



---

**TO:** GENERAL COMMITTEE

**SUBJECT:** PROPERTY STANDARDS BY-LAW 2011-138 AND YARD  
MAINTENANCE BY-LAW 2011-107 REVIEW

**WARD:** ALL

**PREPARED BY AND KEY  
CONTACT:** R. OSBORNE, SUPERVISOR OF ENFORCEMENT SERVICES, EXT.  
#4741  
T. BANTING, MANAGER OF ENFORCEMENT SERVICES, EXT. #4336

**SUBMITTED BY:** D. MCALPINE, GENERAL MANAGER OF COMMUNITY AND  
CORPORATE SERVICES

**GENERAL MANAGER  
APPROVAL:** D. MCALPINE, GENERAL MANAGER OF COMMUNITY AND  
CORPORATE SERVICES

**CHIEF ADMINISTRATIVE  
OFFICER APPROVAL:** M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

---

**RECOMMENDED MOTION**

1. That Property Standards By-law 2011-138 be amended as follows:
  - a) To remove all prescriptive timelines for compliance and replace with Officer's discretion to permit a reduced timeline for compliance while keeping with the legislative requirements for the appeal processes;
  - b) To ensure property owners keep all swimming pools, hot tubs, wading pools and artificial ponds in good operating condition so as to prevent a breeding place for mosquitos and other insects;
  - c) To prohibit the use of extension cords for extended periods of time or on a permanent basis;
  - d) To require property owners to ensure there are no dangerous or excessive accumulations of snow and ice on roofs of buildings;
  - e) To enhance the Pest Prevention Section to include the requirement for openings and holes in buildings, chimneys etc. to be screened or sealed to prevent entry of rodents, vermin, insects, birds or other pests as is deemed appropriate;
  - f) To identify that the termination of a handrail be constructed in such a manner as to not create a hazard or obstruct pedestrian travel;
  - g) To regulate exterior lighting from a residential property to ensure it does not shine directly into an adjacent dwelling unit;
  - h) Creation of a Penalty Section which outlines a failure to comply with an order causes a person to be guilty of an offence and upon conviction is liable for a fine pursuant to the *Building Code Act 1992, S.O. 1992, c. 23* as amended;

- 
- i) To clarify wording within the definitions and other sections; and
    - j) To provide for administrative amendments to various sections related to headings, legislative references and numbering as is deemed necessary.
  2. That Yard Maintenance By-law 2011-107 be amended as follows:
    - a) To remove all prescriptive timelines for compliance and replace with Officer's discretion to permit reduced timelines for compliance;
    - b) To insert new or enhanced definitions such as Graffiti, Material Contraventions, Officer etc., which will provide clarification;
    - c) To reword Enforcement powers to identify that where no material contravention is deemed to exist by the Officer or Supervisor, no further action will be taken at the time;
    - d) To require property owners to ensure there are no excessive accumulations of snow or ice on roofs of buildings so as to pose a safety hazard to persons or property;
    - e) To enhance the Excavations Section to clearly state that unlevelled or uncovered fill shall not be left longer than seven (7) days unless the property is an active construction site where a building permit has been issued or where it is actively being farmed or where permission has been granted as part of a City works contract etc.;
    - f) To enhance the Landscaping and Tree Section as follows:
      - i. To require property owners to remove all dead, decayed or damaged trees and branches to ensure the tree is safe and sound;
      - ii. To require all hedges, shrubs, trees or other plants to be planted and maintained in a manner that does not jeopardize the safety of the public, obstruct the view for vehicular traffic, affect the safety of vehicular or pedestrian traffic, overhang or encroach on any pavement, sidewalk or travelled portion of any street or highway; and
      - iii. To require owners to obtain all necessary permission or permits prior to the removal of any trees as is deemed appropriate.
    - g) To create specific regulations related to the maintenance and removal of garbage or debris surrounding approved or permitted outdoor donation collection bins; and
    - h) To provide for administrative amendments to various sections related to headings, legislative references, and numbering, as is deemed necessary.
  3. That staff be authorized to make application to the Ministry of the Attorney General for set fines related to the Yard Maintenance By-law, with fine amounts ranging from \$100.00 to \$1,000.00 based on the nature of the offence.
  4. That the Fees By-law be amended effective May 1, 2018 to increase cost recovery associated with Property Standards and Yard Maintenance violations/matters as set out in Appendix "A" to Staff Report LCS013-17.

## **PURPOSE & BACKGROUND**

### **Report Overview**

5. The purpose of this Staff Report is to review opportunities to enhance enforcement and increase cost recovery associated with property standards and yard maintenance violations. The Staff Report recommends enacting additional provisions to deal with concerns of residents while clarifying definitions of various sections to reduce ambiguity in the interpretation of the by-laws. The proposed changes are also anticipated to enhance the ability of Officers to enforce the Property Standards By-law and Yard Maintenance By-law in a more timely and efficient manner.
6. Cost recovery for the enforcement of property standards and yard maintenance has also been reviewed and proposed changes are intended to assist in managing enforcement costs.

### **Background**

7. Through the 2017 business plan motion (17-G-024 as amended), Council directed as follows:  
  
“20. That staff in the Legislative and Court Services Department review opportunities to enhance enforcement and increase cost recovery associated with illegal signs and property standards violations including but not limited to implementation of a sign permit fee system and report back to General Committee”.
8. The purpose of this Staff Report is specifically to address the property standards aspects of the above motion excerpt. A separate report will be presented regarding potential changes to the Sign By-law and cost recovery associated with illegal signs. This report is also intended to address direction provided as part of the 2016 Business Plan motion to investigate and report back regarding the implications associated with establishing Building and By-law Department (previous department) fees that would achieve 100% total cost recovery (including corporate overhead).
9. Enforcement of Property Standards and Yard Maintenance By-laws are essential to ensure a safe community and a minimum quality of life for residents. When properties are not kept up to a minimum standard, the community as a whole suffers.
10. The following is an overview and comparison of the two By-laws:

<b>By-law</b>	<b>Property Standards By-law 2011-138</b>	<b>Yard Maintenance By-law 2011-107</b>
Addresses	Both interior and exteriors of residential, commercial and institutional uses and prescribes standards for the maintenance and occupancy of property	Only the exterior of properties and vacant properties
Examples of violations	Mould, pest infestations, railings damaged or missing, wall, floor or ceiling damage, dead trees, rotten fencing, debris, etc.	Long grass and weeds, garbage and debris and inoperable vehicles.

By-law	Property Standards By-law 2011-138	Yard Maintenance By-law 2011-107
Legislative Authority	<p><i>Building Code Act, 1992, S.O. 1992, c.23, subsection 15.1 (3)</i></p> <p>By-law may prescribe standards for the maintenance and occupancy of property within the municipality and for prohibiting the occupancy or use of such property that does not conform with the standards; and to require property that does not conform with the standards to be repaired and maintained to conform with the standards or the site to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition</p>	<p><i>Municipal Act, 2001, c.25</i></p> <p>By-law authorized in the interest of the health, safety and well-being of its residents</p>
Step One of Enforcement (first complaint):	<p>Enforcement staff attend and inspect the property, if a violation is found the Officer may proceed as follows:</p> <ul style="list-style-type: none"> <li>• Speak with the homeowner or occupant, advise of the violation and request compliance within a specified timeframe; <b>OR</b></li> <li>• Leave a “door hanger” outlining the violation and request compliance within a specified timeframe.</li> </ul>	<p>Enforcement staff attend and inspect the property, if a violation is found the Officer may proceed as follows:</p> <ul style="list-style-type: none"> <li>• Speak with the homeowner or occupant, advise of the violation and request compliance within a specified timeframe; <b>OR</b></li> <li>• Leave a “door hanger” outlining the violation and request compliance within a specified timeframe.</li> </ul>
Step Two of Enforcement	<p>Staff will then re-inspect the property to ensure compliance.</p> <ul style="list-style-type: none"> <li>• If compliance has been achieved, the file is closed and a fee is not levied for the first re-inspection.</li> <li>• If compliance has not been achieved, staff will then issue a 1st follow up Notice to the registered property owner again outlining the violation and request compliance within a specified timeframe.</li> </ul> <p>This notice includes a service fee as set out under the Fees By-law.</p>	<p>Staff will then re-inspect the property to ensure compliance.</p> <ul style="list-style-type: none"> <li>• If compliance has been achieved, the file is closed and a fee is not levied for the first re-inspection.</li> <li>• If compliance has not been achieved, staff will then issue a 1st follow up Notice to the registered property owner again outlining the violation and request compliance within a specified timeframe.</li> </ul> <p>This notice includes a service fee as set out under the Fees By-law.</p>

By-law	Property Standards By-law 2011-138	Yard Maintenance By-law 2011-107
Step Three of Enforcement	<p>Staff conduct a second re-inspection of the property to ensure compliance:</p> <ul style="list-style-type: none"> <li>• If compliance has been achieved – the file is closed and further fees are not levied for the second re-inspection.</li> <li>• If compliance has not been achieved, staff have two options: <ul style="list-style-type: none"> <li>○ The Officer may send a 2<sup>nd</sup> follow up Notice by registered mail to the property owner; <b>OR</b></li> <li>○ An Order can be issued and sent by registered mail.</li> </ul> </li> </ul> <p>If the Order is not appealed or is upheld by the Committee, an officer may hire an approved municipal contractor to complete the work to bring the property into compliance. The contractor's cost, plus a 50% administration fee is invoiced to the property owner and collected in like manner as taxes.</p> <p>The contractor services are generally used in lieu of taking the matter before the courts. In most cases the violations can be cleared in a reasonable timeframe, whereas taking the matter before the courts can delay the overall goal of gaining compliance.</p>	<p>Staff conduct a second re-inspection of the property to ensure compliance:</p> <ul style="list-style-type: none"> <li>• If compliance has been achieved – the file is closed and further fees are not levied for the second re-inspection.</li> <li>• If compliance has not been achieved, staff have two options: <ul style="list-style-type: none"> <li>○ The Officer may send a 2<sup>nd</sup> follow up Notice by registered mail to the property owner; <b>OR</b></li> <li>○ Hire an approved municipal contractor to complete the work to bring the property into compliance.</li> </ul> </li> </ul> <p>The contractor's cost, plus a 50% administration fee is invoiced to the property owner and is collected in like manner as taxes.</p> <p>The contractor services are generally used in lieu of taking the matter before the courts. In most cases the violations can be cleared in a reasonable timeframe, whereas taking the matter before the courts can delay the overall goal of gaining compliance.</p>
Formal appeal process	<p>The property owner then has the ability to appeal that order to the Property Standards Committee within 15 days of issuance. If the order has been appealed, a hearing will take place before the Committee.</p> <p>An Order may be further appealed to The Superior Court of Justice.</p>	None

By-law	Property Standards By-law 2011-138	Yard Maintenance By-law 2011-107
Compliance timelines established in the By-law	<p>Minimum 10 days for non-structural matters and a minimum 30 days for structural matters.</p> <p>Compliance times will vary depending upon the severity of the situation and whether immediate safety hazards exist. Extensions may be provided based upon the nature of the work required.</p>	<p>Minimum 24 hours.</p> <p>Failure to comply within twenty four (24) hours will result in a registered letter being sent, allowing another twelve (12) days to comply (five days to receive the registered mail and seven (7) days to remediate the violation).</p> <p>Compliance times will vary depending upon the severity of the situation and whether immediate safety hazards exist. Extensions may be provided based upon the nature of the work required.</p>
Current Service Fees	<p><u>Exterior:</u> 1<sup>st</sup> follow up notice/order - \$82.50 2<sup>nd</sup> follow up notice/order - \$440.50</p> <p><u>Interior:</u> 1<sup>st</sup> follow up notice/order - \$165.50 2<sup>nd</sup> follow up notice/order - \$768.50</p> <p><u>Fee when contractor hired:</u> Cost of invoice from contractor plus 50% administration fee</p>	<p><u>Exterior:</u> 1<sup>st</sup> follow up notice/order - \$82.50 2<sup>nd</sup> follow up notice/order - \$440.50</p> <p><u>Fee when contractor hired:</u> Cost of invoice from contractor plus 50% administration fee</p>

11. When a property has received several complaints (two or more) for similar offences, staff will generally move to the Notice process immediately. Those owners have previously been educated on the standards and are aware of the municipality's expectations. Staff's main objective is to obtain compliance with the current standards.
12. Service Fees are used to offset the cost of enforcement while helping to ensure similar violations do not occur in the future. In 2007, Council approved an enforcement approach and fee structure for the Property Standards By-law that can be summarized as follows:
  - If a complaint was received and a violation did not exist at the time the Officer attended, a fee was not charged to either the complainant or the property owner;
  - If a violation existed on the first inspection (and it was the first complaint related to the property) by the Officer, a fee was not to be charged; and
  - Fees were only to be invoiced if a second or subsequent inspection determined a violation existed.
13. When the responsibilities associated with enforcement were organizationally moved to the Building and By-law Services Department, similar changes to the fees and enforcement approach were adopted for the Yard Maintenance By-law.

14. This philosophy related to the invoicing of fees was deemed appropriate as compliance is the primary goal of enforcement and it is reasonable to assume that many homeowners may not be aware of the specific requirements of either the Property Standards or Yard Maintenance By-laws. This approach is also one that is supported by the Courts if by-laws or enforcement activities are challenged.
15. However, it is an approach that would never achieve cost recovery, as approximately 80% of property owners resolve any by-law violations before a second inspection.

### **ANALYSIS**

16. Staff have undertaken a review of Property Standards and Yard Maintenance enforcement policies and procedures specifically as it relates to enhanced enforcement and the ability to increase cost recovery associated with violations.
17. During this review process, staff consulted with other municipalities regarding the enforcement of property standards and yard maintenance, including the cities of Guelph, Toronto, Kingston, Burlington, Vaughan, Niagara Falls, Kitchener, Oakville and the Town of Whitby.
18. During the consultation process, the review of the other municipalities indicated that although the Property Standards or Yard Maintenance By-laws were relatively similar in nature, the application of service fees varied widely.
19. Some municipalities collected only monies spent by the municipality to carry out work to enforce compliance by adding contractor invoices to the property tax roll, while other municipalities collected service fees for the larger scope of work associated with enforcement activities. Such activities include issuing notices/warnings/orders, conducting appeals of Property Standards Orders, issuing certificates of compliance and a service fee for follow up inspections.
20. In order to clearly outline the analysis, the Property Standards By-law and the Yard Maintenance By-law will be discussed separately below.

### **Property Standards By-law 2011-138 Review**

#### **Overview**

21. As previously noted, the Property Standards By-law is passed and enforced under the authority of the *Building Code Act*. This by-law is designed to address interior property issues such as mould, insect infestations, plumbing and electrical issues, just to name a few. The by-law is required to and has an appeal process that includes a Property Standards Committee appointed by Council. In addition, a further appeal of an Order can be heard by The Superior Court of Justice. Enforcement of Property Standards Orders can be time consuming and challenging.

#### **Reduced time to comply with the By-law**

22. Enforcement procedures, were last revised by Council on December 17, 2007. These procedures and policies do not reflect the changing needs of the community. Currently, a property owner has a minimum of 10 days to comply with the by-law by bringing the property into compliance for non-structural items and a minimum of 30 days for any interior or structural items. There is a provision to require earlier compliance, but only if the nature of the violation poses an immediate hazard.



23. This time frame does not take into account requests by the owners for additional time to comply due to costs of repairs, the hiring of contractors, etc. Nor does it account for those Orders that are appealed to the Property Standards Committee as noted above. Depending on the nature of the violation, and if the matter is appealed, it can take upwards of 3-6 months to bring a subject property into compliance.
24. It is proposed that compliance timelines related to the Property Standards By-law will be determined based on what is reasonable as deemed by the Officer in consultation with the Supervisor, if required. This approach is a typical approach utilized for most by-laws. The benefit of this approach is that it would allow a more flexible and more importantly, timely approach to enforcement. In general, it would reduce compliance deadlines for Notices/Orders that are not appealed from 30 days to 12 days.

#### Proposed Enhanced Regulations

25. In addition to the changes noted above, staff are proposing updated and/or clarification of definitions and directions within the By-law that will assist in enforcement measures while setting clear expectations for the community. As an example of such a change, the current wording states that "fences shall be maintained in good condition and free from accident hazards. To further clarify the expectations with respect to fencing standards, the following provision would be added: "Fences shall be maintained reasonably plumb unless specifically designed to be other than vertical".
26. Staff are also recommending changes to the By-law to implement specific provisions to address a number of health and safety related items. In the majority of cases, these matters have been identified by individuals complaining about a property or staff upon inspecting a property, but are not covered under the current by-law provisions.
27. It is recommended that the By-law be amended to add a provision to prevent swimming pools, hot tubs, wading pools and artificial ponds from becoming a breeding place for mosquitos, by requiring them to be maintained in good operating condition.
28. The use of extension cords in rental units has also been raised where they are used on a permanent basis rather than upgrading the building's electrical system. As this can pose a safety and/or fire hazard, it is proposed that the use of extensions cords not be permitted on a permanent basis within rental units. An exception is being recommended for extension cords that are GFI surge protectors or specifically designed for such use.
29. Residents within rental properties have raised concerns that snow and ice build-up on roofs is becoming an issue and poses a safety concern. Changes are proposed to the existing regulations to require that the property owner shall ensure there is no dangerous or excessive accumulation of ice and/or snow on roofs.
30. To enhance the Pest Prevention Section it is proposed that a requirement be added for openings and holes in buildings, chimneys etc. to be screened or sealed to prevent entry of rodents, vermin, insects, birds or other pests as is deemed appropriate.
31. It is also recommended that the handrails section be enhanced to provide that the termination of a handrail be constructed in such a manner that it does not create a hazard or obstruct pedestrian travel.



32. With more and more residential properties implementing exterior lighting as a "security" feature, complaints of neighbours directing their exterior lighting into adjacent dwelling units continue to be received by the City. It is proposed that exterior lighting from a residential property be regulated to ensure it does not shine directly into an adjacent dwelling unit. This provision would not include lighting that simply projects into an adjacent yard. Such lighting regulations already exist in the Zoning By-law for Commercial and Industrial properties. As this violation can be inspected from the exterior of the property, staff would not be limited in its enforcement measures with respect to having to obtain permission to enter the actual dwelling to review the direction of the lighting projection.
33. The present By-law does not have a Penalty Provision. Incorporating a Penalty Section, allows for clarity, if a matter is brought before the courts and outlines the applicable governing legislation. The penalty for non-compliance with an Order would be clearly outlined as it relates to the *Building Code Act* with a first offence fine of no more than \$50,000.00 for a person and \$100,000.00 for a corporation.
34. It should also be noted that residents are currently authorized to store domestic goods, including garbage and recycling containers, at the side or rear of their property in addition to the inside the garage. This has created some complaints from residents due to the close proximity of the adjacent lands. Staff will continue to monitor the situation, however, no changes to current Property Standards regulations are proposed at this time. It is proposed that the Yard Maintenance By-law provisions be enhanced to address these types of situations in relation to donation collection bins.

#### Services Fees

35. Currently, service fees are issued to a property owner when an Officer has inspected a property, noted non-compliance and the property owner subsequently fails to comply in a timely manner. As long as a property owner is actively attempting to bring the property into compliance, the Officer may choose not to issue a subsequent notice or order or charge the higher service fee. The primary goal of the Officer is to achieve compliance in a timely manner.
36. It is proposed that the service fee for a first follow up notice/order, and subsequent notices/orders be increased to help further offset the enforcement and administrative cost from \$82.50 to \$105.00 and similar increases be applied to fees associated with subsequent actions. This increase would represent a change from the currently approximately 23% cost recovery to 30% for a first follow up notice/order. See Appendix "A" attached to Staff Report LCS013-17 for the entire list of recommended fees.
37. As noted above, when an Order is issued under the Authority of the *Building Code Act*, the property owner may appeal the Order to the Property Standards Committee. The Committee must conduct a hearing to discuss the matter and determine if the Order is to be upheld in whole or in part or if the time to comply is to be extended or if the Order is dismissed in its entirety.
38. There is currently no administrative fee for this appeal. During consultation with other municipalities, it was noted that some municipalities also invoice property owners for conducting an appeal hearing related to an Order. In the past, the City of Barrie did invoice a property owner when any portion of the Order was upheld by the Property Standards Committee. A service fee for appealing an Order is charged by other municipalities and was previously invoiced by the City of Barrie, however that fee was removed several years ago. At the time, it was felt that charging a fee for an owner to exercise their right to appeal was not appropriate.

39. It is proposed however, that where a Property Standards Order is appealed and any portion of the Order is upheld by the Property Standards Committee, a service fee shall be invoiced to offset the cost of conducting such appeal. This process is similar to costs being awarded in a court process when a person is found to be guilty of an offence. A service fee of \$100.00 is being recommended as set out in Appendix "A" to Staff Report LCS013-17.

### **Yard Maintenance By-law 2011-107 Review**

#### **Overview**

40. The Yard Maintenance By-law is passed under the authority of The *Municipal Act* and is designed to address standards set out to regulate the exterior of a property. Such standards include but are not limited to long grass and weeds, garbage and debris and inoperable vehicles. This by-law generally allows for quicker enforcement and compliance as there is no requirement for an appeal process to be implemented and no need to attend court unless an Officer swears an information against a property owner. When compliance is not achieved, the Officer has the ability to hire a contractor to clean up the property and invoice the property owner for costs incurred by the City. This process has proven successful in obtaining compliance and has served the community well over the years.

#### **Reduced time to comply with the By-law**

41. An Officer who observes a violation of the Yard Maintenance By-law will first allow twenty four (24) hours to comply. Failure to comply within twenty four (24) hours will result in a registered letter being sent, allowing another twelve (12) days to comply (five days to receive the registered mail and seven (7) days to remediate the violation).
42. If after twelve (12) days, no work has been completed, the City may hire a contractor to do the work. All contractor fees plus an additional fifty (50) percent service fee is invoiced to the property owner as noted in the Service Fee section above.
43. It is proposed that the City reduce the current seven days compliance time to two (2) days for such matters as grass and weeds or garbage and debris. Such timelines may be altered based on weather conditions, work required and property history. Total compliance time within this proposal, if registered mail is required would be seven (7) days – five (5) days to allow for mailing and two (2) days for compliance.

#### **Enhanced Regulations**

44. Staff are recommending that new or enhanced definitions for Graffiti, Material Contraventions, and Officer etc. be added to provide clarity.
45. A considerable amount of time is expended by staff dealing with complaints that are frivolous, vexatious and/or complainants who are unreasonably persistent. Further enforcement enhancements are recommended to allow the Supervisor to determine that where no material contravention exists, no further enforcement shall take place. This approach to enforcement would ensure staff time and resources are used wisely on behalf of taxpayers.
46. Staff note that the use of this proposed enhancement will likely only be applied one to two times per year and it would not prohibit individuals from submitting valid complaints regardless of how minor in nature. However, it is anticipated to reduce or deter "vindictive" type complaints. A service fee of \$100.00 is also being recommended to be charged to such complainants when either no violation is found or a material violations is not found, to act as a further deterrent to retaliatory or vindictive complaints.

- 
47. This type of situation happens regularly whereby members of the community will drive subdivisions and submit what they believe are violations under both the Property Standards and Yard Maintenance By-laws following a complaint about their residence. As an example of such complaint: Homeowner "A" is reported to have an inoperable vehicle in his/her yard, enforcement measures are taken to bring the property into compliance. In the meantime, Homeowner "A" now drives the neighbourhood and submits several complaints related to other vehicles he/she believes to be inoperable. Many of these complaints are found to be valid and are actioned by staff but in some cases they are not. For example, one individual submit over seventy (70) locations where they noted what they believed to be long grass and weeds following a complaint regarding their property.
  48. Staff are also recommending changes to the Yard Maintenance By-law to implement specific provisions to address a number of health and safety related items. As with the Property Standards By-law, these matters have been identified by individuals complaining about a property or staff upon inspecting a property.
  49. Similar to the proposed changes to the Property Standards By-law, it is recommended that the Yard Maintenance By-law be amended to require property owners to ensure that ice and/or snow on roofs does not accumulate to the point where it would pose a safety hazard to persons or property. This provision is proposed to be included in both by-laws as it may be a safety hazard but not always a Building Code matter.
  50. It is proposed that the Excavations Section be enhanced to clearly state that unlevelled or uncovered fill shall not be left longer than seven (7) days unless the property is an active construction site where a building permit has been issued or where it is actively being farmed or where permission has been granted as part of a City works contract etc. The current by-law provisions are insufficient to address these situations.
  51. Currently, dead trees have been dealt with by utilizing the "unsafe conditions" Section of the By-law. Section 4.4 of the By-law states that owners shall keep their property clear of unsafe conditions. It is proposed that dead, decayed or damaged trees and branches be clearly identified in the By-law along with a provision to ensure that trees are maintained in a condition that is both safe and sound.
  52. In addition, trees that are living and in good repair are not regulated in the Yard Maintenance By-law. It is proposed that overhanging trees and shrubs which obstruct vehicles or pedestrians be addressed to ensure they are maintained so as to not obstruct the passage of vehicles or pedestrians.
  53. Also, unless prohibited by Zoning regulations, donation boxes may be located on various properties. These boxes have been subject of many concerns from residents as they attract excess items, garbage and debris. It is proposed that where clothing or donation drop boxes are permitted under the Zoning By-law, they be regulated to ensure they are kept free from graffiti and the land immediately adjacent to the box is kept clean, tidy and free from garbage and debris.
  54. Upon review of other municipalities' by-laws when compared to the City's existing By-law, persons would be permitted to have an unlimited amount of firewood contained within the property boundaries. As staff have not yet received complaints of this nature, staff will continue to monitor the situation and if necessary, bring forward amendments in the future. The cost of heating continues to increase and homeowners are looking into heating alternatives, this may be a driving force in any change in firewood storage.

---

#### Service Fees

55. Currently, upon receiving a complaint or noting a violation while on patrol, an Officer will attend the property and issue a twenty four (24) hour notice to comply with the by-law. Such violations include, but are not limited to, long grass and weeds, garbage and debris or the exterior storage of broken furniture and other items. The Officer will re-inspect the following day and if compliance has been achieved, the file is closed without cost to the property owner. If such violations are not remedied within twenty four (24) hours, or if the violation re-occurs, a service fee is charged to the property owner.
56. When compared to other municipalities, the City of Barrie's service fees for a second follow up notice/order are higher, however, as long as the property owner complies within twenty four (24) hours or is actively attempting to comply, there is generally no cost to the property owner on the initial inspection.
57. As a result, an absentee landlord may be financially better off not maintaining the yard and waiting for the City to notify them of a violation rather than face the costs of ongoing yard maintenance. For comparison, the City of Burlington issues a service fee for \$120.00, while the Town of Whitby invoices \$200.00 if the Officer is required to re-attend the property for the third time to ensure compliance.
58. It is proposed that where a first follow up notice is issued, the current service fee be increased from \$82.50 to \$105.00 to better reflect the enforcement and administration cost. This increase would represent a change from the currently approximately 23% cost recovery to 30%. See Appendix "A" to Staff Report LCS013-17 for the proposed changes to all of the fees related to the Yard Maintenance By-law.

#### Set fine application

59. Staff are seeking authority to make application to the Ministry of the Attorney General for set fines related to the Yard Maintenance By-law, with fine amounts ranging from \$100.00 to \$1,000.00 based on the nature of the offence. Set fines allow for the issuance of "tickets" and would be an additional tool to address non-compliance with the By-law.

#### Overall Cost Recovery Review

60. Based upon the currently approved enforcement model and fees, service fees have assisted to offset the cost of enforcement but have represented, on average, approximately twenty (20) percent of the total cost of enforcement including corporate overhead. As noted earlier, this is due to the fact that only 23.4% of property owners fail to comply with the initial request from the Enforcement Officer.

61. Below is an outline of how many property owners failed to comply after the initial visit and where a service fee is applied:

2017 Complaint Statistics (broken down by category and action, Jan 1 – Sept 19, 2017)

Compliant Type	Total Complaints Received	Compliant upon initial inspection (no fee)	Non-compliant after initial re-inspection - Notices/Orders Issued (service fee added)*
Yard Maintenance	1100	827	273
Property Standards	275	226	49

\* Note: approximately 90% of the notices issued above represent 1<sup>st</sup> Follow up Notice and associated fees (i.e. only 10% require further action after another re-inspection).

62. When the review was undertaken related to the City's cost recovery methods, staff had to also consider the following items:
- Both the Property Standards By-law and the Yard Maintenance By-law benefit the community as a whole and some expense should be borne by the overall tax base. When standards are in place, the overall aesthetics of the community are improved and the safety and security of the residents are intended to be addressed;
  - There are costs associated with staff responding to calls and conducting the initial inspections where it is then determined no actual violation of the by-law existed – therefore it wouldn't be appropriate to charge the property owner;
  - There are costs where a property owner is in violation when staff attend but the owner wasn't aware of the by-law provisions and rectifies the matter prior to re-inspection; and
  - Finally staff must consider the implications associated with setting the fees too high. This can and will result in more appeals to the Property Standards Committee; more complaints to members of Council with resulting costs to handle such calls and ultimately a belief of "gouging" by the municipality especially when it relates to a "first offence" type situation.
63. As a result of those considerations and the review of other municipalities, staff are recommending increases to the current service fees however, staff are not recommending a change to the philosophical approach to when fees are charged and staff do not believe it would be prudent to recommend one hundred (100) percent cost recovery.

#### **ENVIRONMENTAL MATTERS**

64. There are no environmental matters related to the recommendation.

---

## **ALTERNATIVES**

65. The following alternatives are available for consideration by General Committee:

### **Alternative #1**

General Committee could alter the proposed recommendations by maintaining the existing policy, procedures, and by-laws with respect to enforcement response times and the current regulation for Property Standards and Yard Maintenance. (i.e. Status Quo)

This alternative is not recommended as residents have expressed a desire for quicker response and enforcement of the by-laws particularly as it relates to exterior property conditions. Tenants continue to express a desire for additional regulations as they relate to interior property conditions of rental units.

### **Alternative #2**

General Committee could alter the proposed recommendation by increasing service fees for re-inspections where violations of the by-law were initially identified and have not been rectified at the time of re-inspection, to reflect one hundred percent (100%) of recovery related to all property standards and yard maintenance violations.

Although this alternative is available, it would require a much more substantial increase to the fees than is currently proposed. Instead of an increase from \$82.50 to \$105.00 as proposed, the fee for a re-inspection would need to be in the order of \$352.00. Raising the fees level this high, will likely result in significant increases in calls to staff (and members of Council). Many property owners already believe the current penalties are too harsh. If volumes of calls increase significantly, it will reduce the cost recovery that would have been achieved due to the additional time spent addressing complaints about the fees.

### **Alternative #3**

General Committee could alter the proposed recommendation by implementing service fees for the initial inspections where violations of the by-law are found and validated by way of an inspection.

Although this alternative is available, it is a dramatic change in the approach to enforcement and many property owners would be faced with substantial fees for matters that they were unaware represented a violation of the by-law. It is anticipated that such an approach would generate substantial backlash from the community and may not be supported if challenged in the courts. In the case of the Property Standards By-law, it may lead to increased property standards appeals. In addition, the enforcement of such by-laws benefit the community as a whole and in such cases, a portion of the costs have traditionally been borne by the general rate payers.



**Alternative #3**

General Committee could alter the proposed recommendation by amending or deleting specific proposed enhancement provisions as it deems appropriate.

This alternative is not recommended as the changes identified are as a result of observed challenges by members of the community or staff when enforcing the current by-laws as well as intended to provide by-law provisions that are clear and understandable.

**FINANCIAL**

66. The proposed increases to the fees associated specifically with a first re-inspection would represent an increase from 23% to 30% for both the Property Standards By-law and the Yard Maintenance By-law. Although the net amount of revenue from such a change may not be large, it does represent a significant percentage increase in the fee and an approximately 7% increase in potential cost recovery.
67. It is anticipated that the proposed changes to the service fees could generate additional revenue that would offset the costs of enforcement, should the number of violations and homeowner response to notices of violation be static. However, as a result of any fee increase or the other proposed changes to the by-laws including reduced timelines for compliance and new requirements, the volume of violations or the behaviour of homeowners in terms of their responsiveness to notices/orders may change.
68. Such revenues will continue to be utilized to offset the overall cost of Property Standards and Yard Maintenance enforcement throughout the community.
69. With the implementation of the APLI system, some efficiencies have been noted by staff whereby the inspection reports and photographs can be taken and uploaded into the complaint file immediately, which in turn reduces the administrative time previously required. This has assisted with enforcement staff being able to remain out on inspection while responding to complaints. They are however still required to complete some administrative functions when notices or orders are required. Staff anticipate as further enhancements are made to the system, it will help to further create efficiencies.

**LINKAGE TO 2014-2018 STRATEGIC PLAN**

70. While the recommendation(s) included in this Staff Report are not specifically related to the goals identified in the 2014-2018 Strategic Plan, through enforcement of these and many other by-laws it does relate to building a safer and more vibrant community.





APPENDIX "A"

Proposed Service Fee Increases and Cost Recovery

Fee Structure	Current Fee (2017)	Average Cost Per File Type	Proposed Fee (May 1, 2018)	Difference of (\$)
<b>Property Standards Complaints</b>				
1 <sup>st</sup> Follow up Inspection Notice/Order - Exterior	\$82.50	\$352.52	\$105.00	-\$247.52
2 <sup>nd</sup> Follow up Inspection Notice/Order -Exterior	\$440.50	\$985.51	\$530.00	-\$455.51
1 <sup>st</sup> Follow up Inspection Notice/Order – Interior	\$165.50	\$492.75	\$200.00	-\$292.75
2 <sup>nd</sup> Follow up Inspection Notice/Order – Interior	\$768.50	\$985.51	\$925.00	-\$55.51
Contractor Hired (Interior/Exterior)	Actual Invoice Cost + 50 % admin fee			
Property Standards Appeal Order Upheld	\$0	Dependent upon the violation and hearing	\$100.00	
<b>Yard Maintenance Complaints</b>				
1 <sup>st</sup> Follow up Inspection Notice/Order - Exterior	\$82.50	\$352.52	\$105.00	-\$247..52
2 <sup>nd</sup> Follow up Inspection Notice/Order -Exterior	\$440.50	\$705.03	\$530.00	-\$175.03
Contractor Hired (Exterior only)	Actual Invoice Cost + 50 % admin fee			
<b>Unreasonably Persistent Complaint Filing (Frivolous)</b>	\$82.50	\$352.52	\$100.00	-\$247.52