

# THE CORPORATION OF THE CITY OF CORNWALL

## By-law # 2014-027

A by-law of the City of Cornwall to regulate the location and use of clothing donation boxes on private property and to amend Appendix I of By-law No. 203-2005 of the City of Cornwall to establish license fees.

**WHEREAS** subsections 8(3)(c), 10 (11) and 151 of the Municipal Act, 2001 S.O. 2001 c. 25 (the "Municipal Act") confer upon municipalities broad powers to pass by-laws to provide for a system of licences respecting a matter;

**AND WHEREAS** section 128 of the Municipal Act 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 public nuisances;

**AND WHEREAS** the City of Cornwall deems it necessary to regulate and license Clothing Donation Boxes;

**NOW THEREFORE** the Council of the City of Cornwall hereby enacts as follows:

### **PART I - DEFINITIONS**

1. For the purposes of this Bylaw:

**"Applicant"** means an applicant for a License to operate a Clothing Donation Box;

**"Charity"** means a registered charity as defined in subsection 248(1) of the Income Tax Act, R.S.C. 1985, as amended;

**"Clothing Donation Box"** means any receptacle used for the purpose of collecting clothing donations from the public;

**"Chief Building Official"** means the Chief Building Official appointed by City Council pursuant to the *Building Code Act* S.O. 1992, c. 23;

**"City"** means the municipal corporation of the City of Cornwall or the geographic area of the City of Cornwall as the context requires;

**"License"** means a Clothing Donation Box License issued in accordance with this By-law;

**"Local Non-Profit Organization"** means a corporation without share capital, or an organization, whether or not incorporated that is established and operates from a physical location in the City of Cornwall that exists solely for the relief of poverty, the advancement of education, the advancement of religion, or other charitable purpose, where no part of the profits earned by the organization or corporation are payable to or otherwise available for the benefit of any owner, member, director or shareholder thereof, except where the shareholder is also a non-profit or bona-fide charitable organization;

**"Lot"** means a parcel of land capable of being independently conveyed;

**"Municipal Enforcement Officer"** means a person or persons authorized by City Council to enforce by-laws under its jurisdiction and engaged in the enforcement of this By-law;

**"Non-Profit Organization"** means a corporation without share capital, or an organization, whether or not incorporated, that exists solely for the relief of poverty, the advancement of education, the advancement of religion, or other charitable purpose, where no part of the profits earned by the organization or corporation are payable to or otherwise available for the benefit of any owner, member, director or shareholder thereof, except where the shareholder is also a non-profit or bona-fide charitable organization;

**"Operator"** means the person or entity who maintains, owns and/or operates any Clothing Donation Box in the City;

**"Owner"** means the owner or occupant of property on which a Clothing Donation Box is located;

**"Zoning By-law"** means City of Cornwall By-law No. 751, 1969, as amended.

## **PART II – CLOTHING DONATION BOX LICENCING**

### **LICENCE REQUIREMENTS**

2. No Operator shall construct, install, maintain and/or operate any Clothing Donation Box in the City without a valid License.
3. No Owner of property the City shall permit a Clothing Donation Box to be placed or to remain on such property unless a valid License for such Clothing Donation Box is in effect.

4. Prior to constructing, installing, maintaining or operating any Clothing Donation Box in the City, an Applicant shall submit an application for a License containing the following information:

- a. name, address, telephone and email address of the Applicant;
- b. the written authorization of the Owner of the property on which the Clothing Donation Box is to be situated together with the Owner's name, address, telephone and email address;
- c. if the Clothing Donation Box is to be operated on behalf of a Charity, the name of the Charity and its Canada Revenue Agency registration number;
- d. a site plan illustrating the dimensions of the Clothing Donation Box and the proposed location of the Clothing Donation Box including setbacks to property lines and proximity to fire access routes, fire hydrants and any on-site parking or pedestrian ways;
- e. the civic address of the property on which the Clothing Donation Box will be located; and,
- f. a list of all other existing Clothing Donation Boxes operated by the Applicant or any affiliate of the Applicant.

5. Applicants shall notify the City forthwith of any changes to the information filed.

6. Application fees shall be in accordance with Section 7 below.

#### LICENCE FEES

7. Application fees and License fees payable pursuant to this By-law shall be as follows;

- a. For an Operator which is a "Local Non-Profit Organization":
  - i. Application Fee = 0\$ (for every Clothing Donation Box)
  - ii. Annual Renewal Fee for each License = 0\$
- b. For an Operator which is a "Non-Profit Organization" or a Charity:
  - i. Application Fee = 50.00\$ (for every Clothing Donation Box)
  - ii. Annual Renewal Fee for each License = 0\$
- c. For all other Operators:
  - i. Application Fee = \$1000.00 (for every Clothing Donation Box)
  - ii. Annual Renewal Fee for each License = \$500.00 (for every Clothing

Donation Box)

8. Appendix I of By-law #203-2005 of the City of Cornwall is hereby amended to include the above referenced License fees.

#### PROCESSING AND ISSUANCE

9. The Chief Building Official, upon receipt of an application described in Section 4 of this By-law, may make or cause to be made any investigations considered necessary or which are required by law or by the City relative to the application.

#### REFUSAL TO ISSUE

10. No License shall be issued by the Chief Building Official until the City has determined that the proposed Clothing Donation Box will comply with:

- a. this or any other by-laws of the City which may be in force, from time to time; and,
- b. any other Federal or Provincial statutes and regulations.

#### EXPIRY

11. Unless it is expressed to be for a shorter or longer time, or unless a License is sooner forfeited or revoked, the term of every License issued under this By-law shall be for one year and shall in each case expire on April 30<sup>th</sup> of the year which succeeds the year the License was issued for;

#### RENEWALS

12. The Chief Building Official shall renew an existing License if the licensee;

- a. meets all of the requirements of this By-law;
- b. provides to the Chief Building Official a current list indicating the locations of all the Operator's Clothing Donation Boxes situated within the City ; and,
- c. pays by cash, credit or cheque the applicable license fee set out in Section 7 this By-law.

13. A late fee of \$100.00 shall be levied for License renewals that are not obtained by August 1 of any year.

14. In connection with any renewal of any License, the City may require inspections of any of the existing Clothing Donation Boxes operated by the licensee.

### APPEALS

15. If the Chief Building Official has refused to issue or renew a License, the Chief Building Official shall deliver notice of such refusal in writing (a "**Notice of Refusal**") to the Applicant or the licensee, as applicable. The Notice of Refusal shall set out the grounds for the refusal and shall be served personally on the licensee or Applicant as applicable or shall be sent by prepaid registered mail to the licensee or Applicant as applicable. If served by registered mail, a Notice of Refusal shall be deemed to have been served on the fifth day after it was mailed.

16. An Applicant or licensee who receives a Notice of Refusal may appeal the refusal to City Council in accordance with the procedures established in City By-law No, 204-2005, as amended, by submitting an appeal in writing to the City Clerk within fifteen (15) days after service of the Notice of Refusal.

### LICENCES NON -TRANSFERABLE

17. No License shall be transferable.

### LICENCEE'S OBLIGATIONS AND ACKNOWLEDGEMENTS

18. Every person obtaining a License under this By-law shall;

a. Keep a copy of the License affixed to the Clothing Donation Box and shall keep the original issued License in a safe place;

b. Comply with the requirements of this By-law; and,

c. Be deemed to acknowledge and agree that the License is issued subject to the condition that the holder of the License indemnifies and saves harmless the City and the employees, contractors and agents of the City from all loss, damage, legal action, costs and expenses that may arise in connection with the installation, construction, maintenance and/or operation of the Clothing Donation Box for which the License was issued.

19. No person shall enjoy vested right in the continuance of a License and upon the issuance, renewal, cancellation or suspension thereof, the

value of the License shall be the property of the City.

### **PART III - CLOTHING DONATION BOX REGULATIONS**

20. No Operator shall maintain or operate a Clothing Donation Box within the City and no Owner of property in the City shall permit a Clothing Donation Box to remain on such property except in compliance with the regulations contained in Part III of this By-law .

#### **A. Labeling and Signage**

21. The following information must be inscribed, in a conspicuous place, on every Clothing Donation Box in lettering no smaller than Arial 150 font or other fonts of similar dimensions and in a contrasting colour:

- a. name and address of the Operator;
- b. business name of the Operator, if applicable;
- c. type of organization if the operator is not a Charity;
- d. the Canada Revenue Agency registration number if the Operator is a Charity;
- e. the name, address and telephone number of the Operator; and,
- f. the schedule of times for pick-up of donated clothing.

22. The Operator shall update the information described in Subsections 21.a to 21.f, inclusive, as necessary and shall insure that such information is current at all times.

#### **B. Clothing Donation Box Construction & Maintenance**

23. Every Clothing Donation Box shall:

- a. be of metal, plastic or wood construction;
- b. be weatherproof;
- c. include a self-closing deposit door/hatch; and,
- d. have locks securing any other point of entry into the Clothing Donation Box, which locks shall be engaged at all times.

24. No Donation Clothing Box shall occupy an area greater than 1.67m x 1.67m (3.34 metres squared).

25. All areas within a three (3) metre radius of the Clothing Donation Box shall be maintained free of litter or debris at all times.

26. Pick-up times for clothing donations shall be scheduled so as to ensure that the Clothing Donation Box is never allowed to overflow.

C. Clothing Donation Box Siting and Set Backs

27. Clothing Donation Boxes shall not be constructed, installed, operated or maintained on any property owned by the City.

28. No Clothing Donation Box shall be constructed, installed, placed or maintained:

a. In any residential zone designated in the Zoning By-law or on any Lot on which a residential land use is also situated;

b. In any location that creates a visual obstruction for vehicular traffic or pedestrians;

c. In any location which interferes with any on-site parking or pedestrian way; and,

d. Within one (1) meter of any fire access route, or in any location where the Clothing Donation Box obstructs a fire hydrant or fire department connection.

29. Clothing Donation Boxes shall be set back six (6) metres from any Lot line adjacent to a public highway or a shared access road and three (3) metres from any side or rear Lot line.

30. Notwithstanding Section 29 above, no Clothing Donation Box shall be located closer than fifteen (15) metres from any lot line abutting a residential zone designated in the Zoning By-law or on any Lot on which a residential land use is also situated.

D. Maximum Number of Clothing Donation Boxes per Lot

31. No more than one (1) Clothing Donation Box shall be located on a Lot with an area of less than 2000 metres squared.

32. No more than two (2) Clothing Donation Boxes shall be located on a Lot with an area greater than 2000 metres squared.

EXEMPTIONS

33. In order to allow certain Local Non-Profit Organizations to maintain a Clothing Donation Box on the same Lot as other premises operated by such Local Non-Profit Organizations, the following properties shall not be subject to the application of Sections 28, 29 and 30 of this By-law:

- a. 500-510 York Street, N/S Fifth Street Part Lot 22;
  - b. 101 Third Street West, N/S Fifth Street Part Lot 19;
  - c. 40 Fifth Street West, Cornwall S/S fifth Street Part Lot 17; and,
  - d. 506 First Street East, Plan 16, Lots 163,164 and Part Lot 165.
34. The list of properties exempted from the application of Sections 28, 29 and 30 of this By-law may be amended, from time to time, by resolution of Council.

## **PART IV: ADMINISTRATION AND ENFORCEMENT**

### **INSPECTIONS**

35. A Municipal Enforcement Officer shall be permitted, at all reasonable times, to inspect any Clothing Donation Box in the City together with the surrounding property on which the Clothing Donation Box is located.
36. No person who is licensed or required to be licensed, shall hinder or obstruct inspections referred to in this section, or cause the inspections to be hindered or obstructed.
37. Every person who obtains a License under this By-law shall produce the License when requested to do so by a Municipal Enforcement Officer.

### **ORDER TO COMPLY**

38. In the event that the City determines that any Clothing Donation Box is being maintained or operated in a manner that fails to meet the requirements of this By-law or any License issued hereunder, the Chief Building Official or his/her designate shall send an Order to Comply ( an " **Order**") to the Operator of such Clothing Donation Box or to the Owner of the property on which such Clothing Donation Box is situate:
- a. By registered mail to the Owner or Operator's last known address;
  - b. By direct delivery of the Order by hand to the Owner or Operator;
- OR;
- c. By posting the Order on the Clothing Donation Box which is the subject of the Order;
39. An Order delivered in accordance with Section 38.a. above shall be deemed to have been given on the fifth day after it was mailed.
40. The Order shall describe the work required to bring the Clothing Donation Box into compliance with this By-law and shall specify the time



allowed for compliance.

### OFFENCES

41. Every person who contravenes any of the provisions of this By-law and, if the person is a corporation, every director or officer of such corporation who knowingly concurs in the contravention, is guilty of an offence.

42. Every person who fails to comply with an Order issued under this By-law, and, if the person is a corporation, every director or officer of such corporation who knowingly concurs in the failure to comply with an Order, is guilty of an offence.

43. Every person who hinders or obstructs, or attempts to hinder or obstruct, a Municipal By-law Officer, or any person acting under the direction of the City, in the enforcement or attempted enforcement of this By-law is guilty of an offence.

### PENALTIES

44. Any person who is convicted of an offence under this By-law, is liable to the following fines:

a. on first conviction, a minimum fine of one hundred dollars (\$100) and a maximum fine of one thousand dollars (\$1,000); and,

b. on any subsequent conviction, a minimum fine of five hundred dollars (\$500) and a maximum fine of five thousand dollars (\$5,000).

45. Any corporation who contravenes any provision of this By-law is guilty of an offence and, upon conviction, is liable to the following fines:

a. on first conviction, a minimum fine of two hundred dollars (\$200) and a maximum fine of five thousand dollars (\$2,000); and,

b. on any subsequent conviction, a minimum fine of five hundred dollars (\$500) and a maximum fine of ten thousand dollars (\$10,000).

### REVOCATION AND SUSPENSION

46. Where the Chief Building Official has identified a contravention of this By-law, the Chief Building Official may either revoke or suspend any License issued to the Operator of the Clothing Donation Box which is the subject of such contravention. The Chief Building Official shall serve notice of such suspension or revocation in the same form and manner as the Notice of Refusal described in Section 15 of this By-law. The Operator shall have the right to appeal such notice in accordance with the process set out in Section 16 this By-law.

47. Upon suspension or revocation of a license issued under this By-law, the licensee shall return to the City all licenses issued under this By-law.

#### REMEDIAL ACTION

48. Any Clothing Donation Box which is not the subject of a valid License, or which is otherwise found to be in contravention of this By-law may be removed and impounded by the City without notice to the Operator.

49. Any Clothing Donation Box impounded and stored by the City for a period of more than thirty (30) days may be disposed of in any manner as may be determined by the City and in no event shall the City be held liable or in any way responsible for any loss, damage, or cost incurred by the licensee, the Operator, the Owner of the property on which the Clothing Donation Box was located or any third party due to said removal and/or disposal.

50. The cost of any work undertaken or caused to be undertaken by the City in connection with the impounding, storage and/or disposal of any Clothing Donation Box in accordance with Sections 49 and 50 of this By-law, together with an administration fee of \$100.00, shall be recovered by the City from the Operator of such Clothing Donation Box and/or the Owner of the property on which such Clothing Donation Box was situated and may be collected from the Owner in the same manner as municipal taxes.

#### ENFORCEMENT

51. A Municipal Enforcement Officer shall enforce the provisions of this By-law.

### PART V – GENERAL

#### TRANSITION

52. Any Operator of any Clothing Donation Box existing as of the date of passage of this By-law shall have until June 1, 2014 to bring such Clothing Donation Box into compliance with the provisions of this By-law including obtaining a License in accordance with this By-law.

53. Notwithstanding Section 53 above, any Clothing Donation Box existing on or before January 1, 2011 and maintained by a Local Non-Profit Organization shall be exempted from the application of Sections 28, 29 and 30 of this By-law

#### CONFLICTS AND SEVERABILITY

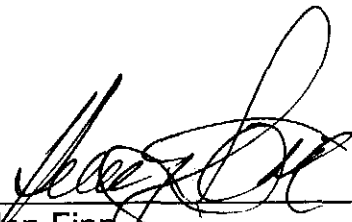
54. Where a provision of this By-law conflicts with a provision of another by-law in force in the City, provisions that establish the higher standards shall prevail in order to protect the health, safety and welfare of the general public.

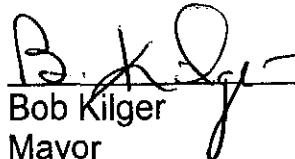
55. It is the declared intention of the City Council that any section or part of a section of this By-law which shall subsequently be held to be illegal shall be severable from the remainder of the By-law and shall not be deemed to have persuaded or influenced the Council to pass the remainder of the By-law.

EFFECTIVE DATE

56. This By-law shall come into force and take effect on April 1<sup>st</sup> 2014.

Read, signed and sealed in open Council this 24th day of February, 2014.

  
\_\_\_\_\_  
Helen Finn  
City Clerk

  
\_\_\_\_\_  
Bob Kilger  
Mayor