

Licence

Chapter 0596 – Donation Drop Box

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- 596.9.1** Effective Date

WHEREAS under Section 8 (1) of the *Municipal Act, 2001, S.O. 2001, c. 25, as amended* (the "Municipal Act") 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 under Sections 10, and 11 of the Municipal Act, municipalities may pass By-laws to address matters related to the wellbeing of the municipality and its inhabitants including health, safety and protection of property;

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 151 and Part IV of the *Municipal Act* provides for a municipal system of licences for regulating businesses;

AND WHEREAS a category of businesses within the City is the operation of Donation Drop boxes;

AND WHEREAS the use and operation of Donation Drop Boxes by these businesses can have impacts on the City and its residents including: accumulation of litter, dirt, debris, graffiti on and in the vicinity of Donation Drop Boxes;

AND WHEREAS an administrative and enforcement program is required to ensure that the health and safety of the public and the control of nuisances as it relates to the use and operation of Donation Drop Boxes can be achieved within the City;

AND WHEREAS a licence fee is required in order to ensure sufficient funding is available to cover the costs of the administration and enforcement this program;

AND WHEREAS, for the reasons outlined above the Council of The Corporation of the City of Woodstock is desirous of passing a Licensing By-law to regulate and govern certain business activities, specifically the operation of Donation Drop Boxes.

Article 1 – Short Title

596.1.1 Citation

This By-law shall be known as the **“Licensing - Donation Drop Box By-law”**

Article 2 - Definitions

596.2.1 “Applicant” – defined

“Applicant” means a Charitable Organization that applies for a Licence or for the renewal of a Licence pursuant to the provisions of this By-law.

596.2.2 “Charitable Organization” – defined

“Charitable Organization” means a not for profit organization whether or not incorporated, where all the resources of which are devoted to non-profit or charitable activities carried on by the organization itself or by the organization in combination with other organizations and where no part of the profits earned by the organization are payable to or otherwise available for the personal benefit of any owner, member, director or shareholder thereof and which is a Registered Charity as defined under 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.

596.2.3 “Clerk” – defined

“Clerk” means the Clerk of the City, as appointed under the authority of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended and the Clerk’s designate.

596.2.4 “Donation Drop Box” – defined

“Donation Drop Box” means a receptacle used for the purpose of collecting donations by the public.

596.2.5 “Highway” – defined

“Highway” means a highway or street as defined in the *Highway Traffic Act, R.S.O. 1990, c. H.8*, as amended.

596.2.6 “Licence” – defined

“Licence” means a licence issued to a Charitable Organization under this By-law for a Donation Drop Box.

596.2.7 “Licencee” – defined

“Licencee” means a Charitable Organization that has been issued and maintains a valid Licence pursuant to the terms of this By-law.

596.2.8 “Municipal Law Enforcement Officer” – defined

“Municipal Law Enforcement Officer” means a person who is appointed pursuant to the provisions of the Police Services Act, or other provincial statute, who is actively employed in the enforcement of by-laws of a

municipality, whose duties include the enforcement of by-laws or Provincial Acts on behalf of a municipality.

596.2.9 "Owner" – defined

"Owner" means the owner, lessee or other person having a possessory interest in a Donation Drop Box or Donation Drop Boxes.

596.2.10 "Person" – defined

"Person" means a natural person, individual, corporation, organization, association or partnership.

596.2.11 "City" – defined

"City" means The Corporation of the City of Woodstock.

Article 3 – Interpretation

596.3.1 Schedule forms part of

The Schedule attached hereto shall be and hereby form part of this By-law.

596.3.2 Gender shall include both genders

In this By-law, words expressed in one gender shall include both genders.

596.3.3 Jurisdiction

If a Court of competent jurisdiction declares any provision or any part of a provision of this By-law to be invalid or of no force and effect, it is the intention of the Council in enacting this By-law that each and every other provision of this By-law authorized by law, be applied and enforced in accordance with its terms, to the extent possible according to law.

Article 4 - General Provisions

596.4.1 Operation – Without valid Licence – prohibited

No Person who is an Owner shall have a Donation Drop Box within the geographic limits of the City without a Licence for each Donation Drop Box. (See Set Fine)

596.4.2 Licence – produced – upon demand

No Person who is an Owner shall fail to produce a Licence for inspection upon demand of a person authorized to enforce the provisions of this By-law. (See Set Fine)

596.4.3 Fee – not pro-rated

The fees required pursuant to this By-law shall not be pro-rated.

596.4.4 Licence – not transferable

Every Licence, at all times, is owned by and is the property of the City and is valid only in respect of the Licencee, location and Donation Drop Box referred to therein. No Licence may be sold, purchased, leased, mortgaged, charged, encumbered, assigned, transferred or otherwise dealt with.

Article 5 - Administration

596.5.1 Authorized to administer

The Clerk is authorized to administer the provisions of this By-law on behalf of the City.

596.5.2 Enforcement

The following persons are authorized to enforce the provisions of this By-law on behalf of the City:

- a. The Clerk; or
- b. A Municipal Law Enforcement Officer.

596.5.3 Duties and responsibilities

The Clerk shall have the following duties and responsibilities under this By-law:

- a. Receiving and processing all applications for Licences and renewals of Licences to be issued under section 6.
- b. Maintaining and keeping records of all applications received and all Licences issued, renewed, refused, revoked or suspended under this By-law.
- c. Assisting with the enforcement of this By-law.
- d. Issuing Licences to Charitable Organizations that meet the requirements of this By-law.
- e. Imposing terms and conditions on a Licence where the Clerk is of the opinion that a term or condition should be imposed.
- f. Refusing to issue, renewing a Licence or revoking or suspending a Licence, where the Clerk is of the opinion that the Applicant or Licencee is disentitled to a Licence under section 10 of the By-law. and
- g. Performing all other functions incidental to the due administration and enforcement of this By-law.

Article 6 – Applications

596.6.1 Obtain a Licence

No Person who is an Owner shall fail to apply for and obtain a Licence for each Donation Drop Box. (See Set Fine)

596.6.2 Information to be submitted at the time of application

Every Applicant shall at the time of application submit the following:

- a. A completed application form.
- b. The applicable fee.
- c. A copy of the registration demonstrating that the Applicant is a Registered Charity under the federal *Income Tax Act, R.S.C. 1985, c. 1*, as amended.

596.6.3 Approval

Receipt of the application, request for renewal, or submission of the Licence fee shall not constitute approval of the application for, or renewal of a Licence, nor shall it obligate the City to issue or renew any such Licence.

596.6.4 Renewal

If an Applicant for Licence renewal has remitted the prescribed fee, the Clerk may deem the Licence to continue until the renewal is granted or refused.

596.6.5 Licence issued for one year

A Licence issued under this By-law shall be a period of one (1) year commencing February 15th, and expiring on February 14th in the following year.

596.6.6 Notice Served

- a. Any notice or other information required or authorized to be forwarded, given or served under this By-law is sufficiently given if delivered personally or sent by first-class prepaid mail addressed to the person to whom delivery is required to be made at the address shown on the application or at the last address shown or appearing in the City's records.
- b. Where service is effected by mail, it shall be deemed to be made on the fifth (5) day after the date of mailing.

Article 7 – Regulations

596.7.1 Donation Drop Box – Good repair

- a. No Person who is an Owner of a Donation Drop Box or an owner of property on which a Donation Drop Box is located shall fail to keep the Donation Drop Box clean, rust free, in good repair and free of graffiti. (See Set Fine)
- b. No Person who is an Owner of a Donation Drop Box or an owner of property on which a Donation Drop Box is located shall fail to keep all areas adjacent to the Donation Drop Box clean and free of litter, refuse and debris. (See Set Fine)

596.7.2 Location

A Donation Drop Box shall be located within designated areas and subject to compliance with the provisions of this By-law.

596.7.3 The Applicant shall:

- a. Pay in full in advance an annual permit fee of Twenty-five (\$25.00) dollars for each Donation Drop Box.
- b. Produce a certificate of insurance confirming that a general liability policy in the amount of \$2,000,000 is in force.
- c. Agree, in writing, to indemnify and save harmless the City from any action, claims, damages, or loss whatsoever arising from the issuance of the Licence or anything done or neglected to be done in connection with the privilege conferred.
- d. Provide the City with a letter of consent from the property owner, acknowledging responsibilities under the By-law and permission from the property owner for installation of said Donation Drop Box on the property.
- e. Provide the City with a sketch and description of the location on the private property for the Donation Drop Box. By-law 9231-18 – August 9, 2018

596.7.4 The licensee shall

No Person who is a Licencee shall fail to follow the placement criteria for the placement of a Donation Drop Box as follows: (See Set Fine)

- a. No Donation Drop Box shall be placed:
 - (i) On a highway or property owned or maintained by the City.
 - (ii) On a property zoned residential.
 - (iii) Within a parking space or within 1 meter thereof.
- b. A Donation Drop Box shall only be placed:
 - (i) On private property in a common area and if more than one Donation Drop Box, they shall be grouped together.
 - (ii) In the location as specified in the sketch and description provided to the City in accordance with sub-section 7 (3)(e) and approved by and to the satisfaction of the City.
 - (iii) Set back not less than 2m from the front yard or exterior side yard property lines, so as not to restrict sight lines from nearby driveways or pathways.

596.7.5 Information and Identification

Only the following information and identification of the Licencee shall be permitted on any Donation Drop Box:

- a. The name of the Licencee in a conspicuous place on the Donation Drop Box, in lettering no smaller than 100 millimetres x 75 millimetres, and of a contrasting colour.

- b. A notice on the Donation Drop Box to indicate that all donated articles must fit into the Donation Drop Box, with a prohibition on items such as paint, garbage, soiled rags, propane tanks or any like items that may create a safety hazard.
- c. A pick-up schedule of donations so as to ensure there is not an overflow and accumulation of goods left outside the Donation Drop Box which is unsightly, and to minimize pilferage of goods.

596.7.6 Maintenance

In the event that a Donation Drop Box is not maintained in accordance with this By-law, the City may issue a notice to the owner of property on which a Donation Drop Box is located and/or the Owner of the Donation Drop Box to rectify same, failure of which may lead to suspension and/or revocation of the Licence and/or charges.

596.7.7 Failure to maintain

No Person who is a Licencee shall fail to maintain, and provide to the Clerk on request, an up-to-date list of the specific locations of all of the Licencee's Donation Drop Boxes in the City. (See Set Fine)

596.7.8 Licence revoked – not renewed

In the event the Licence is revoked or not renewed or the Owner of a Donation Drop Box does not have a Licence, the Owner of the Donation Drop Box shall remove the Donation Drop Box and all of its installations within seven (7) days of written notice from the Clerk. If the City cannot ascertain who the Owner of the Donation Drop Box is the City shall post the written notice on the Donation Drop Box.

596.7.9 Removal of Donation Drop Box

No Person shall fail to remove a Donation Drop Box within seven (7) days of written notice being given in accordance with subsection 7(8). (See Set Fine)

596.7.10 Refusal to remove

If the Owner of the Donation Drop Box neglects, refuses or fails to remove the Donation Drop Box within the seven (7) days specified in the written notice, the City may remove, without notice, the Donation Drop Box.

596.7.11 Removal by the City

When the City removes a Donation Drop Box pursuant to subsection 7 (10),

- a. charge of \$500 for removal of the Donation Drop Box shall be imposed against the Owner of the Donation Drop Box.
- b. The City is not liable for any damages that may occur from the removal of the Donation Drop Box.
- c. The Donation Drop Box will be stored at a City facility for a minimum period of thirty (30) days at a cost of five (\$5.00) dollars per day, payable by the Owner of the Donation Drop Box to the City upon retrieval of the Donation Drop Box.

- d. Failure by the Owner of the Donation Drop Box to retrieve the Donation Drop Box and pay the removal and storage fee within the thirty (30) day period may result in the City disposing, without notice, of the Donation Drop Box and its contents as it sees fit. By-law 9002-15, September 17, 2015.

596.7.12 Changes in Information

- a. No Person who is an Applicant or Licencee shall fail to notify the Clerk in writing within seven (7) days of any change in any information contained in the application for a Licence or renewal, whether before or after a Licence or Licence renewal is issued. (See Set Fine)
- b. No Person who is a Licencee shall fail to advise the Clerk in writing within seven (7) days of the date of a change in the Licencee's business name or operating name. (See Set Fine)

596.7.13 Notices to Comply

- a. In the event of non-compliance with any of the provisions of this By-law by any person, a Notice to Comply may be issued and served upon such person, by any person authorized to enforce this By-law.
- b. Every person to whom a Notice to Comply is issued, or upon whom a Notice to Comply is served, shall, forthwith, take such steps as are necessary to comply with the Notice within the time provided for compliance.
- c. Where a Licencee fails to comply with the Notice to Comply, the Clerk may suspend or revoke their Licence.

596.7.14 Issuance - rejected – conditions

The Clerk shall issue or renew a Licence to a qualified Applicant except where:

- a. the past conduct of the Applicant or an individual who is a member of a partnership Applicant affords reasonable grounds for belief that the business will not be carried on in accordance with the law.
- b. the information in the application is inaccurate or incomplete.
- c. the past conduct of an officer, director or shareholder who owns or controls 10% or more of its issued and outstanding voting and non-voting shares of a corporate Applicant affords reasonable grounds for belief that the business will not be carried on in accordance with the law.
- d. the Applicant is carrying on activities that are, or will be if the Applicant is licenced in contravention of this Chapter.
- e. the Applicant is not a Charitable Organization; or
- f. the Applicant is in default with respect to any other financial obligation to the City.

596.7.15 Issuance - rejected - dispute to Review Tribunal

Where an Applicant disputes in writing the non-issuance of a Licence or the revoking of a Licence, the disputed matter shall be referred by the Clerk to the Review Tribunal, which shall hear submissions from the applicant and the City and determine the matter.

Article 8 - Refusal-Revocation-Suspension of Licence

596.8.1 Notice - issued - conditions set out

- a. The Clerk shall provide a notice to refuse, revoke or suspend a Licence to an Applicant or Licensee if the conditions for issuance have not been met, the Clerk determines that the information on the Licencee's application or renewal for a Licence is inaccurate, or the Applicant has contravened a Section of this Chapter. If the Applicant, or any of its directors, officers or managers have been convicted of an offence under the Criminal Code of Canada, the Clerk may, with the consultation of the Police Department, refuse to issue a licence to an Applicant.
- b. The Clerk shall provide the Applicant or Licensee with the written notice setting out the reasons for refusal revocation or suspension, when the right to review will expire, and how to apply for a review.

596.8.2 Notice - how served

The notice shall be served personally or by registered mail to the Applicant at the address shown on the application.

596.8.3 Application - not filed - expired without notice

If an application for review has not been filed within fourteen days of the Clerk having effected service of the notice, the Applicant's right to a review will expire without further notice.

596.8.4 Application for review - procedure - deadline

An Applicant or Licencee in receipt of a notice to refuse, revoke or suspend a Licence, may, within fourteen days after service of the said notice apply in writing for a review of the notice to refuse, revoke or suspend a Licence by filing the application for review with the Clerk.

596.8.5 Report for a review of status of Licencee

The Clerk may report to the Review Tribunal any reasons for the issuance of notice of refusal, revocation or suspension including any breaches by the Applicant or Licencee of this Chapter or other relevant considerations.

596.8.6 Review hearing - date of

Upon receipt of the application to review, the Clerk shall determine a date for the review hearing with the Review Tribunal chairperson which shall be at least fourteen days after receipt of the application for review.

596.8.7 Upon determination of the review hearing date

The Clerk shall give notice in writing to the Applicant or Licencee, said notice:

- a. shall include a statement as to the time, date, place and purpose of the review hearing.
- b. shall indicate that, if the Applicant or Licencee does not attend the review hearing, the Review Tribunal shall proceed in the absence of the Applicant or Licencee and the Applicant or Licencee will not be entitled to any further notice.
- c. shall be served personally or by registered mail to the Applicant or Licencee at the address last on file with the Clerk; and
- d. shall, where the good character, propriety of conduct or competence of an Applicant or Licencee is an issue, contain reasonable information of any allegation with respect thereto.

596.8.8 Review hearing - by Review Tribunal – procedure

The Review Tribunal shall hold the review hearing at the time, place and date set out in the notice. The Applicant or Licencee may be represented at the review hearing by counsel, and the Applicant or Licencee or their counsel shall have the right to adduce evidence, submit argument on their behalf and cross-examine witnesses adverse in interest.

596.8.9 Review hearing - City – represented

The City shall be represented at the review hearing by the Clerk who will be entitled to adduce evidence and submit arguments in reply to evidence and arguments on behalf of the Applicant or Licencee.

596.8.10 Review hearing - onus upon applicant

At the review hearing, the onus shall be upon the Applicant or Licencee to show cause why:

- a. the Licence should be granted.
- b. the Licence should not be suspended or revoked; or
- c. conditions should not be imposed on the Licence.

596.8.11 Review hearing - open to public – exception

All review hearings shall be public hearings unless the Applicant or Licencee requests that the hearing be held in closed session and the Review Tribunal may approve the request by a simple majority.

596.8.12 Review hearing - applicant absent - decision rendered

Where notice of the review hearing has been served on the Applicant or Licencee and the Applicant or Licencee does not attend the hearing, the Review Tribunal may proceed with the review hearing and render a decision in the absence of the Applicant or Licencee.

596.8.13 Review hearing - completion - decision rendered

Upon completion of the review hearing, the Review Tribunal shall render a decision which shall:

- a. confirm the Clerk's decision to refuse, revoke or suspend the Licence.
- b. reject the Clerk's decision and order the Clerk to issue a Licence or
- c. reject the Clerk's decision to revoke or suspend the Licence.

596.8.14 Licence - conditions – imposed

Where the Review Tribunal rejects the Clerk's decision, the Review Tribunal may impose conditions, including special conditions, on the Applicant or Licencee as a requirement to hold a Licence on such terms as are deemed just.

596.8.15 Review Tribunal - decision final – binding

The Review Tribunal's decision shall be final and binding.

596.8.16 Review Tribunal - decision in writing

The Review Tribunal shall give its decision in writing to the Clerk within seven days of the date of the completion of the review hearing.

596.8.17 Waiver of hearing

Despite any of the provisions of this Chapter, a proceeding may be disposed of by a decision of the Review Tribunal given:

- a. without a hearing; or
- b. without compliance with any other requirements of the Statutory Powers Procedure Act, as amended, or of this Chapter, where the Applicant or Licencee has waived such hearing or compliance.

596.8.18 Review Tribunal - decision - notification procedure

The Clerk shall notify the Applicant or Licencee of the decision by serving a copy personally or by registered mail to:

- a. the Applicant or Licencee at the address shown on the application, or last on file with the Clerk; or
- b. the counsel or agent of the Applicant or Licencee, if any, at the address as stated to the Review Tribunal.

596.8.19 Application

- a. Every Owner of a Donation Drop Box which is installed at the time of passing of this by-law shall obtain a Licence within 90 days of the date that this By-law is passed and shall comply with the conditions stated in the by-law. An Owner of a Donation Drop Box which is installed at the time of passing of this by-law shall not be required to pay a Licence fee for 2014 if they obtain a Licence within 90 days of the date this By-law is passed.
- b. Council may amend the fee, identified in subsection 7(3) (a) of this Bylaw, by resolution.

596.8.20 Offences And Penalties

- a. Every Person who contravenes any section of this By-law is guilty of an offence and liable to a fine not exceeding one-hundred thousand (\$100,000.00) dollars.
- b. Where a Person has been convicted of an offence under this By-law, a court of competent jurisdiction may, in addition to any other penalty imposed, make an order prohibiting the continuation or repetition of the offence.
- c. No Person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law. (See Set Fine)

Article 9 - Effective Date

596.9.1 Effective Date

This By-law shall come into full force an effect upon third and final reading.