibited plants list to specific plants that cause health or safety concern.
  - Engage Indigenous communities in developing the list of prohibited plants.

### **3. Manage plants and height restrictions:**

- Height restrictions:
  - Specify that height restrictions apply only to mowed lawns (turf grass), and not non-turfgrass plants as long as they do not obstruct sightlines.
- Slightline requirements:
  - Explicitly define using a diagram with measurements, as well as a narrative description.

- Habitat elements:
  - Offer clear support and protection of habitat elements including fallen leaves and logs, and standing plant stalks. Such materials should be explicitly excluded from definitions of prohibited “garbage” or “waste.”

#### 4. Inclusive rules:

- Regulations apply to all landscape types:
  - Natural gardens are not a special category requiring exemption and / or permit.
  - Gardening on the boulevard is allowed, with restrictions related only to matters of health and safety to maintain sightlines.

#### 5. Public information is available via municipality website:

- Accessible and detailed information:
  - Provide clear, accessible information about bylaws and regulations, including the list of prohibited plants with their common and botanical names and photographs.
  - Clear enforcement policies and procedures are included.
  - Appeals provision and procedures are clearly explained.
  - Links to all bylaws with landscape-related provisions (e.g., Boulevard bylaw, and Streets and Right of Way bylaw, Property Standards / Grass and Weeds bylaws, etc.) are provided.

#### HELPFUL LINKS + RESOURCES:

##### [Bylaws for Biodiversity: Resources for Municipalities and Advocacy Groups](#)

- [Bylaws for Biodiversity Report - Barriers and Opportunities for Naturalized Gardens on Private Property \(A Review of Municipal Policies, Codes and Enforcement Practices in Canada\)](#)
- [Bylaws for Biodiversity - Collaborative Toolkit for Municipalities](#)
- [Model bylaw - Toronto Municipal Code Chapter 489, Landscape Standards](#)
- [Urban Biodiversity Report + Toolkit - Cultivation Support through Municipal Codes](#)
- [Summary of the Court decisions in the Sandy Bell and Counter cases, with links to the rulings](#)

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