

Corporation of the Town of Newmarket

2016-33

OFFICE CONSOLIDATION

This is a consolidation of the Town’s By-law to regulate Clothing Donation Bins in the Town of Newmarket, being By-law 2016-33, as amended by the below listed by-laws and is prepared for reference and information purposes only. The following consolidation is an electronic reproduction made available for information only. It is not an official version of By-law 2016-33. Official versions of all by-laws can be obtained from Legislative Services by calling 905-953-5300. If there are any discrepancies between this consolidation and By-law 2016-33 and listed amending by-laws the official by-laws shall prevail.

2020-22 - April 27, 2020	Adds provisions for AMPS

A BY-LAW TO REGULATE THE LICENSING AND GOVERNING OF CLOTHING DONATION BINS.

WHEREAS Section 151 of the *Municipal Act 2001, S.O. 2001, c.25*, as amended, establishes that a municipality may provide for a system of licences with respect to a business;

AND WHEREAS the Council of the Town of Newmarket deems it advisable to pass such a by-law;

THEREFORE BE IT ENACTED by the Municipal Council of the Corporation of the Town of Newmarket as follows:

The following words shall have the following meanings in this By-law.

1. DEFINITIONS:

“APPLICANT” means a person applying for a license to carry on a business, activity or undertaking pursuant to this by-law;

“CHARITY” means 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” means 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;

“COMMERCIAL” means a Commercial zone defined in the *Zoning By-law*;

“COUNCIL” means Council of the Corporation of the Town of Newmarket;

“HIGHWAY” means a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and included the area between the lateral property lines thereof;

“LAND” means grounds, yards and vacant and developed lots;

“LICENCE” means the authorization obtained or granted or issued by the Town pursuant to this by-law to carry on a business, activity or undertaking;

“MUNICIPALITY” means the Corporation of the Town of Newmarket or the geographic area of the Town of Newmarket as the context requires;

“OFFICER” means a Police Officer as defined under the Police Services Act, R.S.O. 1990, c. P15, as amended, an individual appointed by the Town as a Municipal Law Enforcement Officer pursuant to section 15 of the Police Services Act, as amended, or any other individual designated by the Town to enforce this By-law;

“OPERATOR” means an operator of a *Clothing Donation Bin* who is licensed as such or required to be licensed as such under this By-law;

“ORDER” means an order issued under section 5 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 land on which the contravention occurred to do work to correct the contravention.

“OWNER” means the owner, authorized agent, lessee, or occupier of the premises upon which a *clothing donation bin* is located;

“PERSON” includes a natural individual and their heirs, executors, administrators or other legally appointed representatives, a corporation, partnership or other form of business association;

“TOWN” means the Corporation of the Town of Newmarket;

“ZONING BY-LAW” means the Zoning By-law of the Town of Newmarket passed under the Planning Act, as amended, from time to time.

2.0 LICENSING REQUIREMENTS:

2.1 No *Person* shall carry on or engage in the business or occupation of a *Clothing Donation Bin Operator* without first obtaining a *licence*.

2.2 Every *applicant* for a *licence* and for the renewal of a *licence* issued under this By-law shall submit an application with the following documentation:

- (a) an application for every clothing donation box he or she wishes to license;
- (b) pay the fee as set out in the Licensing Fees By-law;
- (c) proof of Canadian General Liability insurance in an amount of two million (\$2,000,000) dollars;
- (d) a letter of permission from the *Owner* for installation of the donation box on the property;
- (e) a sketch and description of the location on the property for the proposed *clothing donation bin*; and
- (f) provide a list and locations of all of his or her *Clothing Donation Bins* to be licensed in the Town of Newmarket.

3.0 LOCATION OF CLOTHING DONATION BINS:

3.1 *Clothing Donation Bins* shall only be placed:

- (a) on commercial and institutional zoned property;

- (b) set back one (1) metre from all property lines, so as not to restrict sight lines from nearby driveways and laneways.
- 3.2 No *Operator* shall place a *Clothing Donation Bin* on any *highway* or other property owned by the Town.
- 3.3 No *Operator* shall operate a *Clothing Donation Bin* in any location other than the location for which the *licence* was issued for.
- 3.4 An *Operator* who wishes to move a *Clothing Donation Bin* may apply for an amendment to the *licence* issued in respect of such *Clothing Donation Bin* provided that:
- (a) paying the fee prescribed in the Licensing Fees By-law; and
 - (b) is in compliance with this By-law.

4.0 GENERAL REQUIREMENTS

4.1 Each *Operator* shall:

- (a) display the name of the *operator* or *Charity* in a conspicuous place on the clothing donation bin, in lettering no smaller than 100 millimetres x 75 millimetres and of a contrasting colour;
- (c) display the contact information for the *operator* or organization;
- (c) display a notice requiring all donated items to fit in the bin and a list of all prohibited items; and
- (d) display a pick-up schedule for the donations.

4.2 Each *operator*, for each licensed clothing donation bin shall:

- (a) obtain a sticker from the Town bearing an identifying number, the location for which the *clothing donation bin* has been approved, and the expiry date of the *licence*; and
- (b) affix and maintain the sticker on a conspicuous part of the *clothing donation bin* throughout the period for which the *licence* is valid.

5.0 ORDER

5.1 Where the Town is satisfied that a contravention of this by-law has occurred, the Town may make an *order* requiring the *person* who contravened this by-law, or who caused or permitted the contravention, or the *owner* or occupier of the *land* on which the contravention occurred, to do work to correct the contravention.

5.2 An *order* under Section 5.1 of this by-law shall set out:

- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the *land* on which the contravention occurred; and
- (b) the *operator* to repair, remove or clean up all contraventions identified on the *Order* within seven (7) days of the *Order* being served.

- 5.3 An *order* under Section 5.1 may require work to be done even though the facts which constitute the contravention of this by-law were present before this by-law came into force.
- 5.4 Any *person* who contravenes an *order* under Section 5.1 of this by-law is guilty of an offence.
- 5.5 The *Order* may be served:
- (a) personally on the *operator* of the *Clothing Donation Bin*; and
 - (b) to the *Owner* of the property;
 - (c) mailed by registered mail to the last known address of the *person*;
 - (d) served by regular mail, an *Order* shall be deemed to have been served on the 5th day after it is mailed.
- 5.6 Where a Clothing Donation Bin has been removed by the Town such *Clothing Donation Bin* shall be stored for a period of thirty (30) days and the *Clothing Donation Bin owner* may redeem the Clothing Donation Bin upon payment of the storage and removal fees prescribed in the Licensing Fees By-law. Where a *Clothing Donation Bin* has not been redeemed within thirty (30) day period, such *Clothing Donation Bin* may be forthwith destroyed or otherwise disposed of by the Town without notice or compensation and the *Clothing Donation Bin owner* shall be invoiced.
- 6.0 INSPECTIONS AND POWER OF ENTRY:
- 6.1 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.
- 6.2 An *Officer* may enter on *land* at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) this By-law;
 - (b) a condition of a Site Alteration Permit issued under this By-law;
 - (c) an *order* of the Town made under this By-law; or
 - (d) an *order* made under s. 431 of the Act.
- 6.3 Where an inspection is conducted by the Town, the *person* conducting the inspection may:
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information from any *person* concerning a matter related to the inspection; and including their name, address, phone number and identification; and

- (d) alone or in conjunction with a *person* possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- 6.4 The Town may undertake an inspection pursuant to an *Order* issued under Section 438 Act.
- 6.5 The Town's power of entry may be exercised by an employee, *officer* or agent of the Town or by a member of a police force having jurisdiction, as well by any *person* under his or her direction.
- 7.0 ORDER TO DISCONTINUE:
- 7.1 Where an *Officer* is satisfied that a contravention of this By-law has occurred, the *Officer* may make an *order* requiring the *person* who contravened this By-law, or who caused or permitted the contravention, or the *owner/operator* or occupier of the *land* on which the contravention occurred, to discontinue the contravening activity.
- 7.2 An *order* to discontinue shall set out:
 - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the *land* on which the contravention occurred; and
 - (b) the date by which there must be compliance with the *order*.
- 7.3 Any *person* who contravenes an *order* to discontinue is guilty of an offence.
- 7.4 The *order* shall be served personally on the property owner or the *owner/operator* of the *Clothing Donation Bin* or by registered mail to the *owner/operator* of the *Clothing Donation Bin* at the address of the *Clothing Donation Bin* and/or the address supplied on the application for *licence*, in which case it shall be deemed to have been given on the 5th day after it is mailed.
- 8.0 PENALTY PROVISION:
- 8.1 Any *person* who contravenes a provision of this By-law, including an *Order* issued under this By-law, is guilty of an offence.
- 8.2 If there is a contravention of any provision of this By-law, and the contravention has not been corrected, the contravention of the provision shall be designated as a continuing offence for each day or part of a day that the contravention remains uncorrected.
- 8.3 If an *order* has been issued under this By-law, and the *order* has not been complied with, the contravention of the *order* shall be designated as a continuing offence for each day or part of a day that the *order* is not complied with.
- 8.4 Any *person* who is guilty of an offence under this By-law on conviction is liable to the following penalties:
 - (a) Upon a first conviction, the minimum fine shall be \$350.00 and the maximum fine shall be \$100,000.00;

- (b) Upon a second or any subsequent conviction, the minimum fine shall be \$500.00 and the maximum fine shall be \$100,000.00.
- (c) Upon conviction for a continuing offence, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00 for each day or part of a day that the offence continues;
- (d) Upon conviction for a multiple offence, for each offence included in the multiple offences, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00.

8.4 For purposes of this By-law, "multiple offences" means an offence in respect of two (2) or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law.

8.5 For purposes of this By-law, an offence is a "second or subsequent offence" if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.

8.6 Every Person who contravenes any provision of this By-law is liable to the fines and administrative fees set out under the Administrative Monetary Penalty System By-law 2019-62, as amended, and each day shall constitute a new and separate offence.

8.7 Every Person who is in contravention of the provisions of this By-law may request a review of the matter in accordance with the Administrative Monetary Penalty System By-law 2019-62, as amended.

9.0 SEVERABILITY:

9.1 Where a Court of competent jurisdiction declares any section or part of a section of this By-law invalid, the remainder of this By-law shall continue in force unless the Court makes an *order* to the contrary.

10.0 REPEAL/EFFECTIVE DATE:

10.1 By-law Number 2013-22 is hereby repealed and this by-law shall come into force and effect upon its adoption.

11.0 SHORT TITLE:

This By-law shall be referred to as the Clothing Donation Bins By-law.

ENACTED THIS 27th DAY OF JUNE, 2016.

Tony Van Bynen, Mayor

Andrew Brouwer, Town Clerk