

TO:	CHAIR AND MEMBERS PUBLIC SAFETY COMMITTEE PUBLIC PARTICIPATION MEETING MARCH 6th , 2012
FROM:	G. KOTSIFAS, P. ENG. DIRECTOR OF BUILDING CONTROLS AND CHIEF BUILDING OFFICIAL
SUBJECT:	CLEARING OF LAND BY-LAW AMENDMENTS

RECOMMENDATION

That, on the recommendation of the Director of Building Controls and Chief Building Official the attached proposed By-law **BE INTRODUCED** at the Municipal Council meeting of, March 20th, 2012 to amend the Clearing of Land By-law.

BACKGROUND

Municipal Council, at its session held on September 20, 2010 resolved:

*That the communication dated September 7, 2010 from Councillor J.P. Bryant and Councillor N. Branscombe with respect to private residential garbage containment **BE REFERRED** to By-law Enforcement staff to review and report back at a future meeting of the Planning Committee as to how the issue of garbage containment on private residential properties could better be addressed.*

ANALYSIS

1) Rename the By-law

In order to aid the residents of the City of London in accessing this by-law on the City of London webpage it would be beneficial to rename the by-law. The current by-law is known as the "Clearing of Land By-law", and for many that name conjures images of the removal of stands of trees from lots. It is recommended that the by-law be named "Yard and Lot Maintenance By-law".

2) Garbage containment and location

Currently the Clearing of Land By-law does not regulate where on the land refuse is to be stored or in what manner the refuse must be contained. It has been found that there are situations when refuse is contained, but in a manner where it would still be considered public nuisance. The proposed amendment permits refuse containers to be stored in the side and rear yard.

3) Compost containment

Currently the by-law defines but does not regulate compost containment. The proposed amendment introduces compost containment and location regulations.

4) Graffiti removal

The City of London has a by-law known as the "Standards for the Maintenance and Occupancy of Property" which addresses graffiti on private property, however, it would be beneficial to incorporate regulations into the "Clearing of Land By-law" because remedial action under this by-law may be expedited in a shorter time frame. The inclusion of definitions of graffiti and art mural provide clarity on the difference between vandalism and urban art.

Graffiti has been termed a "quality of life" crime and the impacts that graffiti has on a community are numerous. Neighbourhoods containing graffiti are less appealing to those who may be looking to buy or rent property. Property becomes more difficult to sell and values are reduced. Graffiti on residential fences and buildings that face public spaces has a negative impact on the enjoyment of public spaces such as parkland and civic areas. Graffiti also may cause the perception that the area is unsafe.

Graffiti breeds more graffiti - If graffiti is not removed promptly, the space invites more graffiti as

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the “tagger” is confident that their “tag” will be displayed for some time. Graffiti sends out a message that “nobody cares” about the area. This creates an open invitation for littering, loitering and more graffiti.

CONCLUSION

By implementing by-law regulations that address the containment and location of refuse and compost, various results can be achieved including the reduction of incidences of scattered garbage due to rodent, animal and bird ransacking, and the reduction of drifting garbage odours. The inclusion of regulations to address the removal of graffiti will further improve aesthetics within our community.

ACKNOWLEDGEMENTS

This report was prepared with the assistance of Wesley Abbott, Division Manager, Solid Waste Management, and the City Solicitor’s Office.

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PREPARED AND RECOMMENDED BY:	REVIEWED & CONCURRED BY:
G. KOTSIFAS, P.ENG. DIRECTOR OF BUILDING CONTROLS AND CHIEF BUILDING OFFICIAL	JOHN BRAAM, P.ENG. ACTING EXECUTIVE DIRECTOR, PLANNING, ENVIRONMENTAL & ENGINEERING SERVICES & CITY ENGINEER

Cc: Peter Kokkoros, P.Eng., Manager of Plans Examination & Deputy Chief Building Official
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2012

By-law No.

A By-law to amend By-law No. PW-9, as amended, entitled "A by-law provide for the filling up, cleaning and clearing of land, and clearing of refuse from land".

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 WEHREAS 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, graffiti is a matter which, in the opinion of Council, is or could become, or could cause a public nuisance;

AND WHEREAS, Council of The Corporation of the City of London deems it desirable and in the public interest to amend By-law PW-9;

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

1. Amend Part 1 Definitions of By-law PW-9 in the first line by changing the number 1. to 1.1, and in the second line deleting the numbers 2.1.
2. Amend section 6.3 of Part 6 of By-law PW-9 by deleting the words "Clearing of Land By-law" and replacing them with the words "Yard and Lot Maintenance By-law".
3. Amend section 1.1 of Part 1 of By-law PW-9 by adding the definition of "Art Mural", "Building", "Graffiti" and "Leaf Compost" as follows:

Art Mural

"Art Mural" is a mural depicting a scene or theme for a designated surface and location that has been approved including by the property owner and deliberately implemented for the purposes of beautifying the specific location.

Building

"Building" for the purposes of graffiti removal includes but is not limited to a building, structure, erection, object, fence, retaining wall, paved or similarly finished surface, vehicle, trailer or waste container.

Graffiti

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“Graffiti” includes one or more letters, symbols, figures, etchings, scratches, inscriptions, stains or other markings that disfigure or deface a building, howsoever made or otherwise affixed or applied on the structure or thing, but, for greater certainty, does not include an Art Mural.

Leaf Compost

“Leaf Compost” means the collection of leaves into a heap, pile or mound for the purpose of biological degradation or breakdown of the leaves into a dark soil-like material called humus;

4. Amend section 1.1 of Part 1 of By-law PW-9 by deleting the definition of “Land” and replacing it with:

Land

“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.

5. Amend section 1.1 of Part 1, “Domestic Waste” as defined in By-law PW-9 by adding (j) within the definition as follows:

- (j) commercial shopping carts

6. Delete Section 2.1 of By-law PW-9 and replace it with the following:

2.1 Administration – by Planning, Environmental and Engineering Services Department

This by-law is administered by the Planning, Environmental and Engineering Services Department of The Corporation of the City of London.

7. Amend Part 2 of By-law PW-9 by inserting Section 2.9, 2.10, 2.11, 2.12, and 2.13 as follows:

2.9 Refuse – containment and location

Every owner shall ensure that all refuse which accumulates on their property and when not placed out for collection in accordance with applicable City by-laws is:

- (a) in containers:
 - i. made of rigid, watertight construction;
 - ii. provided with a tight fitting cover, which may be removed only when the container is empty or is being actively loaded;
 - iii. maintained in good condition without holes or spillage;
 - iv. closed, or emptied, rinsed and cleaned when not in use, to prevent the escape of offensive odour or waste; and
 - v. located in the side or rear yard against a building, structure, fence or retaining wall and arranged in an orderly manner.
- (b) not permitted to accumulate longer than 14 days.

2.10 Refuse – contained within bins or exterior bulk storage containers

Every owner where an exterior bin or bulk storage container disposal system with the capacity of 8 cubic yards or less is used shall ensure that the containers are:

- (a) equipped with covers or similar devices which shall be readily operable but not left open except when actively being loaded;
- (b) large enough to contain all waste generated between collections by the occupants served; and
- (c) not loaded beyond the top of the container.

2.11 Compost – containment and location

Every owner of a residential property shall ensure that all compost, with the exception of leaf composting referred to in section 2.12, which accumulates on their property is:

- (a) contained within not more than 4 compost containers on their property; and
- (b) contained within containers that each:

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- i. have a maximum area not greater than 1.0m²;
- ii. have a maximum height of not higher than 1.8m;
- iii. is located in the rear yard;
- iv. is enclosed on all sides by concrete blocks, a lumber structure, a metal frame, or a commercially manufactured compost container;
- v. does not include a fence or a building wall as one or more of the sides of a composter; and
- vi. is covered in a manner to prevent the entry of rodents or other animals.

2.12 Leaf Compost – containment and location

Every owner shall ensure that all leaf compost which accumulates on their property which is not contained within a compost container as set out in section 2.11 is:

- (a) contained within not more than 1 leaf compost area on their property; and
- (b) contained within a leaf compost area that:
 - i. has a maximum area not greater than 9.29 m²;
 - ii. has a maximum height of not higher than 1.2m;
 - iii. is located in the rear yard;
 - iv. is enclosed on all sides by concrete blocks, a lumber structure, a metal or wire frame, or a commercially manufactured leaf compost container;
 - v. does not include a fence or a building wall as one or more of the sides of a compost area; and
 - vi. holds nothing more than leaves and soil.

2.13 Graffiti – removal

Every owner shall clean the exterior of any building, structure, erection or object on their property to remove graffiti.

2.13.1 Graffiti – building, structure, erection or object – definition

For the purposes of sections 2.12 and 3.13, “building, structure, erection or object” includes but is not limited to a fence, retaining wall, paved or similarly finished surface, vehicle, trailer or waste container.

8. Amend Part 3 of By-law PW-9 by inserting Section 3.10, 3.11, 3.12, 3.13, and 3.14 as follows:

3.10 Refuse – containment and location

No person shall fail to contain refuse or locate refuse containers in accordance with the provisions of this by-law.

3.11 Refuse – contained within bins or exterior bulk storage containers

No person shall fail to use bins or bulk storage units to contain refuse in accordance with this by-law.

3.12 Compost – containment and location

No person shall fail to contain compost or locate compost containers in accordance with this by-law.

3.13 Leaf Compost – containment and location

No person shall fail to contain leaf compost or locate leaf compost areas in accordance with this by-law.

3.14 Graffiti - removal

No person shall fail to remove graffiti from buildings, structures, erections or objects on the land in accordance with this by-law.

9. Amend Part 4 of By-law PW-9 by inserting Section 4.9, 4.10 and 4.11 as follows:

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4.9 Containment and location – exemption

Section 2.9 of this by-law does not apply to land on which construction is proceeding under a valid building permit, or where a building is undergoing an active renovation, or where an approval under the Site Plan Control Area By-law has been obtained that includes containment and location of garbage.

4.10 Contained within bins or exterior bulk storage containers – exemption

Section 2.10 of this by-law does not apply to land on which construction is proceeding under a valid building permit, or where a building is undergoing an active renovation, or where an approval under the Site Plan Control Area By-law has been obtained that includes containment and location of garbage.

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

PASSED in Open Council , 2012

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First reading -
Second reading -
Third reading -