

Clearing of Land By-law

PW-9 – Consolidated – February 1, 2010

**This by-law is printed under and by authority
of the Council of the City of London, Ontario, Canada**

Disclaimer:

The following consolidation is an electronic reproduction made available for information only. It is not an official version of the by-law. The format may be different, and plans, pictures, other graphics or text may be missing or altered. The City of London does not warrant the accuracy of this electronic version. This consolidation cannot be distributed or used for commercial purposes. It may be used for other purposes only if you repeat this disclaimer and the notice of copyright. Official versions of all by-laws can be obtained from the City Clerk's Department by calling (1-519)-661-4505.

Copyright 2001



**OFFICE CONSOLIDATION
INCLUDING AMENDMENT PW-9-10002 (February 1, 2010)**

Bill No.376
2004

By-law No. P.W.-9

A By-law to provide for the filling up, draining, 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 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 11 of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting matters within the sphere of jurisdiction of Drainage and flood control, and Waste Management;

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 Section 427(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 Section 427(2) of the *Municipal Act, 2001* provides that a municipality may enter upon land and into structures at any reasonable time for the purpose of cleaning and clearing the land of refuse, and Section 428 provides that the power to enter shall be exercised by an employee or agent of the municipality who may be accompanied by any person under his or her direction;

AND WHEREAS Section 427(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 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;

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

Part 1 DEFINITIONS

1. Definitions

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

Agricultural purposes

“Agricultural purposes” shall mean the land used for cultivating soil, producing crops and for the raising of livestock as an “agricultural operation” as defined in the *Farming and Food Production Protection Act, 1998*, S.O. 1998, c.1, but does not include the portion of land used as a woodlot;

Border

“border” shall mean the cleared land between the side and/or rear property line and a naturalized area or wildflower meadow.

Buffer Strip

“buffer strip” shall mean a border of a minimum of 0.9 m wide that delineates a wild flower meadow or naturalized area.

City

“City” shall mean the Corporation of the City of London;

Cleared

“cleared” includes the removal of weeds or grass more than 20 centimetres (8 inches) in height and the removal of stock piles of soil or other aggregate material not required to complete the grading of the lot on which the stock pile is located, and includes the draining, the treatment and/or the disposing of water on any property where there is a swimming pool which is a health or safety hazard, or is malodorous or is a breeding place for mosquitoes;

Composting

“Composting” shall mean the biological degradation or breakdown of organic material into a dark soil-like material called humus;

Composting Container

“Composting Container” shall mean the holding unit used to store yard, garden and household waste for the purpose of composting;

Domestic Waste

“domestic waste” shall mean any article, thing, matter or effluent belonging to or associated with a residence, household or dwelling unit that appears to be waste material and includes but is not limited to the following classes of waste material:

- (a) grass clippings, tree cuttings, brush, leaves and garden refuse;
- (b) paper, cardboard, clothing;
- (c) all kitchen and table waste, of animal or vegetable origin resulting from the preparation or consumption of food except any material of vegetable origin placed in a composting container;
- (d) cans, glass, plastic containers, dishes;
- (e) new or used material resulting from or for the purpose of construction, alteration, repair or demolition of any building or structure;
- (f) refrigerators, freezers, stoves or other appliances and furniture;
- (g) furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks;
- (h) unlicensed motor vehicle, inoperative motor vehicle, vehicle motor parts and accessories, vehicle tires mounted or unmounted on rims, mechanical equipment;
- (i) rubble, inert fill, fencing materials.

Enforcement Officer

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

Industrial Waste

“industrial waste” shall mean any article, thing, matter or effluent belonging to or associated with industry or commerce or concerning or relating to manufacture or concerning or relating to any trade, business, calling or occupation that appears to be waste material and includes but is not limited to the following classes of waste material:

- (a) piping, tubing, conduits, cable, fittings or other accessories, or adjuncts to the piping, tubing, conduits or cable;
- (b) containers of any size, type or composition;
- (c) rubble, inert fill;
- (d) mechanical equipment, mechanical parts, accessories or adjuncts to mechanical equipment;
- (e) articles, things, matter, effluent which are derived from or are constituted from or consist of,
 - (i) agricultural, animal, vegetable, paper, lumber or wood products; or
 - (ii) mineral, metal or chemical products;whether or not the products are manufactured or otherwise processed;
- (f) bones, feathers, hides;
- (g) paper or cardboard packaging or wrapping;
- (h) material resulting from, or as part of, construction or demolition projects;
- (i) unlicensed motor vehicle, inoperative motor vehicle, vehicle parts and accessories, vehicle tires mounted or unmounted on rims, mechanical equipment.

Inoperative Motor Vehicle

“Inoperative Motor Vehicle” shall mean a licensed or unlicensed vehicle, having missing, damaged, deteriorated or removed parts including, but not limited to: wheels, motor transmission, doors, glass or other parts or mechanical equipment necessary for its safe operation;

Land

“land” includes yards, vacant lots or any part of a lot which is not beneath a building;

Naturalized Area

“naturalized area” means a portion of a lot where a lawn or perennial garden previously maintained by the owner which has been allowed to re-establish a reproducing population of native species, through a combination of natural regeneration and deliberate plantings of species or other species to emulate a natural area;

Owner

“owner” includes lessee and occupant of the land;

Perennial Gardens

“perennial gardens” means an area deliberately implemented to produce ground cover, including wild flowers, shrubs, perennials, ornamental grasses or combinations of them, but does not include a wildflower meadow or a naturalized area;

Rubble

“rubble” includes broken concrete, bricks, broken asphalt, patio or sidewalk slabs;

Refuse

“refuse” means any article, thing, matter, substance or effluent that: has been cast aside, discharged or abandoned or; is discarded from its usual and intended use or; is used up, in whole or in part, or expended or worn out in whole or in part; and shall include domestic waste and industrial waste; and that domestic waste and/or industrial waste does not cease to be refuse by reason that it may be commercially saleable or recyclable;

Unlicensed

“unlicensed” shall mean the lack of a currently validated permit for the motor vehicle within the meaning of the *Highway Traffic Act*, displayed on the motor vehicle;

Unlicensed Motor Vehicle

“unlicensed motor vehicle” shall mean a motor vehicle that is unlicensed (unless in accordance with the City’s Zoning By-law);

Wildflower Meadow

“wildflower meadow” means a specialized habitat within a naturalized area, which is dominated by native species of flowers and grasses. The area would require periodic mowing (once or twice per year) in order to prevent the growth and establishment of woody shrubs and trees;

Woodlot

“Woodlot” shall mean an area of trees in excess of 0.2 hectares.

**Part 2
GENERAL PROVISIONS**

2.1 Administration – by Planning and Development Department

This by-law is administered by the Planning and Development Department of the Corporation of the City of London.

2.2 Land –filled up and drained – owner responsibility

Every owner shall keep his land filled up and drained.

2.3 Excavations – filled – exception – enclosed by barrier

Every owner shall fill any excavation on the land unless it is enclosed completely by a temporary barrier at least 122 centimetres (48 inches) in height.

2.4 Water – exceeding 30 cm – drained exception

Every owner shall drain land of accumulations of water that exceed 30 centimetres (12 inches) in depth unless it is completely enclosed by a temporary barrier of at least 122 centimetres (48 inches) in height or such water constitutes a storm water management pond approved by the City.

2.5 Land – clean- cleared – free of refuse

Every owner shall keep his land clean, cleared and free of refuse.

2.6 Dumping – prohibited – without lawful authority

No person shall throw, place, dump or deposit refuse on private property or City property without lawful authority.

2.7 Swimming pool – maintained

Every owner shall keep or maintain the water in a swimming pool in a condition which is not a health or safety hazard, or is malodorous, or is a breeding place for mosquitoes.

2.8 Land – removal of refuse

Every owner shall remove refuse from his land.

**Part 3
GENERAL PROHIBITIONS**

3.1 Refuse – not cleared – from land – prohibited

No person shall fail to clear land of refuse.

3.2 Excavation – failure to enclose – prohibited

No person shall fail to enclose an excavation with a temporary barrier at least 122 centimetres (48 inches) in height.

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

No person shall fail to drain an accumulation of water exceeding 30 centimetres (12 inches) in depth.

3.4 Private property – refuse –deposit on

No person shall deposit refuse on private property without lawful authority.

3.5 City property – refuse – deposit on

No person shall deposit refuse on municipal property without lawful authority.

3.6 Water in swimming pool – fail to maintain

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

3.7 Private property – clear buffer strip

No person shall fail to clear a buffer strip.

3.8 No obstruction of officer

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

3.9 Contravention of Order

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

Part 4 EXEMPTIONS

4.1 Excavations – construction site – exemption

Section 2.3 of this by-law does not apply to land on which construction is proceeding under a valid building permit.

4.2 Swimming pools – natural bodies of water – exemption

Section 2.4 of this by-law does not apply to natural bodies of water or lawfully maintained swimming pools.

4.3 Outdoor storage – lawful – exemption

Sections 2.5 and 2.6 of this by-law shall 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.

4.4 City – dumping – disposal facilities – exemption

Sections 2.5 and 2.6 of this by-law shall not apply to land or structures designated by or operated by the City for the purpose of dumping or disposing of refuse.

4.5 Agricultural lands – exemption

This by-law does not apply to any lands used for agricultural purposes.

4.6 Perennial gardens – exemption

This by-law does not apply to perennial gardens, provided that the perennial gardens are managed in accordance with the *Weed Control Act* and provided that there is no waste.

4.7 Wildflower meadow – exemption

This by-law does not apply to a wildflower meadow or a naturalized area provided that those areas are managed in accordance with the *Weed Control Act*, provided that there is no waste, and provided that they do not encroach within the buffer strip.

4.8 Collection of waste – exemption

This by-law does not apply to the placement or collection of waste in accordance with the City of London's Waste Collection By-law WM-1 as amended.

Part 5 ENFORCEMENT

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 Chief Building Official or persons designated by the Chief Building Official for the City appointed pursuant to the *Building Code Act* may upon such notice as he deems suitable, do such thing at the expense of the person required to do it, and in so doing may charge an administration fee of 15% of such expense with a minimum fee of \$110.00, and both the expense and fee may be recovered by action or by adding the costs to the tax roll and collecting them in the same manner as municipal taxes.

5.4 Removal

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 Chief Building Official, or his designate.

5.5 Officer – entry to inspect

A Municipal Law Enforcement 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, a Municipal Law Enforcement Officer may enter onto the lands accompanied by any person under his or her 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 a municipal law enforcement 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 or occupier 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 can be effected by registered mail to the corporate mailing address.

5.10 Work Order – contravention of by-law

If a municipal law enforcement 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 or occupier of the land on which the contravention occurred to do the work to correct the contravention.

5.11 Work Order - contents

The 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 owner's tax roll.

5.12 Work Order – service

The Work Order 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 can be effected by registered mail to the corporate mailing address.

5.13 Work Order – unable to effect service

If the City is unable to effect service on the owner under section 5.12, it shall place a placard containing the terms of the Work Order in a conspicuous place on the land and may enter on the land for this purpose. The placing of the placard shall be deemed to be sufficient service of the Work Order.

**Part 6
REPEAL – ENACTMENT**

6.1 By-law – previous

By-law PW-6 and all of its amendments are hereby repealed.

6.2 Effective date

This by-law comes into force on November 30th, 2004.

6.3 Short Title

The short title of this by-law shall be the “Clearing of Land By-law”.

PASSED in Open Council October 18, 2004

Anne Marie DeCicco
Mayor

Kevin Bain
City Clerk