

**A By-law of the Corporation of the Town of Markham to
Amend the Consolidated Mobile Licensing By-law No. XXXX-XX**

WHEREAS Section 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "Municipal Act, 2001"), provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate, and to enhance its ability to respond to municipal issues; and,

WHEREAS Section 11(2)6 of the *Municipal Act, 2001*, as amended, provides that a municipality may pass by-laws in the interest of the health, safety and well-being of its residents; and,

WHEREAS section 11(3) and Part IV of the *Municipal Act, 2001*, provide that a municipality may pass by-laws and provide for a system of licenses regulating business licensing; 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 The Corporation of the Town of Markham deems it necessary to license CLOTHING DONATION BINs to regulate their location and maintenance and prevent public nuisances created by the accumulation of garbage and debris around the bins; and,

NOW THEREFORE the Council of The Corporation of the Town of Markham hereby enacts as follows:

1. DEFINITIONS

For the purpose of this By-law the following words shall have the meaning given herein:

CHARITY shall mean a registered CHARITY, as defined in Subsection 248(1) of the Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.), or successor legislation, that has a registration number issued by the Canada Revenue Agency, or successor agency.

CLOTHING DONATION BIN shall mean any receptacle used for the purpose of collecting clothing, donated by the public, on an ongoing basis and as part of the regular activity of the OPERATOR which is a registered CHARITY.

LAND shall mean grounds, yards and vacant and developed lots.

OPERATOR shall mean an OPERATOR of a CLOTHING DONATION BIN who is licensed as such or required to be licensed as such under this By-law.

WORK ORDER shall mean an order issued under section 7 of this by-law to the OWNER of a PROPERTY requiring the OWNER 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 work to correct the contravention.

2. LICENSE REQUIREMENT

No PERSON shall carry on or engage in the business or occupation of a CLOTHING DONATION BIN OPERATOR without first obtaining a licence so to do.

3. LICENSING REQUIREMENTS

3.1 Every applicant for a licence and for the renewal of a licence issued under this By-law must be a registered CHARITY under the Income Tax Act, R.S.C. 1985, c. 1 and in addition to the licensing requirements in Section 3 shall provide:

- a) Proof of insurance in an amount of at least two million (\$2,000,000) dollars; and,
- b) A letter of permission from the PROPERTY OWNER for installation of said donation boxes on the PROPERTY; and.
- c) A sketch and description of the location on the private PROPERTY for the proposed CLOTHING DONATION BIN.

4. LOCATION OF CLOTHING DONATION BINS

4.1 No OPERATOR shall place a CLOTHING DONATION BIN:

- a) on any street or PROPERTY owned or maintained by the TOWN: or
- b) on any PROPERTY zoned residential or industrial.

4.2 CLOTHING DONATION BINS shall only be placed:

- a) on private PROPERTY in a common area, grouped together and approved by and to the satisfaction of the TOWN; and
- b) set back 1 metre from all PROPERTY lines, so as not to restrict sight lines from nearby driveways or pathways.

4.3 Every OPERATOR who operates more than one CLOTHING DONATION BIN shall, subject to the provisions of this By-law and subject to the payment of the fee prescribed in the Licensing Permit and Service Fee By-law, obtain a separate endorsement of his or her licence for every CLOTHING DONATION BIN he or she operates.

4.4 No OPERATOR shall operate a CLOTHING DONATION BIN in any location other than the location in respect of which the licence or endorsement has been issued.

4.5 An OPERATOR who wishes to move a CLOTHING DONATION BIN may apply for an amendment to the licence or endorsement issued in respect of such CLOTHING DONATION BIN by:

- a) paying the fee prescribed in the Licensing Permit and Service Fee By-law; and
- b) providing proof satisfactory to the LICENSING OFFICER or his or her designate that the OPERATOR has permission from the PROPERTY OWNER to operate the CLOTHING DONATION BIN at that location.

5. MAINTENANCE OF CLOTHING DONATION BINS

Every OPERATOR shall ensure that the CLOTHING DONATION BIN is clean, in good repair and is free of graffiti and shall ensure that all areas immediately adjacent to the CLOTHING DONATION BIN are clean and free of WASTE MATERIAL.

6. GENERAL REQUIREMENTS

6.1 Every OPERATOR shall:

- a) display the name of the OPERATOR in a conspicuous place on the clothing drop box, in lettering no smaller than 100 millimetres x 75 millimetres, and of a contrasting colour;
- b) affix and maintain the sticker issued by the *Town* on a conspicuous part of the CLOTHING DONATION BIN throughout the period for which the licence or endorsement is valid;
- c) provide a list of the number and locations of all of his or her CLOTHING DONATION BINS in the TOWN; and
- d) ensure that the information filed under Subsection 6.1(c) and section 3.1 is complete and accurate at all times and shall forthwith notify TOWN of any changes to the information filed.

7. WORK ORDER – CLOTHING DONATION BINS NOT MAINTAINED

- 7.1. An M.L.E.O. may enter upon any LAND at any reasonable time with proper identification to determine if the licensee is complying with the provisions of this by-law.
- 7.2. Where a CLOTHING DONATION BIN is not maintained in accordance with the requirements of this By-law:
 - a) the TOWN may serve the OPERATOR a WORK ORDER in writing directing the OWNER of the PROPERTY to bring the CLOTHING DONATION BIN into conformance with the requirements of this By-law; and
 - b) the OPERATOR shall repair, remove or clean up all contraventions identified on the WORK ORDER within seven (7) days of the WORK ORDER being served.

8. WORK ORDER – DELIVERY- WHEN DEEMED SERVED

- 8.1. The WORK ORDER from the TOWN may be:
 - a) served personally upon the OWNER; or
 - b) mailed by regular mail to the last known address of the OPERATOR according to the current assessment rolls.
- 8.2. If served by regular mail, a WORK ORDER shall be deemed to have been served on the fifth day after mailing.

9. FAILURE TO COMPLY – WORK DONE BY CORPORATION

Where an OWNER, having been served with a WORK ORDER, fails to comply with the WORK ORDER within the time specified, an M.L.E.O. or the TOWN'S employees or agents authorized for this purpose may, upon producing appropriate identification when requested, enter onto the LANDS at a reasonable time and carry out any or all of the work described in the WORK ORDER.

10. SERVICE FEES

- 10.1. The municipal service fees for the administration and enforcement of this By-law shall be in accordance with Markham's Licensing Permit and Service Fee By-law and any revisions thereto.

- 10.2. Service fees for the administration and enforcement of this By-law may be applied when a contravention has been confirmed by an M.L.E.O.

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