

Bill No. 85
2024

By-law No. PW-_____

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, and to repeal By-law PW-9.

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 effected 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 PW-9 and all 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 5, 2024, subject to the provisions of PART VI.1 of the *Municipal Act, 2001*.

PASSED in Open Council on March 5, 2024, subject to the provisions of PART VI.1 of the *Municipal Act, 2001*.

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – March 5, 2024
Second Reading – March 5, 2024
Third Reading – March 5, 2024