

# TORONTO STAFF REPORT

---

August 18, 2003

To: Planning and Transportation Committee  
From: City Solicitor and the Commissioner of Urban Development Services  
Subject: Clothing Drop-off Boxes

Purpose:

To respond to the Planning and Transportation Committee's request to report on the feasibility of identifying or licensing charitable clothing drop-off boxes and the feasibility of regulating clothing drop-off boxes through zoning by-law provisions respecting private property.

Financial Implications and Impact Statement:

There are no financial implications arising from the adoption of this report.

Recommendations:

It is recommended that;

- (1) this report be received for information; and
- (2) if Chapter 313 of the former City of Toronto Municipal Code is to be amended to allow operators of clothing drop-off boxes to apply for permits allowing the boxes on City sidewalks or boulevards, that the Commissioner of Works and Emergency Services be requested to submit a report regarding qualifications for a permit, the appropriate number of permits to be issued, where the boxes can be placed and any other relevant information.

Background:

At its meeting of June 24, 2002, the Planning and Transportation Committee had before it the following undated motion from Councillor Moscoe:

“WHEREAS: Charitable organizations invite people to donate used clothing to be sold to raise funds for charitable purposes; and

WHEREAS: Clothing drop boxes are commonly located on shopping plaza lots with permission of the owner; and

WHEREAS: Drop boxes, masquerading as charitable, but which are entirely private business ventures, have been located on plaza lots or city property throughout the city without authorization; and

WHEREAS: These boxes take advantage of the good nature of people by displaying messages that imply or indicate that the clothing will be used for charitable purposes when, in fact, they are fraudulent; and

WHEREAS: These boxes rip off not only contributors but also the legitimate charities which use drop boxes by drawing away used clothing that would otherwise go to them; and

WHEREAS: Most of these boxes are located on or near the property line so that the plaza owner or tenant businesses assume that they are on city property; and

WHEREAS: Most are located without authorization;

THEREFORE BE  
IT RESOLVED: That the City license clothing drop boxes; and

BE IT FURTHER  
RESOLVED: That licenses be for a nominal sum; and

BE IT FURTHER  
RESOLVED: That in order to receive a license sticker the applicant must:

1. provide proof of charitable status;
2. prove that they have permission from the land owner to locate the box on the property;
3. agree to keep the area around the box free of litter;
4. agree to remove graffiti from the box; and
5. agree to keep the box in good repair.

BE IT FURTHER

RESOLVED: That the matter be referred to staff for a report to the Licensing Sub-Committee of the Planning and Transportation Committee.”

The Planning and Transportation Committee recommended that:

- “(1) the motion (undated) from Councillor Moscoe be adopted subject to indicating that the licensing of these boxes be the preferred option, and that the motion, as amended, be forwarded to the Commissioner of Urban Development Services with a request that she report thereon to the Licensing Sub-Committee;
- (2) in the meantime, the Toronto Police be requested to work together with the Commissioner of Urban Development Services to enforce regulations respecting any and all non-charitable drop-off boxes;
- (3) that the City Solicitor, in consultation with the Toronto Police, the Attorney General's Office and charitable organisations, report to the Licensing Sub-Committee on the feasibility of identifying or licensing charitable drop-off boxes; and
- (4) the Commissioner of Urban Development Services report to the Planning and Transportation Committee on:
  - (a) a City-wide zoning by-law that would regulate the size, height, location and size of signage on clothing drop-off boxes; and
  - (b) a policy for the removal of clothing drop-off boxes on public property.”

The Commissioner of Urban Development Services’ report regarding zoning and the City Solicitor’s report regarding the feasibility of licensing clothing drop-off boxes have been combined in one report because the subject matter is interrelated.

Comments:

Zoning Issues

General Description of Clothing Drop-off Boxes

Clothing drop-off boxes are bins usually made of metal for the temporary storage of used clothing donated and dropped into the bins by individuals for pick up by representatives of the organisations operating the boxes.

Although clothing drop-off boxes vary in size and shape, they tend to be cubed shaped, approximately 183 cm (6 feet) in height and their sides may range from 76 cm (30") to 122 cm (48") wide. Clothing drop-off boxes are stand-alone and portable and are not fixed to buildings or the ground. The organisations that operate the clothing drop-off boxes may move a box within a property or remove it. Painted on boxes are the insignia and contact information of the organisations operating the boxes, although some boxes may not have contact information.

Clothing drop-off boxes appear to be distributed throughout the City and they tend to be located outside on private property, usually in parking lots of commercial plazas, offering easy access for people to drop-off clothing in the boxes. In addition, clothing drop-off boxes are located outside of community centres operated by the City. Some clothing drop-off boxes appear to be located on public rights-of-way.

The following information was obtained from Goodwill, Oasis, and the Salvation Army about the location of their clothing drop-off boxes:

- (1) Goodwill operates approximately 15 boxes in the City, of which approximately 9 boxes are located at community centres. The Salvation Army operates approximately 45 boxes;
- (2) Goodwill and the Salvation Army have clothing drop-off boxes at their retail stores where the clothing they collect is sold;
- (3) In addition to clothing drop-off boxes, Goodwill operates 5 attended donation centres, which are 12 metre (40 foot) trailers located in the parking lots of shopping malls (e.g. Shoppers World at Danforth and Victoria Park, and Golden Mile at Eglinton and Victoria Park). Attendants are at the donation centres 7 days a week during normal business hours to accept donations of clothing and furnishings. Clothing drop-off boxes are also located at the donation centres;
- (4) Goodwill provides trailers at the City's Environment Days for the collection of clothing and furnishings. In 2001, about 9.5 tonnes of clothing, small appliances, housewares and books were collected for re-use at the 41 Environment Days; and
- (5) Oasis operates approximately 26 boxes in the City and it has placed a number of boxes at community centres in the old City of Toronto and the former Borough of East York.

#### Feasibility of a City-wide Zoning By-law Regulating Clothing Drop-off Boxes

The City's zoning by-laws do not have specific provisions that regulate the location of clothing drop-off boxes. Building permits are not required for clothing drop-off boxes.

A zoning by-law cannot regulate the signage, means of identification on clothing drop-off boxes, or the characteristics of the organisations operating the drop-off boxes.

As regards to the City's zoning powers, drop-off boxes do not constitute a use of land which is capable of being controlled by a zoning by-law. Apart from the use itself, however, the City can

use a zoning by-law to regulate the physical characteristics of structures, including their size, height and location. There is some doubt as to whether a zoning by-law would, at least initially, be an effective tool to regulate clothing drop-off boxes because they are portable and not intended to be permanent structures. Since drop-off boxes are not a building within the meaning of the Building Code Act, building permits are not required.

## Licensing Issues

### Feasibility of Licensing Clothing Drop-off Boxes

Section 150(1) of the Municipal Act, 2001 gives municipalities the power to pass by-laws for licensing, regulating and governing any business carried on within the municipality. The term “business” has been defined in case law as a commercial enterprise carried on for a profit, or a particular occupation or employment habitually engaged in for livelihood or gain. A charitable or non-profit organization does not fall under the definition of business. It is therefore ultra vires the City’s authority to license charities or non-profit organisations.

However, it is within the City’s authority to amend Municipal Code Chapter 545, Licensing to require a licence for clothing drop-off boxes that are owned by for-profit businesses, exempting charities and non-profit organizations. If this course of action is followed, the City could require such businesses to affix signs to their clothing drop-off boxes indicating that they are a for-profit business.

### Current Regulation of Clothing Drop-off Boxes

The City’s zoning by-laws do not have specific provisions that regulate the location of clothing drop-off boxes, nor does Toronto Municipal Code Chapter 545, Licensing, regulate them. Building permits are not required for clothing drop-off boxes.

According to City records, since 2000, there have been 3 property standard complaints about debris at clothing drop-off boxes.

The Cities of Barrie, Mississauga, Ottawa, and Pickering, and the Towns of Markham, Newmarket and Richmond Hill do not have provisions in any of their by-laws which specifically regulate clothing drop-off boxes.

Chapter 313 of the former City of Toronto Municipal Code provides that streets shall not be obstructed, encumbered, injured or fouled. A street is defined as a highway as defined by the Municipal Act. The definition of highway in the Municipal Act has been judicially interpreted to include sidewalks and boulevards. Chapter 313 further provides that no person shall place anything on a boulevard.

Although there are provisions in Chapter 313 for permitting certain objects on streets, there is no provision for permitting clothing drop-off boxes. It would therefore be contrary to Chapter 313 to place a clothing drop-off box on City streets, including sidewalks or boulevards. As mentioned above, some clothing drop-off boxes appear to be located on public rights-of-way.

Contravention of any provision of Chapter 313 is an offence. A person convicted of an offence under this Chapter may be liable to a fine of not more than five thousand dollars.

Council may amend Chapter 313 to allow operators of clothing drop-off boxes to apply for permits that would allow some clothing drop-off boxes to be placed on City sidewalks or boulevards. If this course of action is preferred, it is recommended that the Commissioner of Works and Emergency Services be requested to submit a report regarding qualifications for a permit, the appropriate number of permits to be issued, where the boxes can be placed and any other relevant information.

Chapter 313 may also be amended to provide for the removal of clothing drop-off boxes that are placed on City streets without permission, pursuant to section 63(1) of the Municipal Act, 2001.

Conclusions:

The zoning by-law is an ineffective tool to regulate clothing drop-off boxes since they tend not to be permanent structures, are not fixed to a building or to the ground, and therefore can be easily relocated on a property or moved to another property. Because of the non-permanent nature of the boxes, the usual remedies to a zoning infraction of a fine or removal of the structure are ineffective deterrents.

The City does not have the authority to license charitable and non-profit organisations.

However, it is currently an offence to place clothing drop-off boxes on City streets, including sidewalks and boulevards. If City Council so wishes, it may institute a permit system to allow some clothing drop-off boxes on City streets.

The Salvation Army, Goodwill and Planet Aid, the Charitable Property Program of the Office of the Public Guardian and Trustee (Ministry of the Attorney General), and the Toronto Police Service were consulted in the preparation of this report.

Contacts:

Marilyn Brown

Solicitor

Telephone: 416-392-6693

Fax: 416-397-5624

E-mail: [mbrown9@toronto.ca](mailto:mbrown9@toronto.ca)

Rob Robinson

Solicitor

Telephone: 416-392-8367

Fax: 416-397-4420

E-mail: [rrobins2@city.toronto.ca](mailto:rrobins2@city.toronto.ca)

John Michailidis

Planner, Policy and Research

City Planning Division

Telephone: 416-397-4151

Fax: 416-392-3821

E-mail: [jmichai@city.toronto.ca](mailto:jmichai@city.toronto.ca)

---

Anna Kinastowski

City Solicitor

---

Paul J. Bedford

Chief Planner and Executive Director

City Planning

---

Paula M. Dill

Commissioner

Urban Development Services