

Agenda Including Addeds

Community and Protective Services Committee

The 4th Meeting of the Community and Protective Services Committee

February 20, 2024

1:00 PM

Council Chambers - Please check the City website for additional meeting detail information. Meetings can be viewed via live-streaming on YouTube and the City Website.

The City of London is situated on the traditional lands of the Anishinaabek (AUh-nish-in-ah-bek), Haudenosaunee (Ho-den-no-show-nee), Lūnaapéewak (Len-ah-pay-wuk) and Attawandaron (Add-a-won-da-run).

We honour and respect the history, languages and culture of the diverse Indigenous people who call this territory home. The City of London is currently home to many First Nations, Métis and Inuit today.

As representatives of the people of the City of London, we are grateful to have the opportunity to work and live in this territory.

Members

Councillors E. Pelozza (Chair), H. McAlister, J. Pribil, S. Trosow, D. Ferreira

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Pages

1. Disclosures of Pecuniary Interest

2. Consent

2.1 2nd Report of the Animal Welfare Community Advisory Committee

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3. Scheduled Items

3.1 Item not to be heard before 1:05 PM - PUBLIC PARTICIPATION MEETING - Housekeeping Amendments - Yard and Lot Maintenance By-law - Administrative Monetary Penalty System By-law

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a. *(ADDED) REVISED BY-LAW*

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4. Items for Direction

Content warning: This part of the agenda has details of pregnancy loss, which may cause discomfort. If you or someone you know requires support, you can contact:

- Employee Assistance Program, 1-844-880-9142 (City of London Staff)
- Reach Out 24/7 phone service (confidential mental health and support services), 519-433-2023

4.1 Regulation of the Display of Graphic Images

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a. *(ADDED) J. Gunnarson, Campaign Life Coalition*

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b. *(ADDED) A. Polizogopoulos, The Acacia Group*

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c. *(ADDED) A. Honner, The Democracy Fund*

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d. *(ADDED) M. McCann, London Against Abortion*

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5. Deferred Matters/Additional Business

5.1 (ADDED) Councillor E. Pelozza - Rescheduling of Community and Protective Services Committee Meeting - April 8, 2024

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6. Confidential

6.1 Solicitor-Client Privilege

A matter pertaining to advice that is subject to solicitor-client privilege, including communications necessary for that purpose regarding the regulation of the display of graphic images.

7. Adjournment

Animal Welfare Community Advisory Committee

Report

2nd Meeting of the Animal Welfare Community Advisory Committee
February 1, 2024
Committee Room #3

Attendance PRESENT: W. Brown (Chair), M. Blosh, K. Coulter, A. Hames, G. Leckie and M. Toplack and H. Lysynski (Acting Committee Clerk)

ABSENT: H. Duhamel, J. Higgins and S. Ryall

ALSO PRESENT: W. Jeffery, M. McBride and M. Szarka

The meeting was called to order at 3:11 PM; it being noted that W. Brown, M. Blosh, K. Coulter, A. Hames, G. Leckie and M. Toplack were in remote attendance.

1. Call to Order

1.1 Disclosures of Pecuniary Interest

That it BE NOTED that no pecuniary interests were disclosed.

1.2 Election of Chair and Vice Chair

That W. Brown and M. Blosh BE ELECTED Chair and Vice Chair, respectively, for the term ending November 30, 2024.

2. Scheduled Items

None.

3. Consent

3.1 1st Report of the Animal Welfare Community Advisory Committee

That it BE NOTED that the 1st Report of the Animal Welfare Community Advisory Committee, from its meeting held on December 7, 2023, was received.

4. Sub-Committees and Working Groups

None.

5. Items for Discussion

5.1 Coexistence Strategies for Canada Geese and ducks

That any discussion of the coexistence strategies for Canada Geese and ducks BE FORWARDED to the Co-Existence with Geese Animal Welfare Community Advisory Committee Sub-Committee for consideration; it being noted that P. Yeoman, Director, Parks and Forestry will provide an update in the spring, 2024.

5.2 Bird Friendly Glass and Light Applications Display for Public Education and Awareness

That a representative from Corporate Communications BE INVITED to the March 6, 2024 Animal Welfare Community Advisory Committee meeting to

provide an outline of the proposed images for the bird friendly glass and light applications display for public education and awareness.

5.3 Clear Your Gear

That the Clear Your Gear discussion BE POSTPONED until P. Yeoman, Director, Parks and Forestry provides an update on this matter in the spring, 2024.

6. Adjournment

The meeting adjourned at 3:37 PM.

Report to Community and Protective Services Committee

To: Chair and Members
Community and Protective Services Committee

From: Scott Mathers, MPA, P.Eng.
Deputy City Manager

Subject: Planning and Economic Development
**Public Participation Meeting- Housekeeping Amendments:
Yard and Lot Maintenance By-law, Administrative Monetary
Penalty System By-law**

Date: February 20, 2024

Recommendation

That, on the recommendation of the Deputy City Manager, Planning and Economic Development, the following actions be taken:

- (a) the attached proposed by-law (Appendix “A”) **BE INTRODUCED** at the Municipal Council meeting to be held on March 13, 2024, being “a By-law to require the owner or occupant of land to clean and clear the land, or to clear refuse from the land, not including buildings” to repeal and replace the City’s existing Yard and Lot Maintenance By-law No. P.W.-9.
- (b) the attached proposed by-law (Appendix “B”) **BE INTRODUCED** at the Municipal Council meeting to be held on March 13, 2024, to amend By-law No. A-54, being “A by-law to implement an Administrative Monetary Penalty System in London” to increase the penalty amounts in Schedule A-4 pertaining to the Yard and Lot Maintenance By-law.
- (c) the attached proposed by-law (Appendix “C”) **BE INTRODUCED** at the Municipal Council Meeting to be held on March 13, 2024, to repeal Council Policy CPOL. - 172-424. regarding Naturalized Areas and Wildflower Meadows.

Executive Summary

This report summarizes the work done pertaining to the proposed new Yard and Lot Maintenance By-law (PW-XX), and the repeal of the existing PW-9 By-law.

Civic Administration also recommends amendments to the Administrative Monetary Penalty System (AMPS) by-law amending selected penalty schedules to reflect new categories and penalties and to allow staff to further utilize AMPS as a tool to ensure compliance with the proposed new Yard and Lot Maintenance By-law.

Finally, this report recommends the deletion of the Naturalized Areas and Wildflower Meadows Council Policy CPOL. -172-424 as the new By-law will eliminate the need for this Policy.

Linkages to Corporate Strategic Plan

Changes to the By-law create and support two pillars of the 2023-27 Strategic Plan: Wellbeing and Safety, and Climate Action and Sustainable Growth.

Wellbeing & Safety

The new By-law proactively addresses emerging issues by redefining what constitutes a ‘neat and tidy’ yard and allows greater flexibility in its approach to clearing the land.

Introducing Corner and Driveway visibility triangles helps to improve pedestrian safety especially the safety of small children. (1.5)

The By-law, in a small way, may help address food insecurity and improved equity by clarifying opportunities to growing more diverse species of flora in their yards: More growing area and less regulation about what can be grown. (1.9)

Finally, the new By-law helps to support community-led initiatives such as the Pollinator Pathways Project, Food not Lawns, and others. (2.2)

Climate Action & Sustainable Growth

The By-law reduces the barriers for citizens to improve the natural environment on their own properties which in turn can help to protect our watersheds and natural heritage areas. (1.2)

By implementing a “climate lens framework” in the creation of the By-law we help to build resiliency throughout the City. (2.2)

Analysis

1.0 Background Information

1.1 Previous Reports CPSC – October 13, 2020, March 20, 2012, Feb 1 2010.

1.2 Municipal Purpose

The Municipal Act is the main statute governing the creation, administration, and government of municipalities in Ontario. *The Municipal Act* provides that a municipality may require the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land, not including buildings. These provisions, among others in the Act, serve as the municipal purpose for the attached By-law amendments.

2.0 Discussion and Considerations

Staff reviewed best practices from municipalities across the province regarding “yard maintenance” and “clearing of land” by-laws. Special attention was paid to how the London by-law would permit naturalized yards to better reflect Council’s goals and strategies around climate action, species diversification, pollinators, etc.

Staff reached out to experts and municipalities to discuss and review the topic. Notably the Ecological Design Lab’s ongoing research project “By-laws for Biodiversity” provided background information and resources for our proposed changes.

We sought to remove judgement from the regulation and enforcement of the by-law particularly around naturalized yards and to reduce the number of calls we receive regarding differences of opinion regarding yard aesthetics. We believe that we have struck a balance between those that seek to naturalize and diversify their property, those that wish to maintain more traditional lawns or annual gardens, and those that ignore their property and create a potential public nuisance.

3.0 Financial Impact / Considerations

Since 2021 when Municipal Compliance began issuing Administrative Monetary Penalties (AMPs) for the PW-9 By-law there have been 84 issued for a total of \$14 700.00. In 2023 there were 31 AMPs issued for a total of \$5 425.00.

There hasn’t been an AMP issued for “failure to clear buffer strip” or for “failure to locate refuse containers in accordance with the by-law” which are the two penalty categories we proposed removing from the AMPs by-law based on policy changes to the Yard and Lot Maintenance By-law.

The proposed increase in penalty amounts is recommended for the purposes of encouraging compliance and deterring repeat violations. The increase could have a

minor impact on increased fine revenues recognising that the primary tool used for compliance of this by-law are contractor led cleanups.

4.0 Key Issues and Considerations

4.1 Changes to the Yard and Lot Maintenance By-law

The following summarizes key changes proposed for the Yard and Lot Maintenance By-law. The new By-law, in its entirety, is attached as "Appendix A"

- 1) 'Purpose' of By-law changed from *"A By-law to provide for the filling up, draining, cleaning and clearing of land, and clearing of refuse from land"* to *"A By-law to require the owner or occupant of land to clean and clear the land, or to clear refuse from the land, not including buildings"*, to better reflect the purpose of the By-law.
- 2) Several 'whereas' statements updated to reflect Municipal Act updates and permissions.
- 3) Part 1 – Definitions
New definitions have been added, some updated, and some completely removed. Notable Definitions added to the proposed by-law include:
 - "Driveway Visibility Triangles" and "Corner Visibility Triangles" to regulate the height of vegetative growth where it interacts with the public realm to reduce potential safety impacts (especially small children) as a result of obstructions when vehicles are turning corners or entering and exiting driveways.
 - A definition for 'Lawn' has been created with the assistance of the Ecological Design Lab in Toronto - specific to turfgrasses - to differentiate it from other vegetation, gardens, and ornamental grasses.
 - 'Prohibited Plants' has been introduced to facilitate the creation of a London-specific list of plants within the regulations of the By-law that could, in specific instances, differ from the Weed Control Act. This provides for flexibility over locally identified invasive and noxious plants.
 - Clarifying 'Refuse' terminology so that the definition is easier to read and understand.
 - Adding "Unlicensed Donation Bins" as a definition and a specific new refuse category to give staff the ability to have unlicensed bins cleared from properties, not just to have the areas around them cleaned.
 - Consolidating the language around the growth of flora on a property which should create more equity between the many forms (and aesthetics) of yard maintenance. This was specifically intended to reduce the bias toward traditional lawns and to support naturalization and biodiversity by not restricting it beyond a public safety lens.
- Notable definitions removed from the proposed by-law:
 - 'Border' & 'Buffer Strip' removed to increase the amount of land that can be used to grow vegetation.
 - 'Cleared' deleted as new, more specific definitions for Lawn, Refuse, and Vegetative Growth refocus the intent of the By-law.
 - 'Naturalized Ares', 'Perennial Gardens', and 'Wildflower Meadows' removed to provide clarity for staff and the public, and to reduce the bias toward traditional grassed yards.
- 4) Part 2 General Provisions
The "General Provisions" section of the By-law has been rewritten to provide more clarity.

- Vegetative Growth now differentiated from Lawns and permitted everywhere (as mentioned in section 3 of this report, no more “buffer strips” to delineate meadows and gardens)
- Consolidation and alignment with the *Municipal Waste and Resource Materials Collection By-law (WM-12)* regarding containment and collection of refuse.
- No changes to the regulation of Lawns, for those that wish to maintain turfgrass yards.

5) Part 3 Exemptions

The “Exemptions” section of the new By-law has been updated to better reflect community interests and standards. Most notably:

- Removed the overall exemption for “Agricultural Lands” and updated the By-law to better reflect the intent of the *Farming and Food Production and Protection Act* re. “Normal Farm Operations” in rural settings.
- Added an exemption for all City land, including parks, to the By-law where previously the exemption only pertained to land or structures operated by the City for dumping or disposing of refuse.
- A better understanding and implementation of the *Weed Control Act* and how it pertains to urban areas in the City of London. This is also addressed through the introduction of the administrative “Prohibited Plants” list.

6) Part 4 Prohibitions

The Prohibitions section has been consolidated to better align with the current intent, and to reduce redundancy in the By-law. Notably the word ‘person’ has been changed to ‘owner’ in most prohibitions to ensure the By-law is direct in its intent.

7) Part 5 Enforcement & Interpretation

This Section has been renamed from ‘Enforcement’ to Enforcement & Interpretation. A section has been added to include the Administrative Monetary Penalty System (AMPS) as a penalty where compliance with the By-law fails. Section 5.14 was added to address singulars and plurals within the text.

8) Part 6 Powers of the Director

This Section was added to enable the Director to prescribe the format and content of forms or documents required under this by-law, specifically to facilitate the creation of a *Prohibited Plants List* as a regulation to the By-law.

Creation and management of this list will be done by the Director, who may solicit the input of City ecologists, area Weed Inspectors, and other qualified person(s) as the Director deems necessary to add or remove plants from the list.

Having the list as a regulation, rather than a section of the By-law allows administrative amendments to be made, rather than a bringing a report to Council each time the list is amended. Administrative regulations are utilized in various City By-laws to great effect, allowing the Director to make quick decisions regarding local invasive species, noxious weeds, and prohibited plants.

It should also be noted that Municipal Compliance will work with City Ecologists to generate and maintain the Prohibited Plants List, but also create educational and outreach material - including a web page - to educate the public about which plants are prohibited in London and why. Suggestions have been received from the Civic Works Committee (CWC) via the Environmental Stewardship and Action Community Advisory Committee (ESACAC) and reviewed for consideration in educational materials.

4.2 Changes to the Administrative Monetary Penalty System (AMPS)

Schedules A-1 and A-4 of the AMPS By-law have been amended (Appendix 'B') to reflect the new regulations and penalty categories on the proposed Yard and Lot Maintenance By-law.

Increases have been proposed to all penalties in order to promote compliance and deter repeat offences. The proposed increase in penalties are from \$175 to \$300 per offence.

The financial implications of this change are discussed in Section 3.0 of this report.

4.3 Deleting Council Policy - Naturalized Areas and Wildflower Meadows.

The deletion of Council Policy CPOL.-172-424.re. Naturalized Areas and Wildflower Meadows is a housekeeping measure. The policy was enacted in 2017 with the purpose of ensuring that *Naturalized Areas and Wildflower Meadows* complied with the Yard and Lot Maintenance By-law. However, based on the housekeeping amendments focussing on clarity of regulations, the Policy is no longer required.

Owners of naturalized areas or wildflower meadows will no longer be required to submit a plan nor seek any exemptions for their naturalized area(s). This will have the effect of freeing up some staff time as Civic Administration will no longer be required to collect, exempt, nor monitor naturalized areas and wildflower meadows throughout the city.

Conclusion

The repeal and replacement of the Yard and Lot Maintenance By-law is intended to simplify our approach to the cleaning and clearing of land, especially as it pertains to naturalized yards.

Changes made to the definitions, including refuse and the containment thereof, align with the City's *Municipal Waste and Resource Materials Collection By-law WM-12*, and the overall strategic goals of the Municipality.

Amendments to the By-law and deletion of a Council Policy regarding naturalized yards are intended to make it easier for people to grow what they want on their property, with regulations pertaining only to nuisances and public safety matters. This modernizes our approach to yard maintenance and aligns with the 2023-2027 Strategic Plan regarding "Health and Wellbeing" and "Climate Action", as indicated.

Amendments to the Administrative Monetary Penalty System (AMPS) align the new By-law with the AMPS By-law including increased penalties for non-compliance.

Prepared by: Ethan Ling MSc.
Policy and Program Analyst, Municipal Compliance

Submitted by: Nicole Musicco
Manager, Licensing, Policy, and Special Operations

Reviewed & Concurred by: Orest Katolyk, MPL, MLEO(C),
Director, Municipal Compliance

Recommended by: Scott Mathers, MPA, P.Eng.
Deputy City Manager, Planning and Economic Development

“Appendix A”

Bill No.XXX
2024

By-law No. P.W.-XX

A By-law to require the owner or occupant of land to clean and clear the land, or to clear refuse from the land, not including buildings.

WHEREAS Section 2 of the *Municipal Act, 2001* provides that municipalities are created by the Province of Ontario to be responsible and accountable governments with respect to matters within their jurisdiction and each municipality is given powers and duties under the *Municipal Act, 2001* and many other Acts for the purpose of providing good government with respect to those matters;

AND WHEREAS Section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS Section 10 of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting matters including: 5. Health, safety and well-being of persons; 8. Protection of persons and property; 10. Structures, including fences and signs;

AND WHEREAS Section 127 of the *Municipal Act, 2001* provides that a municipality may require the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land, not including buildings;

AND WHEREAS Section 127 of the *Municipal Act, 2001* provides that a municipality may regulate when and how matters required under the by-law may be done;

AND WHEREAS Section 127 of the *Municipal Act, 2001* provides that a municipality may prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land;

AND WHEREAS Section 127 of the *Municipal Act, 2001* provides that a municipality may define “refuse” for the purpose of the by-law;

AND WHEREAS Section 128 of the *Municipal Act, 2001* provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances, and it is the opinion of Council that the failure to clear refuse and debris from land is a public nuisance, including the spread of vermin;

AND WHEREAS Section 129 of the *Municipal Act, 2001* provides that a municipality may prohibit and regulate with respect to odour and dust;

AND WHEREAS Section 130 of the *Municipal Act, 2001* provides that a municipality may regulate matters for purposes related to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS Subsection 446(1) of the *Municipal Act, 2001* provides that a municipality may direct that in default of clearing the land of refuse by the person directed or required to do it, the cleaning and clearing of land shall be done at the person’s expense;

AND WHEREAS Subsection 446(2) of the *Municipal Act, 2001* provides that a municipality may enter upon land at any reasonable time for the purpose of cleaning and clearing the land of refuse;

AND WHEREAS the City's *Inspections By-law A-30* governs the City's Powers of Entry for the purposes of carrying out inspections, and s. 435 of the *Municipal Act, 2001* sets out general conditions for the Powers of Entry, including that the person exercising the power may be accompanied by a person under his or her direction;

AND WHEREAS Section 446(3) of the *Municipal Act, 2001* provides that a municipality may recover the costs of clearing the land from the person directed or required to do it and the municipality may recover the costs by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS Section 391 of the *Municipal Act, 2001* provides that a municipality may impose fees or charges on any class of persons for services or activities provided or done by or on behalf of it, and which by-law may provide for interest charges and other penalties, including the payment of collection costs, for fees and charges that are due and unpaid;

AND WHEREAS the *Police Services Act*, R.S.O. 1990, Section 15 authorizes the municipality to appoint persons to enforce the by-laws of a municipality and that Municipal Law Enforcement Officers are Peace Officers for the purpose of enforcing municipal by-laws;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

Part 1

DEFINITIONS

1.1 Definitions

In this by-law, the following definitions shall apply:

“Art Mural” means a work of art depicting a scene or theme created in a specified location on a surface that has been approved by the property owner and deliberately implemented for the purposes of beautifying the specific location.

“City” means the corporation of the City of London.

“Compost Container” means an outdoor receptacle designed for the purpose of storing nonliving plant material as it decomposes into for use as a soil amendment. This does not include a City of London Green Bin.

“Corner Visibility Triangle” means a triangular area formed within a corner lot by the intersecting lot lines abutting two streets, or the projections thereof, and a straight line connecting them 5.4 metres (17.7 feet) from their point of intersection.

“Director” means the Director of Municipal Compliance for the City of London or their authorized representative.

“Driveway Visibility Triangle” means a triangular area formed by the intersection of the lateral limit of the travelled portion of a driveway and the street line or sidewalk (if existing) or the projections thereof, and a straight line connecting them 2.7 metres (8.9 feet) from their point of intersection.

“Graffiti” means one or more letters, symbols, figures, etchings, scratches, inscriptions, stains, or other markings that disfigure or deface, howsoever made or otherwise affixed

or applied to a building, structure, surface, or thing, but does not include an Art Mural, nor a sign authorized under the City's Sign By-law.

"Inoperative Vehicle" shall mean a licensed or unlicensed vehicle having damaged, deteriorated, removed, or missing parts or equipment necessary for its safe operation.

"Land" includes yards, vacant lots, or any part of a lot which is not beneath a building; and for the purpose of this by-law includes unenclosed decks, unenclosed porches, unenclosed carports, and unenclosed garages accessory to a residential use.

"Last Known Address" means the address which appears on the last revised assessment roll of the City.

"Lawn" means perennial turfgrass grown for ground cover, of a type that forms a dense, uniform turf when mown, including but not limited to Kentucky bluegrass, perennial ryegrass, or fine fescue.

"Officer" means a police officer or a municipal law enforcement officer of the City of London.

"Owner" includes a lessee or occupant of the land eighteen (18) years of age or older.

"Prohibited Plant" means any plant species designated by the Director as shown on *Schedule A – Prohibited Plants*.

"Receptacle" means a container used to hold refuse and includes green bins, green bin carts, recyclable material collection receptacles, waste collection receptacles and yard material collection receptacles.

"Refuse" means garbage, waste, or rubbish of any kind, including but not limited to;

- a) rubble, debris, earth, rocks, and stones;
- b) tree cuttings, limbs, and brush;
- c) Inoperative Vehicles, and/or vehicle parts;
- d) mechanical, electrical, and any kind of equipment or parts;
- e) any type of tank including a fuel tank, oil tank, or water tank;
- f) any and all domestic goods, furniture, or appliances;
- g) recyclable material such as paper, cardboard, containers, or cartons;
- h) material from construction or demolition projects;
- i) liquids or effluents;
- j) bones, feathers, animal hides or carcasses;
- k) commercial shopping carts, and;
- l) Unlicensed Donation Bins;

even where such material has commercial value.

"Unlicensed Donation Bin" means a donation bin that is not owned or managed by a licensed Donation Bin Business in City of London as per the *Business Licensing By-law*.

"Vegetative Growth" means a plant garden and includes, without limiting the generality of the foregoing, an annual or perennial flower garden, food garden, rain garden, hedge, shrub, plant, vine, and groundcover, but does not include trees or Lawn.

Part 2

GENERAL PROVISIONS

2.1 Administration of By-law:

This by-law is administered by Municipal Compliance, Planning & Economic Development Services Department of The Corporation of the City of London.

2.2 Removal of Refuse, Prohibited Plants, and Graffiti

1. An Owner shall remove any Refuse from their Land so that it is left in a clean and clear condition.
2. An Owner shall ensure their Land is kept clean, clear, and free from objects or conditions, that may create a public health or safety hazard, or a nuisance.
3. An Owner shall ensure their Land is kept free and clear of any Prohibited Plants.
4. An Owner shall keep their Land, including any buildings, structures, fences, and surfaces free and clear of Graffiti.

2.3 Vegetative Growth & Lawn

1. An Owner shall ensure Lawn on their Land does not exceed 20cm (8 inches) in height or length.
2. An Owner shall ensure Vegetative Growth on their Land does not exceed 0.9m (3 feet) in height within any Corner Visibility Triangle or Driveway Visibility Triangle.
3. An Owner shall ensure that Vegetative Growth or Lawn on their Land do not create a public health or safety hazard, or a nuisance.

2.4 Containment and Storage of Refuse

1. Every Owner shall ensure that Refuse is stored in Receptacles that:
 - (a) are made of rigid, watertight construction;
 - (b) have a tight-fitting cover, which may be removed only when the container is empty or when actively loaded or cleaned;
 - (c) are maintained in good condition without holes or spillage;
 - (d) are kept clean to prevent the escape of waste, prevent litter or offensive odours, and;
 - (e) are appropriate for, and capable of, containing all refuse generated by the uses and users the receptacles serve, in accordance with the *Municipal Waste and Resource Materials Collection By-law WM-12*, or any successor by-law.
2. Every Owner shall ensure Refuse is placed for collection in accordance with the *Municipal Waste and Resource Materials Collection By-law WM-12*, or its successor.
3. Every Owner shall ensure Refuse is not stored or kept for longer than 14 days.
4. Where an exterior bin or bulk storage container storage system is used to store Refuse the Owner shall ensure that all exterior bin or bulk storage containers are:

- (a) equipped with lids, covers, or similar devices which are readily operable but not left open except when actively being loaded;
- (b) large enough to contain all waste generated between collections by the occupants the system is designed to serve;
- (c) not loaded beyond the top of the container, and;
- (d) kept neat, tidy, litter, and vermin free.

2.5 Outdoor Furniture

Every Owner shall ensure that any furniture that is located on their Land is kept in a clean, neat, and tidy condition and maintained in good repair.

2.6 Swimming Pool Water

Every Owner shall ensure water within a swimming pool on their Land is kept in a condition which is not;

- (a) a health or safety hazard;
- (b) malodorous, or;
- (c) a breeding place or habitat for animals, including insects.

Part 3 PROHIBITIONS

3.1 Refuse Deposited on Land - prohibited

No person shall throw, place, or deposit Refuse on any Land without lawful authority

3.2 Refuse not cleared from Land – prohibited

No Owner shall fail to clear their Land of refuse.

3.3 Vegetative Growth and Lawn – fail to maintain - prohibited

No Owner shall fail to maintain Vegetative Growth or Lawn on their Land in accordance with the provisions of this by-law.

3.4 Prohibited Plants – removal

No Owner shall fail to remove Prohibited Plants identified as part of this by-law from their Land.

3.5 Refuse Containment - prohibited

No Owner shall fail to contain Refuse within Receptacles maintained in accordance with the provisions of this by-law.

3.6 Excavation – failure to enclose – prohibited

No Owner shall fail to enclose any excavation on their Land with a temporary barrier at least 122 centimetres (48 inches) in height.

3.7 Water – 30 cm deep – failure to drain – prohibited

No Owner shall fail to drain an accumulation of water on their Land that exceeds 30 centimetres (12 inches) in depth

3.8 Outdoor Furniture – fail to maintain – prohibited

No Owner shall fail to maintain outdoor furniture on their Land in accordance with the provisions of this by-law.

3.9 Swimming Pool Water – fail to maintain - prohibited

No Owner shall fail to keep or maintain the water in a swimming pool on their Land in accordance with the provisions of this by-law.

3.10 Graffiti - removal

No Owner shall fail to remove Graffiti from buildings, structures, erections, or objects on their Land in accordance with this by-law.

3.11 Obstruction of Officer - prohibited

No person shall obstruct or hinder, or attempt to obstruct or hinder, an Officer in the enforcement of the provisions of this by-law.

3.12 Contravention of Order - prohibited

No Owner shall contravene a Work Order or an Order to Discontinue Activity.

3.13 Failure to comply with Administrative Regulations - prohibited

No Owner shall fail to comply with any administrative regulations made as part of this by-law.

Part 4

EXEMPTIONS

4.1 Active Construction – exemption

Section 2.4 of this by-law does not apply to Land on which construction is proceeding under a valid building permit except where materials have been removed from an existing building or are awaiting disposal.

4.2 Site Plan – exemption

Section 2.4 of this by-law does not apply to Land where approval under the Site Plan Control Area By-law has been obtained that includes regulations pertaining to the containment and location of garbage.

4.3 Outdoor storage – lawful – exemption

Section 2.4 of this by-law does not apply to Land which is lawfully used for outdoor storage of materials in compliance with the applicable zoning and licensing by-laws and regulations so long as the materials are not deemed by the City to be Refuse.

4.4 City Lands and Parks - exempted

This By-law does not apply to Land, including parks, owned or operated by the City of London, except with regard to Part 3, Prohibitions, Section 3.1.

4.5 Natural bodies of water – exemption

Sections 2.6 and 3.5 of this by-law do not apply to natural bodies of water.

4.6 Normal Farm Practices – exempted

This By-law does not apply to normal farm practices carried on as part of an agricultural operation, as per the *Farming and Food Production and Protection Act, 1998*.

4.7 Weed Control Act

The provisions of the *Weed Control Act* with respect to the destruction of noxious weeds take precedence over this By-law where noxious weeds or weed seeds are close enough to any land used for agricultural or horticultural purposes such that they interfere with that use, as per section 22 of the *Weed Control Act*.

4.8 Compost in a Compost Container – not Refuse

Compost kept in a Compost Container shall not be considered Refuse.

PART 5

ENFORCEMENT & INTERPRETATION

5.1 Offence – fine for contravention

Any person who contravenes any provision of this by-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the Provincial Offences Act.

5.2 Continuation – repetition – prohibited – by Order

The court in which a conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.

5.3 Default – not remedied – fee

Where anything required or directed to be done in accordance with this by-law is not done, the Director may upon such notice as they deem suitable, do such thing at the expense of the Owner, and in so doing may charge an administrative fee as provided in the City of London *Fees and Charges By-law*. Any expenses and fees incurred by the City that are not paid by the Owner may be recovered by action or by adding the costs to the municipal tax roll and collecting them in the same manner as property taxes.

5.4 Removal - immediate disposal

Where any of the matters or things are removed in accordance with section 5.3 of this by-law, the matters or things may be immediately disposed of by the Director.

5.5 Officer – entry to inspect

An Officer designated to perform inspections pursuant to this by-law may, at all reasonable times, enter onto Land for the purposes of inspection of the Land.

5.6 City – bring property to compliance

Where the City proceeds pursuant to section 5.3 of this by-law, an Officer may enter onto Land accompanied by any person under their direction and with the appropriate equipment as required to bring the property into compliance with this by-law.

5.7 Order to Discontinue Activity

If an Officer is satisfied that this by-law has been contravened, the officer may make an order, known as an Order to Discontinue Activity, requiring the person who contravened the by-law, or who caused or permitted the contravention, or the Owner of the Land on which the contravention occurred, to discontinue the contravention.

5.8 Order to Discontinue Activity - particulars

An Order to Discontinue Activity shall set out:

- (a) the municipal address of the property on which the contravention occurred;
- (b) the date of the contravention;
- (c) the reasonable particulars of the contravention of the by-law;
- (d) the date by which there must be compliance with the order; and
- (e) the date on which the order expires.

5.9 Order to Discontinue Activity - service

The Order to Discontinue Activity may be served personally on the person to whom it is directed or by regular mail to the Last Known Address of that person, in which case it shall be deemed to have been given on the third day after it is mailed. Service on a corporation may be effected by registered mail to the corporate mailing address.

5.10 Work Order – contravention of by-law

If an Officer is satisfied that a contravention of the by-law has occurred, the Officer may make an order, known as a Work Order, requiring the person who contravened the by-law or who caused or permitted the contravention or the Owner of the Land on which the contravention occurred to do the work to correct the contravention.

5.11 Work Order - contents

A Work Order shall set out:

- a) the municipal address or the legal description of the Land;
- b) reasonable particulars of the contravention and of the work to be done;
- c) a deadline, being a specific date, for compliance with the Work Order; and
- d) a notice that if the work is not done in compliance with the Work Order by the deadline, the municipality may have the work done at the expense of the owner and the cost of the work may be recovered by adding the amount to the property's tax roll.

5.12 Work Order – service

A Work Order may be served personally on the person to whom it is directed or sent by regular mail to the Last Known Address of that person, in which case it shall be deemed to have been given on the third day after it is mailed. Service on a corporation may be affected by registered mail to the corporate mailing address.

5.13 Administrative Monetary Penalty for Failing to Comply

Each person who fails to comply with any provision of this By-law shall, upon issuance of an administrative penalty notice in accordance with the *Administrative Monetary Penalty System By-law*, be liable to pay the City an administrative monetary penalty.

5.14 Interpretation

In the interpretation of this by-law, words in the singular include the plural and vice-versa, words in one gender include all genders, and "person" includes an individual, body corporate, partnership, trust, and unincorporated organization.

Part 6 POWERS OF THE DIRECTOR

6.1 In addition to any other power, duty or function delegated in this By-law, the Director may make administrative regulations under this By-law including:

- (a) prescribing the format and content of any forms or other documents required under this By-law, and;
- (b) adding or removing plant species to or from the List of Prohibited Plants

Part 7 REPEAL – ENACTMENT

7.1 By-law – previous

By-law P.W.-9 and all of its amendments are hereby repealed.

7.2 Effective date

This by-law comes into force and effect on the day it is passed.

7.3 Short Title

The short title of this by-law shall be the "Yard and Lot Maintenance By-law".

PASSED in Open Council on March 13, 2024

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – March 13, 2024

Second Reading – March 13, 2024

Third Reading – March 13, 2024

Appendix “B”

Bill No. _____
2024

By-law No. - _____

A by-law to amend By-law No. A-54, as amended, being “A by-law to implement an Administrative Monetary Penalty System in London” to repeal and replace Schedule A-4

WHEREAS section 434.1 of the Municipal Act and Section 15.4.1 of the Building Code Act authorizes the City to require a person, subject to conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality;

AND WHEREAS the Municipal Council considers it desirable to enforce and seek compliance with the designated by-laws, or portions of those by-laws, through the Administrative Monetary Penalty System;

AND WHEREAS the Municipal Council on June 25, 2019, passed By-law No. A-54, being “A by-law to implement an Administrative Monetary Penalty System in London;”

AND WHEREAS the Municipal Council deems it appropriate to amend By-law No. A-54 with respect to contraventions of designated by-laws under the Administrative Monetary Penalty System By-Law;

NOW THEREFORE the Council of The Corporation of the City of London enacts as follows:

1. That Schedule “A-1” to By-law No. A.54 be amended to replace the current by-law number associated with the Yard and Lot Maintenance By-law (By-law PW-9) with the new By-law Number (TBD – Clerks), using the same title.
2. That Schedule “A-4” to By-law No. A.54 be replaced with the attached schedule.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on March 13, 2024,

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – March 13, 2024
Second Reading – March 13, 2024
Third Reading – March 13, 2024

**Schedule “A-4”
Penalty Schedule for Yard and Lot Maintenance By-law**

1. For the purposes of Section 2 of this By-law, Column 3 in the following table lists the provisions in the Designated By-law identified in the Schedule, as amended.

2. Column 2 in the following table sets out the short form wording to be used in a Penalty Notice for the contravention of the By-law Section listed in Column 3.

3. Column 4 in the following table sets out the Administrative Penalty amount that is payable for contraventions of the By-law Section listed in Column 3.

Column 1 Item #	Column 2 Short Form Wording	Column 3 Provision Creating or Defining Offence	Column 4 Administrative Penalty Amounts
1	Deposit refuse on any property without authority	Part 3, Section 3.1	\$300.00
2	Fail to clear land of refuse	Part 3, Section 3.2	\$300.00
3	Fail to maintain vegetative growth or lawn in accordance with by-law	Part 3, Section 3.3	\$300.00
4	Fail to remove prohibited plant(s) in accordance with by-law	Part 3, Section 3.4	\$300.00
5	Fail to contain or store refuse in accordance with by-law	Part 3, Section 3.5	\$300.00
6	Fail to enclose excavation with temporary barrier (122cm / 48 inches) high	Part 3, Section 3.6	\$300.00
7	Fail to drain accumulation of water over (30cm / 12 inches) deep	Part 3, Section 3.7	\$300.00
8	Fail to maintain outdoor furniture in accordance with by-law	Part 3, Section 3.8	\$300.00
9	Fail to maintain water in swimming pool in accordance with by-law	Part 3, Section 3.9	\$300.00
10	Fail to remove graffiti in accordance with by-law	Part 3, Section 3.10	\$300.00
11	Hinder or obstruct officer in accordance with by-law	Part 3, Section 3.11	\$300.00
12	Attempt to hinder or obstruct officer in accordance with by-law	Part 3, Section 3.12	\$300.00
13	Contravene or fail to comply with a Work order or an Order to Discontinue Activity in accordance with by-law	Part 3, Section 3.13	\$300.00
14	No person shall fail to comply with any administrative regulations in accordance with the by-law	Part 3, Section 3.14	\$300.00

Appendix “C”

Bill No. _____
2024

By-law No. - _____

A by-law to repeal By-law No. CPOL.-172(a)-211 as amended, being “Naturalized Areas and Wildflower Meadows”,

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Municipal Council of The Corporation of the City of London passed By-law No. CPOL.-172(a)-211, being “Naturalized Areas and Wildflower Meadows”.

NOW THEREFORE the Municipal Council of The Corporation of the City of London takes the following action:

1. By-law No. CPOL.-172(a)-211, as amended, being “Naturalized Areas and Wildflower Meadows”, is hereby repealed.

PASSED in Open Council on March 13, 2024 subject to the provisions of PART VI.1 of the *Municipal Act, 2001*.

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – March 13, 2024
Second Reading – March 13, 2024
Third Reading – March 13, 2024

“Appendix A”

Bill No. XXX
2024

By-law No. _____

A by-law to require the owner or occupant of land to clean and clear the land, or to clear refuse from the land, not including buildings.

WHEREAS Section 2 of the *Municipal Act, 2001* provides that municipalities are created by the Province of Ontario to be responsible and accountable governments with respect to matters within their jurisdiction and each municipality is given powers and duties under the *Municipal Act, 2001* and many other Acts for the purpose of providing good government with respect to those matters;

AND WHEREAS Section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS Section 10 of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting matters including: 5. Health, safety and well-being of persons; 8. Protection of persons and property; 10. Structures, including fences and signs;

AND WHEREAS Section 127 of the *Municipal Act, 2001* provides that a municipality may require the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land, not including buildings; may regulate when and how matters required under the by-law may be done; may prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land; may define “refuse” for the purpose of the by-law;

AND WHEREAS Section 128 of the *Municipal Act, 2001* provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances.

AND WHEREAS Section 129 of the *Municipal Act, 2001* provides that a municipality may prohibit and regulate with respect to odour and dust;

AND WHEREAS Subsection 446(1) of the *Municipal Act, 2001* provides that a municipality may direct that in default of clearing the land of refuse by the person directed or required to do it, the cleaning and clearing of land shall be done at the person’s expense;

AND WHEREAS Subsection 446(2) of the *Municipal Act, 2001* provides that a municipality may enter upon land at any reasonable time for the purpose of cleaning and clearing the land of refuse;

AND WHEREAS the City’s *Inspections By-law A-30 (Entry on Land)* governs the City’s Powers of Entry for the purposes of carrying out inspections, and section 435 of the *Municipal Act, 2001* sets out general conditions for the Powers of Entry, including that the person exercising the power may be accompanied by a person under his or her direction;

AND WHEREAS Section 446(3) of the *Municipal Act, 2001* provides that a municipality may recover the costs of clearing the land from the person directed or required to do it and the municipality may recover the costs by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS Section 391 of the *Municipal Act, 2001* provides that a municipality may impose fees or charges on any class of persons for services or activities provided or done by or on behalf of it, and which by-law may provide for interest charges and other penalties, including the payment of collection costs, for fees and charges that are due and unpaid;

AND WHEREAS the *Police Services Act*, R.S.O. 1990, Section 15 authorizes the municipality to appoint persons to enforce the by-laws of a municipality and that Municipal Law Enforcement Officers are Peace Officers for the purpose of enforcing municipal by-laws;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

Part 1

DEFINITIONS

1.1 Definitions

In this by-law, the following definitions shall apply:

“Art Mural” means a work of art depicting a scene or theme created in a specified location on a surface that has been approved by the property owner and deliberately implemented for the purposes of beautifying the specific location.

“City” means the corporation of the City of London.

“Compost Container” means an outdoor receptacle designed for the purpose of storing nonliving plant material as it decomposes into for use as a soil amendment. This does not include a City of London Green Bin.

“Corner Visibility Triangle” means a triangular area formed within a corner lot by the intersecting lot lines abutting two streets, or the projections thereof, and a straight line connecting them 5.4 metres (17.7 feet) from their point of intersection.

“Director” means the Director of Municipal Compliance for the City of London or their authorized representative.

“Driveway Visibility Triangle” means a triangular area formed by the intersection of the lateral limit of the travelled portion of a driveway and the street line or sidewalk (if existing) or the projections thereof, and a straight line connecting them 2.7 metres (8.9 feet) from their point of intersection.

“Graffiti” means one or more letters, symbols, figures, etchings, scratches, inscriptions, stains, or other markings that disfigure or deface, howsoever made or otherwise affixed or applied to a building, structure, surface, or thing, but does not include an Art Mural, nor a sign authorized under the City’s Sign By-law.

“Inoperative Vehicle” shall mean a licensed or unlicensed vehicle having damaged, deteriorated, removed, or missing parts or equipment necessary for its safe operation.

“Land” includes yards, vacant lots, or any part of a lot which is not beneath a building; and for the purpose of this by-law includes unenclosed decks, unenclosed porches, unenclosed carports, and unenclosed garages accessory to a residential use.

“Last Known Address” means the address which appears on the last revised assessment roll of the City.

“Lawn” means perennial turfgrass grown for ground cover, of a type that forms a dense, uniform turf when mown, including but not limited to Kentucky bluegrass, perennial ryegrass, or fine fescue.

“Officer” means a police officer or a municipal law enforcement officer of the City of London.

“Owner” includes a lessee or occupant of the land eighteen (18) years of age or older.

“Prohibited Plant” means any plant species designated by the Director as shown on *Schedule A – Prohibited Plants*.

“Receptacle” means a container used to hold refuse and includes green bins, green bin carts, recyclable material collection receptacles, waste collection receptacles and yard material collection receptacles.

“Refuse” means garbage, waste, or rubbish of any kind, including but not limited to;

- a) rubble, debris, earth, rocks, and stones;
- b) tree cuttings, limbs, and brush;
- c) Inoperative Vehicles, and/or vehicle parts;
- d) mechanical, electrical, and any kind of equipment or parts;
- e) any type of tank including a fuel tank, oil tank, or water tank;
- f) any and all domestic goods, furniture, or appliances;
- g) recyclable material such as paper, cardboard, containers, or cartons;
- h) material from construction or demolition projects;
- i) liquids or effluents;
- j) bones, feathers, animal hides or carcasses;
- k) commercial shopping carts, and;
- l) unlicensed Donation Bins;

even where such material has commercial value.

“Unlicensed Donation Bin” means a donation bin that is not owned or managed by a licensed Donation Bin Business in City of London as per the *Business Licensing By-law*.

“Vegetative Growth” means a plant garden and includes, without limiting the generality of the foregoing, an annual or perennial flower garden, food garden, rain garden, hedge, shrub, plant, vine, and groundcover, but does not include trees or Lawn.

Part 2

GENERAL PROVISIONS

2.1 Administration of By-law:

This by-law is administered by Municipal Compliance, Planning & Economic Development Services Department of The Corporation of the City of London.

2.2 Removal of Refuse, Prohibited Plants, and Graffiti

1. An Owner shall remove any Refuse from their Land so that it is left in a clean and clear condition.
2. An Owner shall ensure their Land is kept clean, clear, and free from objects or conditions, that may create a public health or safety hazard, or a nuisance.
3. An Owner shall ensure their Land is kept free and clear of any Prohibited Plants.
4. An Owner shall keep their Land, including any buildings, structures, fences, and surfaces free and clear of Graffiti.

2.3 Vegetative Growth & Lawn

1. An Owner shall ensure Lawn on their Land does not exceed 20cm (8 inches) in height or length.
2. An Owner shall ensure Vegetative Growth on their Land does not exceed 0.9m (3 feet) in height within any Corner Visibility Triangle or Driveway Visibility Triangle.
3. An Owner shall ensure that Vegetative Growth or Lawn on their Land do not create a public health or safety hazard, or a nuisance.

2.4 Containment and Storage of Refuse

1. Every Owner shall ensure that Refuse is stored in Receptacles that:
 - (a) are made of rigid, watertight construction;
 - (b) have a tight-fitting cover, which may be removed only when the container is empty or when actively loaded or cleaned;
 - (c) are maintained in good condition without holes or spillage;
 - (d) are kept clean to prevent the escape of waste, prevent litter or offensive odours, and;
 - (e) are appropriate for, and capable of, containing all refuse generated by the uses and users the receptacles serve, in accordance with the *Municipal Waste and Resource Materials Collection By-law WM-12*, or any successor by-law.
2. Every Owner shall ensure Refuse is placed for collection in accordance with the *Municipal Waste and Resource Materials Collection By-law WM-12*, or its successor.
3. Every Owner shall ensure Refuse is not stored or kept for longer than 14 days.
4. Where an exterior bin or bulk storage container storage system is used to store Refuse the Owner shall ensure that all exterior bin or bulk storage containers are:

- (a) equipped with lids, covers, or similar devices which are readily operable but not left open except when actively being loaded;
- (b) large enough to contain all waste generated between collections by the occupants the system is designed to serve;
- (c) not loaded beyond the top of the container, and;
- (d) kept neat, tidy, litter, and vermin free.

2.5 Outdoor Furniture

Every Owner shall ensure that any furniture that is located on their Land is kept in a clean, neat, and tidy condition and maintained in good repair.

2.6 Swimming Pool Water

Every Owner shall ensure water within a swimming pool on their Land is kept in a condition which is not;

- (a) a health or safety hazard;
- (b) malodorous, or;
- (c) a breeding place or habitat for animals, including insects.

Part 3 PROHIBITIONS

3.1 Refuse Deposited on Land - prohibited

No person shall throw, place, or deposit Refuse on any Land without lawful authority

3.2 Refuse not cleared from Land – prohibited

No Owner shall fail to clear their Land of refuse.

3.3 Vegetative Growth and Lawn – fail to maintain - prohibited

No Owner shall fail to maintain Vegetative Growth or Lawn on their Land in accordance with the provisions of this by-law.

3.4 Prohibited Plants – removal

No Owner shall fail to remove Prohibited Plants identified as part of this by-law from their Land.

3.5 Refuse Containment - prohibited

No Owner shall fail to contain Refuse within Receptacles maintained in accordance with the provisions of this by-law.

3.6 Excavation – failure to enclose – prohibited

No Owner shall fail to enclose any excavation on their Land with a temporary barrier at least 122 centimetres (48 inches) in height.

3.7 Water – 30 cm deep – failure to drain – prohibited

No Owner shall fail to drain an accumulation of water on their Land that exceeds 30 centimetres (12 inches) in depth

3.8 Outdoor Furniture – fail to maintain – prohibited

No Owner shall fail to maintain outdoor furniture on their Land in accordance with the provisions of this by-law.

3.9 Swimming Pool Water – fail to maintain - prohibited

No Owner shall fail to keep or maintain the water in a swimming pool on their Land in accordance with the provisions of this by-law.

3.10 Graffiti - removal

No Owner shall fail to remove Graffiti from buildings, structures, erections, or objects on their Land in accordance with this by-law.

3.11 Obstruction of Officer - prohibited

No person shall obstruct or hinder, or attempt to obstruct or hinder, an Officer in the enforcement of the provisions of this by-law.

3.12 Contravention of Order - prohibited

No Owner shall contravene a Work Order or an Order to Discontinue Activity.

3.13 Failure to comply with Administrative Regulations - prohibited

No Owner shall fail to comply with any administrative regulations made as part of this by-law.

Part 4 EXEMPTIONS

4.1 Active Construction – exemption

Section 2.4 of this by-law does not apply to Land on which construction is proceeding under a valid building permit except where materials have been removed from an existing building or are awaiting disposal.

4.2 Site Plan – exemption

Section 2.4 of this by-law does not apply to Land where approval under the Site Plan Control Area By-law has been obtained that includes regulations pertaining to the containment and location of garbage.

4.3 Outdoor storage – lawful – exemption

Section 2.4 of this by-law does not apply to Land which is lawfully used for outdoor storage of materials in compliance with the applicable zoning and licensing by-laws and regulations so long as the materials are not deemed by the City to be Refuse.

4.4 City Lands and Parks - exempted

This By-law does not apply to Land, including parks, owned or operated by the City of London, except with regard to Part 3, Prohibitions, Section 3.1.

4.5 Natural bodies of water – exemption

Sections 2.6 and 3.5 of this by-law do not apply to natural bodies of water.

4.6 Normal Farm Practices – exempted

This By-law does not apply to normal farm practices carried on as part of an agricultural operation, as per the *Farming and Food Production and Protection Act, 1998*.

4.7 Weed Control Act

The provisions of the *Weed Control Act* with respect to the destruction of noxious weeds take precedence over this By-law where noxious weeds or weed seeds are close enough to any land used for agricultural or horticultural purposes such that they interfere with that use, as per section 22 of the *Weed Control Act*.

4.8 Compost in a Compost Container – not Refuse

Compost kept in a Compost Container shall not be considered Refuse.

PART 5

ENFORCEMENT & INTERPRETATION

5.1 Offence – fine for contravention

Any person who contravenes any provision of this by-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the Provincial Offences Act.

5.2 Continuation – repetition – prohibited – by Order

The court in which a conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.

5.3 Default – not remedied – fee

Where anything required or directed to be done in accordance with this by-law is not done, the Director may upon such notice as they deem suitable, do such thing at the expense of the Owner, and in so doing may charge an administrative fee as provided in the City of London *Fees and Charges By-law*. Any expenses and fees incurred by the City that are not paid by the Owner may be recovered by action or by adding the costs to the municipal tax roll and collecting them in the same manner as property taxes.

5.4 Removal - immediate disposal

Where any of the matters or things are removed in accordance with section 5.3 of this by-law, the matters or things may be immediately disposed of by the Director.

5.5 Officer – entry to inspect

An Officer designated to perform inspections pursuant to this by-law may, at all reasonable times, enter onto Land for the purposes of inspection of the Land.

5.6 City – bring property to compliance

Where the City proceeds pursuant to section 5.3 of this by-law, an Officer may enter onto Land accompanied by any person under their direction and with the appropriate equipment as required to bring the property into compliance with this by-law.

5.7 Order to Discontinue Activity

If an Officer is satisfied that this by-law has been contravened, the officer may make an order, known as an Order to Discontinue Activity, requiring the person who contravened the by-law, or who caused or permitted the contravention, or the Owner of the Land on which the contravention occurred, to discontinue the contravention.

5.8 Order to Discontinue Activity - particulars

An Order to Discontinue Activity shall set out:

- (a) the municipal address of the property on which the contravention occurred;
- (b) the date of the contravention;
- (c) the reasonable particulars of the contravention of the by-law;
- (d) the date by which there must be compliance with the order; and
- (e) the date on which the order expires.

5.9 Order to Discontinue Activity - service

The Order to Discontinue Activity may be served personally on the person to whom it is directed or by regular mail to the Last Known Address of that person, in which case it shall be deemed to have been given on the third day after it is mailed. Service on a corporation may be effected by registered mail to the corporate mailing address.

5.10 Work Order – contravention of by-law

If an Officer is satisfied that a contravention of the by-law has occurred, the Officer may make an order, known as a Work Order, requiring the person who contravened the by-law or who caused or permitted the contravention or the Owner of the Land on which the contravention occurred to do the work to correct the contravention.

5.11 Work Order - contents

A Work Order shall set out:

- a) the municipal address or the legal description of the Land;
- b) reasonable particulars of the contravention and of the work to be done;
- c) a deadline, being a specific date, for compliance with the Work Order; and
- d) a notice that if the work is not done in compliance with the Work Order by the deadline, the municipality may have the work done at the expense of the owner and the cost of the work may be recovered by adding the amount to the property's tax roll.

5.12 Work Order – service

A Work Order may be served personally on the person to whom it is directed or sent by regular mail to the Last Known Address of that person, in which case it shall be deemed to have been given on the third day after it is mailed. Service on a corporation may be affected by registered mail to the corporate mailing address.

5.13 Administrative Monetary Penalty for Failing to Comply

Each person who fails to comply with any provision of this By-law shall, upon issuance of an administrative penalty notice in accordance with the *Administrative Monetary Penalty System By-law*, be liable to pay the City an administrative monetary penalty.

5.14 Interpretation

In the interpretation of this by-law, words in the singular include the plural and vice-versa, words in one gender include all genders, and "person" includes an individual, body corporate, partnership, trust, and unincorporated organization.

Part 6 POWERS OF THE DIRECTOR

6.1 In addition to any other power, duty or function delegated in this By-law, the Director may make administrative regulations under this By-law including:

- (a) prescribing the format and content of any forms or other documents required under this By-law, and;
- (b) adding or removing plant species to or from the List of Prohibited Plants

Part 7 REPEAL – ENACTMENT

7.1 By-law – previous

By-law P.W.-9 and all of its amendments are hereby repealed.

7.2 Effective date

This by-law comes into force and effect on the day it is passed.

7.3 Short Title

The short title of this by-law shall be the "Yard and Lot Maintenance By-law".

8. This by-law comes into force and effect on March 13, 2024, subject to the provisions of PART VI.1 of the Municipal Act, 2001.

PASSED in Open Council on March 13, 2024, subject to the provisions of PART VI.1 of the Municipal Act, 2001.

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – March 13, 2024
Second Reading – March 13, 2024
Third Reading – March 13, 2024

Appendix “B”

Bill No. _____
2024

By-law No. - _____

A by-law to amend By-law No. A-54, as amended, being “A by-law to implement an Administrative Monetary Penalty System in London.

WHEREAS section 434.1 of the *Municipal Act, 2001* and Section 15.4.1 of the Building Code Act authorizes the City to require a person, subject to conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality;

AND WHEREAS the Municipal Council considers it desirable to enforce and seek compliance with the designated by-laws, or portions of those by-laws, through the Administrative Monetary Penalty System;

AND WHEREAS the Municipal Council on June 25, 2019, passed By-law No. A-54, being “A by-law to implement an Administrative Monetary Penalty System in London;”

AND WHEREAS the Municipal Council deems it appropriate to amend By-law No. A-54 with respect to contraventions of designated by-laws under the Administrative Monetary Penalty System By-Law;

NOW THEREFORE the Council of The Corporation of the City of London enacts as follows:

1. That Schedule “A-1” to By-law No. A-54 be amended to include By-law PW- being “Yard and Lot Maintenance By-law” as a designated by-law under the Administrative Monetary Penalty System By-Law;
2. That the attached schedule “A-4” be added to By-law No. A-54 provide for a penalty Schedule for By-law PW- _____ being the “Yard and Lot Maintenance By-law”;
3. This by-law comes into force and effect on March 13, 2024 subject to the provisions of PART VI.1 of the Municipal Act, 2001.

PASSED in Open Council on March 13, 2024 subject to the provisions of PART VI.1 of the Municipal Act, 2001

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – March 13, 2024
Second Reading – March 13, 2024
Third Reading – March 13, 2024

**Schedule “A-4”
Penalty Schedule for Yard and Lot Maintenance By-law**

1. For the purposes of Section 2 of this By-law, Column 3 in the following table lists the provisions in the Designated By-law identified in the Schedule, as amended.

2. Column 2 in the following table sets out the short form wording to be used in a Penalty Notice for the contravention of the By-law Section listed in Column 3.

3. Column 4 in the following table sets out the Administrative Penalty amount that is payable for contraventions of the By-law Section listed in Column 3.

Column 1 Item #	Column 2 Short Form Wording	Column 3 Provision Creating or Defining Offence	Column 4 Administrative Penalty Amounts
1	Deposit refuse on any property without authority	Part 3, Section 3.1	\$300.00
2	Fail to clear land of refuse	Part 3, Section 3.2	\$300.00
3	Fail to maintain vegetative growth or lawn in accordance with by-law	Part 3, Section 3.3	\$300.00
4	Fail to remove prohibited plant(s) in accordance with by-law	Part 3, Section 3.4	\$300.00
5	Fail to contain or store refuse in accordance with by-law	Part 3, Section 3.5	\$300.00
6	Fail to enclose excavation with temporary barrier (122cm / 48 inches) high	Part 3, Section 3.6	\$300.00
7	Fail to drain accumulation of water over (30cm / 12 inches) deep	Part 3, Section 3.7	\$300.00
8	Fail to maintain outdoor furniture in accordance with by-law	Part 3, Section 3.8	\$300.00
9	Fail to maintain water in swimming pool in accordance with by-law	Part 3, Section 3.9	\$300.00
10	Fail to remove graffiti in accordance with by-law	Part 3, Section 3.10	\$300.00
11	Hinder or obstruct officer in accordance with by-law	Part 3, Section 3.11	\$300.00
12	Attempt to hinder or obstruct officer in accordance with by-law	Part 3, Section 3.12	\$300.00
13	Contravene or fail to comply with a Work order or an Order to Discontinue Activity in accordance with by-law	Part 3, Section 3.13	\$300.00
14	No person shall fail to comply with any administrative regulations in accordance with the by-law	Part 3, Section 3.14	\$300.00

Appendix “C”

Bill No. _____
2024

By-law No. - _____

A by-law to repeal By-law No. CPOL.-
172-424 as amended, being
“Naturalized Areas and Wildflower
Meadows”

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Municipal Council of The Corporation of the City of London passed By-law No. CPOL.-172-424, being “Naturalized Areas and Wildflower Meadows”.

NOW THEREFORE the Municipal Council of The Corporation of the City of London takes the following action:

1. By-law No. CPOL.-172-424, as amended, being “Naturalized Areas and Wildflower Meadows”, is hereby repealed.
2. This by-law comes into force and effect on March 13, 2024 subject to the provisions of PART VI.1 of the *Municipal Act, 2001*.

PASSED in Open Council on March 13, 2024 subject to the provisions of PART VI.1 of the *Municipal Act, 2001*.

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – March 13, 2024
Second Reading – March 13, 2024
Third Reading – March 13, 2024

Report to Community & Protective Services Committee

To: Chair and Members
Community & Protective Services Committee

From: Tara Pollitt
Deputy City Manager, Legal Services

Scott Mathers, MPA, P. Eng
Deputy City Manager, Planning and Economic Development

Subject: Regulation of the Display of Graphic Images

Date: February 20, 2024

Recommendation

That, on the recommendation of the Deputy City Manager, Legal Services, and the Deputy City Manager, Planning and Economic Development:

- (i) this report **BE RECEIVED** for information; and
- (ii) as per Council resolution of December 19, 2023, that a Public Participation Meeting **BE HELD** on March 18, 2024 with respect to the draft amendment to the Streets By-law attached as Schedule "A".

Executive Summary

Council directed Civic Administration to prepare an amendment to the Streets By-law to regulate graphic images, and a Public Participation Meeting, by the end of Q1 2024. Council also directed Civic Administration to report back on potential changes to the Sign By-law related to the prohibition of the display of graphic images in public.

Linkage to the Corporate Strategic Plan

The following report supports the Strategic Plan through the strategic focus area of well being and safety and well run City.

Analysis

1.0 Previous Reports Pertinent to this Matter

There are no previous reports related to this matter.

2.0 Background Information

On August 2, 2022, Council resolved:

The Civic Administration BE DIRECTED to report back to a future meeting of the Community and Protective Services Committee with respect to potential changes that could be made to the Sign By-law related to the prohibition of the display of graphic images in public; it being noted that the verbal delegation and communication, as appended to the Agenda, from D. Ronson, with respect to this matter, were received.

On December 19, 2023, Council further resolved:

That the Civic Administration BE DIRECTED to prepare a by-law amending the Streets By-law (S-1) to regulate the display of graphic images in the City of London with a report back at a future meeting of the Community and Protective Services Committee and a public participation meeting on the proposed by-law amendment by the end of Q1 2024; it being noted that the communications, as appended to the Added Agenda, from Councillors S. Trosow and H. McAlister and K. Dean, with respect to this matter, were received...

3.0 Discussion and Considerations

Draft Amendments to Streets By-law – Council Resolution of December 19, 2023

Council has directed Civic Administration to prepare an amending by-law to the Streets By-law. The draft by-law amending the Streets By-law (attached as Schedule “A”) has been drafted based on the wording in the communication appended to the December 19 2023 Added Agenda from Councillors Trosow and McAlister.

Authority to Pass Municipal By-laws

Generally speaking, municipalities have been given broad powers to pass by-laws. However, a by-law may be quashed for illegality under s. 273 of the *Municipal Act, 2001*, and caselaw has set out what may constitute “illegality” for the purposes of this section. Illegality under s. 273 encompasses a variety of municipal law grounds, including: violation of *Charter* rights; *ultra vires* (beyond legal authority), improper purpose, bad faith, or vagueness.^a

Charter Rights

Rights of individuals are guaranteed under Canada’s *Charter of Rights and Freedoms*. A by-law regulating the display of signs on streets and highways may be subject to a Charter challenge where it is alleged that the by-law infringes rights guaranteed by the Charter (s. 2(b) freedom of expression). The City Council must be satisfied in enacting the by-law that it does not violate Charter rights; or, to the extent that there is some potential Charter infringement, that the means used by the City to achieve its objective are rationally connected to that objective, that there isn’t another way to achieve the same objective without violating anyone’s rights or freedoms, or violating them to a lesser degree, and that the City’s objective in enacting the by-law is significant enough to justify violating a Charter right (as per the *Oakes* test).

Other Applicable Legislation – Safe Access to Abortion Services Act, 2017

The *Safe Access to Abortion Services Act, 2017* governs what can occur around an “access zone” (aka “bubble zones”) for clinics that offer abortions. Under that Act, an “access zone” is established for clinics (listed in the Regulations) that consists of “the property on which the clinic is located and the area within 50 metres...from the boundaries of the property [or as prescribed in the regulations]”. Within an access zone, no person shall try to advise or persuade a person to refrain from accessing abortion services, or attempt to inform a person concerning issues related to abortion services by any means or perform an “act of disapproval concerning issues related to abortion services” (including oral, written or graphic means).

However, there is no “access zone” automatically created for facilities like hospitals; a request can be made to the Ministry of the Attorney General and the Ministry of Health and Long-Term Care, and will be considered on a case-by-case basis. Any person can make such a request, but if the hospital isn’t the entity making the request, the Ministry will give the hospital the opportunity to respond before creating an “access zone” by way of a Regulation. (This webpage provides steps on how to submit such a request: [Safe access zones | ontario.ca](https://www.ontario.ca/government/safe-access-zones))

^a 2386240 *Ontario Inc. (c.o.b. Al-Omda Lounge) v. Mississauga (City)*, [2018] O.J. N. 3018.

Amendments to the Sign By-law – Council Resolution of August 2, 2022

Civic Administration does not recommend changes to the Sign By-law with respect to the display of graphic images. The Sign By-law as drafted is “content neutral” in that the content of the signs are not regulated. Section 1.2.1 of the Sign By-law sets out the Scope of the By-law as follows: “This By-law regulates the location, size, number, construction, alteration, repair, and maintenance of all outdoor signs and signs visible from the exterior of premises, including signs located in windows. “Signage clutter” is the basis for regulating signs that are distractions for pedestrians or motorists. The content of protest or picket signs are not regulated under the Sign By-law.

Municipal Scan

A number of municipalities were contacted to undertake a municipal scan on this matter. Although some municipalities have discussed this matter either internally or in a political setting, staff could not find any Ontario examples of by-laws to address this form of signage.

City of Calgary Sign by-law

The City of Calgary recently amended its sign by-law to address advocacy signage. The regulation limits the size of signs related to advocacy to a certain size when the sign is within a certain distance (150m) of a school during school hours. The sign by-law amendment came into effect in October 2020. Since then, there have been 20 public complaints, and no violation tickets issued to date.

The following information is taken directly from the City of Calgary report ([Bylaws related to signage \(calgary.ca\)](#)):

School Safe Zones Temporary Signs on Highways Bylaw (29M97) Amendment

*The School Safe Zones Temporary Signs on Highways Bylaw (29M97) Amendment **restricts advocacy messaging on public streets near schools**, due to the harmful impact this messaging has on unwilling viewers. This bylaw amendment was created for the safety and protection of students, their caregivers, and school staff, who do not want to be exposed to this messaging while attending school.*

The [Temporary Signs on Highways Bylaw](#) prohibits the placement of signs within playground and school zones and with the amendment, restricts advocacy messaging on public property within 150 metres of a school (if larger than 3.5” by 5” in size).

*Advocacy messaging is defined in the bylaw as **messaging that publicly expresses an opinion on an issue or cause**. An advocacy group is defined as any group that promotes this type of messaging whether it be an external group or student group.*

The bylaw restrictions do not impose a ban on advocacy messaging, but rather restrict the size of the sign within a 150 metre distance from the school, thereby mitigating the issue of unwanted messaging.

The bylaw does not apply to any activities within the school property, only to the public property around the school. Schools can give permission to advocacy messaging on school property. Students looking to hold demonstrations on school property can seek approval from their schools.

Enforcement and reporting

The School Safe Zones Bylaw Amendment carries a fine of \$1,000 for any person found to be displaying or carrying a sign with advocacy messaging:

- Within 150 metres of the school boundary;*
- Larger than 3.5” by 5”;*
- During school days; and*

- *Between the hours of 7:30 a.m. - 9:00 p.m.*

The bylaw will operate on a complaint basis – individuals or advocacy groups known or suspected to be engaging in this process near schools should be reported.

How would a possible by-law amendment or new by-law be enforced?

With the adoption of any new municipal by-law or larger amendment, the standard protocol has been a three-pronged approach:

- Engagement and education
- Encouraging voluntary compliance
- Enforcement if necessary based on officer discretion

The approach to any new or amended by-law to address this matter if approved by Council is to follow this protocol and have a very strong front-ended focus on engagement, education and communications. Normally after a new by-law or by-law amendment is passed by Council, Civic Administration submits an application to a Senior Regional Judge for a set fine order related to the prohibition in the by-law, and may recommend an amendment to the Administrative Monetary Penalty System (AMPS) By-law introducing short form wording and a penalty amount.

Standard operating procedures are utilized in response to complaints. Complainants may be required to submit a statement of facts in some cases to assist with the collection of evidence. Further, if penalties are issued, complainants may be required to attend a hearing and provide evidence. A similar process was previously led by MLEOs and the public with respect to charges under the Public Nuisance By-law for “unnecessarily interfere with another person’s use and enjoyment of the Public Place by using abusive or insulting language as a personal invective”. The evidence of the MLEOs and members of the public led to multiple convictions and substantial fines.

There could be challenges to enforcing this by-law on the following matters: responding to complaints when MLEOs are off duty (evenings, Sundays) or are engaged in other compliance matters; determining the identity of the offender; Officer Safety (attending a large demonstration could lead to the need for additional MLEO backup or possibly LPS attendance); and determining the location of the sign (i.e.is the sign on the street as defined in the by-law or on private property).

Conclusion

Council directed Civic Administration to report back on potential changes to the Sign By-law related to the prohibition of the display of graphic images in public. Subsequently, Council directed Civic Administration to prepare an amendment to the Streets By-law to regulate graphic images, and a Public Participation Meeting, by the end of Q1 2024. This report is in response to these directions. A summary of how the City of Calgary addressed this matter is also provided.

**Prepared by: Lynn Marshall
Solicitor**

**Orest Katolyk
Director, Municipal Compliance**

**Recommended by: Tara Pollitt
Deputy City Manager, Legal Services**

**Scott Mathers
Deputy City Manager, Planning and Economic
Development**

Attachments.:

- communications appended to the December 19 2023 Council Added Agenda from Councillors S. Trosow and H. McAlister;
- draft by-law amending the Streets By-law (attached as Schedule “A”)

Community and Protective Services Committee, Added Agenda for December 5, 2023

Draft motion for CPSC:

Civic Administration is directed to prepare a by-law amending the Streets By-Law (S-1) to regulate the display of graphic image in the City of London, report back to the CPSC, and schedule a Public Participation meeting on the proposed by-law amendment.

An amendment to the Streets By-Law (S-1) to regulate the display of graphic images on the streets in the City of London.

Purpose

The purpose of this amendment is to regulate the public display of Graphic Images on the streets of the City of London so that recipients are not subjected to distressing, unwanted and distracting images.

Definitions

“**Display**” means to cause a Graphic Image to be publicly visible anywhere on a city street including the sidewalks and other public property.

“**Graphic Image**” means an image or photograph showing, or purporting to show, a fetus or any part of a fetus; (Note: This definition is the same as contained in the *Graphic Image Delivery By-Law*, PW 14).

Regulation of Displays

This By-law amends Part 2 (Prohibited Matters) to clarify that sections 2.1 (Street -obstructing-encumbering-injuring-fouling), section 2.6 (Public nuisance -upon street), section 2.8 (public travel-use – interference), section 2.9 (Notices- placards – posting-on street – prohibited) shall include the Display of Graphic Images.

Moved by: Hadleigh McAlister

Seconded by: Sam Trosow

SCHEDULE "A"

Bill No.
2024

By-law No.

A By-law to amend By-law S-1 entitled
"A by-law to provide for the Regulation
of Streets"

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended ("*Municipal Act, 2001*") provides that a municipal power shall be exercised by by-law;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting the "Health, safety and well-being of persons" as well as by-laws for the "Protection of persons and property, including consumer protection";

AND WHEREAS the Council is satisfied that the unregulated public display of Graphic Images on the streets of the City of London, which subjects individuals to distressing, unwanted and distracting images, does cause harm;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Part 1 of the Streets By-law S-1 is amended by inserting the following new definition of "Display" after the definition of "City Engineer", as follows:

Display - defined

"Display" means to cause a Graphic Image to be publicly visible anywhere on a city street including the sidewalks and other public property.

2. Part 1 of the Streets By-law S-1 is amended by inserting the following new definition of "Graphic Image" after the definition of "Electric Personal Assistive Mobility Device", as follows:

Graphic Image - defined

"Graphic Image" means an image or photograph showing, or purporting to show, a fetus or any part of a fetus.

3. Part 2 of the Streets By-law S-1 is amended by adding a new section 2.15, as follows:

2.15 Display of Graphic Image

2.15.1 For greater certainty, for the purposes of section 2.1, the Display of a Graphic Image on a street shall be considered an obstruction of that street.

2.15.2 For greater certainty, for the purposes of section 2.6, the Display of a Graphic Image on a street shall be considered a public nuisance on that street.

2.15.3 For greater certainty, for the purposes of section 2.8, the Display of a Graphic Image on a street shall be considered an activity which interferes with public travel or use of a street.

2.15.4 For greater certainty, for the purposes of section 2.9, the Display of a Graphic Image on a street by means of posting the Graphic Image in or upon a street, shall be considered posting a notice, sticker, placard or advertisement in or upon a street.

4. This by-law shall come into force and effect on the day it is passed.

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First reading –
Second reading –
Third reading –

February 15, 2024

Community and Protective Services Committee
City of London
300 Dufferin Avenue, London, ON, N6B 1Z2

Dear London Community and Protective Services Committee and City Councilors,

It has come to my attention that Civic Administration has prepared a by-law amending your Streets By-Law (S-1) to regulate the display of graphic images on the streets of the City of London that would ban fetal images from the public square.

I believe that such a ban would not only infringe upon fundamental rights to free speech but also undermine the critical importance of social justice and human rights in our society.

Let me explain. Abortion stands as one of the darkest chapters in Canadian history, where some four million babies have been erased in the name of “reproductive rights” and “choice” since 1969. Images documenting the victims of abortion serve as a powerful reminder of the atrocities that continue to be committed against the youngest members of the human family. Banning these images would suppress vital educational tools that foster understanding, empathy, and vigilance against discrimination of the most vulnerable among us—the preborn child.

Moreover, the proposed ban directly impacts babies targeted today for abortion. Such images change hearts and minds when it comes to abortion. Such images save lives. From the perspective of preborn babies, displaying these images is not about free speech—they have no voice—but at stake is their very existence, a life that could be saved when a mother sees a fetal image and decides to choose life for her baby.

Furthermore, the proposed ban sets a dangerous precedent that threatens the broader principles of free speech and expression. Freedom of speech is a foundational pillar of our democracy that is enshrined in the Charter of Rights and Freedoms which recognizes that Canada is founded upon the “supremacy of God and the rule of law.” The right to freedom of speech protects not only popular and uncontroversial speech but also dissenting and uncomfortable speech. Suppressing certain viewpoints, no matter how discomfoting they may be to some, undermines the very essence of democracy and pluralism.

If you decide to proceed with this by-law, you can expect litigation from those whose speech you have silenced. You may be aware that legal action is being pursued against the Parliamentary Protective Service for restricting fetal images on Parliament Hill.

Discomfort can never be a valid justification for censorship. While fetal images may evoke painful emotions for some, they also serve as a necessary catalyst for reflection, dialogue, and action when it comes to human rights violations, especially when it comes to denying a group of people the first and most fundamental of rights—the right to life. Banning such images would not erase the discomfort; instead, it would deny individuals the opportunity to confront difficult truths and engage in meaningful conversations.

I urge you to uphold the principles of free speech and social justice by rejecting the proposed ban on fetal images in the public square.

Sincerely,

Sincerely,



Jeff Gunnarson
National President
Campaign Life Coalition



THE ACACIA GROUP

613-221-5895
343-888-2619
info@acaciagroup.ca
acaciagroup.ca

Albertos Polizogopoulos
Email: albertos@acaciagroup.ca

November 17, 2022

Office of the Mayor
Attention: Mayor Josh Morgan
300 Dufferin Avenue

London, Ontario N6B 1Z2

By Email: mayor@london.ca

Mayor Tory:

Re: Motion (4.2) D. Ronson - Signage Containing Graphic Images of Alleged Aborted Fetuses
Our Client: Canadian Centre for Bioethical Reform
Our File No.: 3422095

I am legal counsel to the Canadian Centre for Bioethical Reform (“CCBR”). I write you in relation to the above-noted motion which seeks to explore means through which the City of London (the “City” or “London”) may amend its sign bylaw to prevent the posting of certain materials. The motion specifically mentions “images of aborted fetuses” which my client is known for distributing as part of its efforts to educate Canadians on the realities of abortion.

This letter is to advise you of the *Charter* implications of implementing bylaws or other municipal rules which would specifically target the distribution of flyers and other written materials and more specifically, the communication of certain messaging. Any bylaw or rule seeking to limit the mediums through which political, advocacy, educational, or religious organizations may communicate would be subject to *Charter* scrutiny and vulnerable to a *Charter* challenge. The law on freedom of expression, particularly with respect to political expression, is quite clear that the bar for censorship is high. I could list a series of court decisions from various courts, including the Supreme Court of Canada, which demonstrate that justifying such censorship is a high bar, but instead, I will direct you to two recent Ontario decisions involving the matter:

1. [CHP v. Hamilton \(City\), 2018 ONSC 3690](#) of the Divisional Court of Ontario; and,
2. [Bracken v Fort Erie \(Town\) 2017 ONCA 668](#) of the Ontario Court of Appeal.

These decisions dealt with municipalities attempting to curtail political freedom of expression. In both decisions, the Courts are clear that being offended by the expression in question is not sufficient grounds to censor it (*CHP* at para. 43; and *Bracken* at para. 30).





THE ACACIA GROUP

613-221-5895
343-888-2619
info@acaciagroup.ca
acaciagroup.ca

Be advised then that should the City implement a bylaw or rule which would limit freedom of expression through the distribution of written materials, it will be inviting a *Charter* challenge which we are certain, given the extensive case law on the subject, would be successful. The CCBR encourages you, therefore, to carefully consider its obligations under the *Charter of Rights and Freedoms* and, in particular, section 2(b).

Yours truly,

THE ACACIA GROUP

Albertos Polizogopoulos

C.c.: City Council Members:

- Councillor Hadleigh McAlister (hmcAlister@london.ca)
- Councillor Shawn Lewis (slewis@london.ca)
- Councillor Peter Cuddy (pcuddy@london.ca)
- Councillor Susan Stevenson ([Councillor Morley@toronto.ca](mailto:Councillor_Morley@toronto.ca))
- Councillor Jerry Pribil (jpribil@london.ca)
- Councillor Sam Trosow (strosow@london.ca)
- Councillor Corrine Rahman (corahman@london.ca)
- Councillor Steve Lehman (slehman@london.ca)
- Councillor Anna Hopkins (ahopkins@london.ca)
- Councillor Paul Van Meerbergen (pvanmeerbergen@london.ca)
- Councillor Skylar Franke (sfranke@london.ca)
- Councillor Elizabeth Pelosa (epelosa@london.ca)
- Councillor David Ferreira (dferreira@london.ca)
- Councillor Steven Hillier (shillier@london.ca)





THE DEMOCRACY FUND

February 16, 2024

Community and Protective Services Committee By email: cpsc@london.ca
City Hall – 3rd Floor
300 Dufferin Avenue
London, ON N6B 1Z2

Dear Committee Members:

Re: Proposed bylaw banning fetal images

We are writing to you about a proposal that the City of London pass a bylaw that would prohibit the public display of any image showing or purporting to show a fetus or any part of a fetus.

The proposed bylaw would obviously limit the right to free expression that protected by the *Canadian Charter of Rights and Freedoms*. As interpreted by the caselaw, the right to free expression protects any type of activity or communication that conveys or attempts to convey meaning. This right can only be limited in very narrow circumstances.

Our concern is that the City of London is being asked to take sides in the political and moral debate about abortion, and to misuse its legislative power to silence one side of that debate.

The proposed bylaw is not about protecting anyone, but is rather about limiting the rights of prolife advocates to express themselves. This is clear from the fact that the bylaw would only prohibit the public display of fetal images, no matter how inoffensive. Conspicuously, the bylaw would not prohibit the display of any other type of image, no matter how offensive. The municipality does not have jurisdiction to pass such a bylaw, because its objective is to limit expression on the basis of its political or moral content.

We note that the City of London recently passed the *Graphic Image Delivery By-law*. This bylaw prohibits the delivery of fetal images to residences in London unless the images are fully concealed in envelopes that contain a mandatory warning. While this bylaw has been applauded by some interest groups, we believe it is unconstitutional and will be challenged in a court of law because its objective is to restrict expression.

Our organization will be following the progress of the Committee with respect to the proposed bylaw. We urge you to respect the *Charter* and not to exceed your jurisdiction by passing bylaws that unjustifiably infringe free expression.



THE DEMOCRACY FUND

Yours truly,

Alan Honner

Alan Honner
Litigation Director

Dear Councillors,

My name is Maria McCann, and I am the leader of a local pro-life advocacy group, London Against Abortion. Since 2016, I and my fellow volunteers have been peacefully sharing the pro-life message to Londoners through demonstrations and outreach. I am writing to share my deep concerns about the proposed amendments to the Streets By-law and its attempt to ban all fetal imagery in the public square.

This by-law proposal singles out pro-life freedom of expression in an unconstitutional way. Section 2(b) of the *Charter* guarantees the right to freedom of expression to everyone, regardless of the popularity or acceptance of their message. The Supreme Court of Canada ruled in *Irwin Toy Ltd. v. Quebec* that this right protects all non-violent conduct that attempts to convey meaning, including expression which may be unpopular, distasteful, or contrary to the mainstream.

As I read through the suggested amendments to the draft by-law, I was alarmed that they would constitute a by-law even *more* extreme than the previous draft. I noted that on page 26, it says that displaying fetal imagery in any way in the public square would be illegal and would constitute a disturbance, an obstruction, and a nuisance. There is no other city in Canada that outright bans fetal imagery. It is important to remember that London's ban on visible fetal imagery in flyers has not yet withstood any legal challenges. The concept of banning fetal imagery in any capacity is by no means "settled legal territory."

Even former Attorney General of Ontario Yasir Naqvi, an architect of the "Safe Access Zones" legislation, recognized that attempts to ban displays of fetal imagery were legally dubious, at best. When asked by a Toronto MPP in 2017 for guidance on banning displays of fetal imagery, Mr. Naqvi replied, "Restricting or limiting anti-abortion protest activities is, however, a very complex legal and social issue that engages the fundamental constitutional protection for freedom of expression under the *Canadian Charter of Rights and Freedoms*." Mr. Naqvi believed a broad ban on pro-life speech would not survive a *Charter* challenge, and felt he could only defend "bubble zones" because they were limited to the immediate area surrounding abortion clinics.

Some claim that they don't want to restrict pro-life freedom of expression, they just want to restrict "graphic images." Notably, though, "graphic images" in this legislation refers only to images of fetuses. No other type of image that could be considered graphic is included in the by-law, which shows that it clearly engages in content-based discrimination. Further to that, victim photography and graphic images have been lawfully used by Canadians for decades to appeal to the public when attempting to inspire social reform. Many contemporary examples come to mind:

- The group Animal Liberation Alliance London stands on public street corners in our city, showing [graphic videos of animal mistreatment](#). I have walked by them doing one of these protests near Budweiser Gardens.

- Concerning the contentious issue of the war between Israel and Hamas, people on both sides of that debate use graphic imagery and victim photography in their protests. Recently in Toronto, pro-Palestinian protesters [created a display](#) of white bundles meant to look like body bags, and fliers showing what resembled bloody handprints. Their display resembled a mass grave.
- In 2015, [Canadian rallies about the Syrian refugee crisis](#) prominently displayed photos of little Alan Kurdi's corpse. The heartbreaking photos of the little boy provoked [responses of grief and solidarity](#) from many major Canadian politicians, including then-PM Stephen Harper and current-PM Justin Trudeau.

The right to peaceful freedom of expression includes the right to share victim photography and graphic imagery about social problems. Advocacy groups do so, not to "glorify" violence, but precisely because they want that violence to *end*, and they want to awaken compassion for the victims of an injustice. If people care deeply about an issue and believe that it's an injustice, I firmly believe their right to speak should be protected, whether or not I agree with them.

Every day in our city, people face unplanned or challenging pregnancies. These individuals deserve to know about social supports that can make it easier for them to carry a pregnancy to term. This is something that London Against Abortion and other pro-life groups have been able to do frequently. As we share the pro-life message in the public square, we have been able to connect with many people who are facing difficult pregnancies and need help. In the past week alone, we've been able to share a [fundraiser-registry on social media](#) for a single mom in London, Jay*, who navigated a challenging pregnancy, and whose baby is currently receiving care in the NICU.

We've also been able to connect with people who feel emotional turmoil after an abortion, and who want to know about a path towards healing. I think about the student Elisa*, whom I spoke with in November 2023 in London. She confided in me that she'd had an abortion as a teenager, and she had spoken about it with very few people. I gave her a flyer with a website on it for post-abortion support, listened to her share her story, and empathized with how much difficulty and suffering she had faced. She thanked me at the end of the conversation, and took the pamphlet with the support info. Last month, in Toronto, I spoke with a university student who was pro-choice and disagreed with me strongly on the abortion issue. At the same time, though, he had a friend who was struggling after an abortion. Despite his disagreement with me on abortion itself, he gratefully took an extra brochure from me to give to his friend, to connect her with post-abortion help. Many people are *thankful* to encounter the pro-life message—even people who don't fully agree with our message.

**Names changed to protect privacy*

Our group is motivated by concern and care for women, for pre-born children, and for families who are struggling during pregnancy or after abortion. I ask you, Councillors, to not single out this *one* movement, the pro-life movement. Don't single out and silence this *one* message, the pro-life message. We're not asking for special treatment—just for the same right to freedom of expression that every Canadian is supposed to have. In light of that, I hope you will uphold your

15 January 2024

responsibility under the *Charter* and vote 'no' against legislation that represses pro-life freedom of expression.

Kind regards,
Maria McCann (N6K0B8)
LAA President
londonagainstabortion.wordpress.com

To the CPSC Committee of London regarding its upcoming meeting on February 20th agenda item 4 Items for direction 4.1

Alliance for Life Ontario is the provincial pro-life educational umbrella organization for 50 affiliate member groups active in Ontario. We are extremely concerned with “Item 4. Items for Direction 4.1 -1. 2024-02-20SR Regulation of the Display of Graphic Images” scheduled for discussion on the agenda at the upcoming Community and Protective Services Committee meeting of February 20th 2024.

According to the proposed draft amendment to the Streets By-Law “*Graphic Image*’ – means an image or photograph showing or purporting to show, a fetus or any part of a fetus”

We note that the terminology is rather broad since it does not specify what species of fetus the CPSC, actually means, however given our past history regarding discussions pertaining to the Graphic Image delivery by-law proposals, *graphic image*, we presume, means human? We also wondered about the use of the term *graphic* and therefor conducted research as to the various meanings of the word – please see below;

Britannica Dictionary definition of GRAPHIC. 1. [more graphic; most graphic] : **shown or described in a very clear way** — used especially to refer to things that are unpleasant or shocking

<https://www.google.com/search?client=firefox-b-d&q=meaning+of+the+word+Graphic>

“The words **picturesque and vivid** are common synonyms of graphic. While all three words mean "giving a clear visual impression in words," graphic stresses the evoking of a clear lifelike picture.”

<https://www.merriam-webster.com/thesaurus/graphic>

“very clear and powerful”

<https://dictionary.cambridge.org/dictionary/english/graphic>

“giving a clear and effective picture”

<https://www.dictionary.com/browse/graphic>

It is our contention, reflecting on the Graphic Image delivery discussion, that those delivering the images were endeavouring to make a “clear and effective picture” (Graphic) to Londoners of what abortion actually did to the preborn child. We would maintain that this would obviously be important information for any individual to have in order to form an opinion on abortion or indeed make an informed decision regarding undergoing induced abortion. It is our understanding that the images which the CPSC is concerned with were the ones defined as *Graphic Image in the Graphic Image By-law-PW- 14*. We submitted our objections to that proposed by-law as well and we still maintain that it offends the Charter of Rights and Freedoms section 2(b), possibly even more rights documents, and we are surprised that the City has not experienced a Charter challenge as yet. It seems incongruous that a by-law from the CPSC would actually prevent citizens from being provided or “*shown or described in a clear way*” the effect of abortion on the child in the womb. Now it appears that the CPSC will consider what we see as a further breach of the Charter, by extending this prohibition to the streets and public spaces of London.

It seems to us that the CPSC has not considered the effect such amendments might have to those businesses and facilities that make a living producing ultrasound images or use

ultrasound images for health reasons. We are wondering about their ability to advertise their product and have noted that there are at least 10 of these facilities operating throughout the City. We also wonder how the by-law, should it be adopted will be applied to women coming out of these facilities and looking at the images they have just received on a public sidewalk.

https://www.yelp.ca/search?cflt=ultrasoundimagingcenters&find_loc=London%2C+ON
Ultrasound Imaging facilities in London

While several cities have adopted graphic image delivery by-laws, which again we believe will be challenged, the extension to prohibition in public spaces is totally undemocratic and, we believe outside the authority of any City to implement without expectation of challenge. We contend that this kind of discrimination against a certain message is unconstitutional and discriminatory. Canadians have a right to impart their opinion and also to receive the opinion of others in any public space and no City has the right to set itself up as gatekeeper of a specific message. Contrary to the opinion of some, this kind of by-law will be challenged by those who wish to maintain the great democracy we have in Canada.

We have quoted extensively from documents which we believe support the right to show these images, however disturbing they may be to some members of society. It is a most important test of our democratic society that if we wish to live as a democracy we must be prepared to allow freedom, even for messages, in whatever form they may take, that some abhor. The purpose of these images is to show or describe in a clear way the effect of induced abortion on the child in the womb. While these images may contain disturbing and explicit imagery, they are used to present the truth regarding induced abortion from the preborn child's perspective. We direct your attention to the immediate quotes below these remarks and encourage you to read the others which I have highlighted for easier focus and reflection. We agree with J.Holmes below that "if there is any principle of the Constitution that more imperatively calls for attachment than any other it is the principle of free thought – not free thought for those who agree with us, but freedom for the thought we hate."

Sincerely and respectfully submitted,

Mrs Jakki Jeffs
Executive Director
Alliance for Life Ontario

Colleagues,

Having received notification from a member of committee for a desire to be able to observe the total solar eclipse I've spoken with the Clerk, and the Chair can move the meeting under section 26.1 of the Council Procedure Bylaw "The Chair may amend the time of the Committee meeting, when the content of the Agenda warrants a change to be necessary. The date and time may be varied where a holiday falls on a regular meeting date and during July and August."

Motion:

That the Community and Protective Services Committee meeting scheduled for April 8, 2024 at 1pm BE RESCHEDULED to commence at 10am on April 8, 2024.

Kind regards,

Councillor Peloza
CPSC Chair

Elizabeth Peloza

Councillor Ward 12 & Budget Chair

Office: (519) 661-2489 ext. 4012

The City of London is situated on the traditional lands of the Anishinaabek, Haudenosaunee, Lūnaapéewak and Attawandaron. We honour and respect the history, languages and culture of the diverse Indigenous people who call this territory home including those who live here today.