



REPORT FOR INFORMATION

Clothing Drop Boxes By-law Review - Supplementary Report

Date: June 11, 2019

To: City Council

From: Executive Director, Municipal Licensing and Standards

Wards: All

SUMMARY

This report responds to the General Government and Licensing Committee's request for Municipal Licensing and Standards to report directly to City Council at their meeting on June 18-19, 2019 with options to minimize the impact on the public realm and quality of life through the appropriate placement of clothing drop boxes. This report also provides additional information regarding other areas of interest that were raised during the May 21, 2019 meeting.

[GL5.3 Clothing Drop Boxes By-law Review](#) focuses on the primary objectives of addressing issues with public nuisance and safety concerning clothing drop boxes, and in the report to General Government and Licensing Committee dated May 6, 2019, proposes By-law amendments to address concerns in those areas. During the meeting, the Committee raised some other concerns, including the impact of clothing drop boxes on the public realm, minimum separation distances, allowing councillors to refuse permit requests, identification of clothing drop boxes, and questions about offences and fines.

This report proposes operational enhancements to help minimize the impact of clothing drop boxes on the public realm. It also provides an overview of the potential impact of introducing minimum separation distances between clothing drop boxes, as well as allowing councillors to refuse new clothing drop box permit requests, which Committee introduced and adopted as amendments to GL5.3. Further information is also provided to clarify existing regulations that identify clothing drop boxes that are operated by charitable operators. Finally, this report presents an overview of the offences and fines in the Clothing Drop Boxes By-laws.

This report was prepared in consultation with Legal Services. Staff also consulted with City Planning staff, who provided information on relevant Official Plan policies and guidelines, and Transportation Services staff, who provided information on regulations related to streets and sidewalks.

FINANCIAL IMPACT

There are no financial implications beyond what has already been approved in the current year's budget.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

On May 21, 2019, General Government and Licensing Committee adopted [GL5.3 Clothing Drop Boxes By-law Review](#)

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.GL5.3>, including recommendations to require all operators to obtain a licence, introduce additional safety requirements (all box designs must undergo a safety review by a professional engineer, and boxes must be placed in areas with lighting), and enhance the enforcement tools. The Committee also adopted amendments to allow a local councillor to refuse a permit for new clothing drop boxes and require new clothing drop boxes to have a minimum separation distance of 250 metres. Finally, the Committee directed the Executive Director, Municipal Licensing and Standards, to report directly to City Council at their meeting on June 18-19, 2019 with options to minimize the impact on the public realm through the appropriate placement of clothing drop boxes.

COMMENTS

This report provides a discussion of topics that were raised during the May 21, 2019 General Government and Licensing Committee meeting, including the impact of clothing drop boxes on the public realm, minimum separation distances, allowing councillors to refuse permit requests, identification of clothing drop boxes, and offences and fines.

Options to minimize the impact on the public realm through the appropriate placement of clothing drop boxes

The Committee directed Municipal Licensing and Standards (MLS) to consider options to minimize the impact on the public realm and quality of life through the appropriate placement of clothing drop boxes, including comments on the option of prohibiting bins placed adjacent to sidewalks.

Role of current and Committee-adopted regulations and enforcement in minimizing the impact of clothing drop boxes on the public realm

The City's By-laws related to clothing drop boxes (the City of Toronto Municipal Code Chapter 545, Licensing, Chapter 629, Property Standards, and Chapter 395, Clothing Drop Boxes) have a primary focus of providing regulations to ensure that clothing drop

boxes are safe and maintained. Other By-laws and policies, such as the City of Toronto Municipal Code Chapter 743, Use of Streets and Sidewalks, and the City's Official Plan policies, address public spaces and the design of the public realm. Current By-laws and Committee-adopted amendments, combined with improved enforcement of unpermitted clothing drop boxes, will address some concerns regarding impact of clothing drop boxes on the public realm:

- **Current regulations:** Rules guiding placement on a site, including certain distance requirements from the property line and the right-of-way, limit of two clothing drop boxes per property, and requirements for maintenance. Clothing drop boxes must also comply with all other applicable City by-laws, including the City of Toronto Municipal Code, Chapter 743, Use of Streets and Sidewalks, which includes additional distance requirements, such as setbacks from utility structures and fire hydrants.
- **Committee-adopted amendments:** Requirement that all boxes be placed in areas with lighting at all times to allow for the safe operation of clothing drop boxes, and that all clothing drop box designs undergo a safety review by a third-party professional engineer, ensuring that boxes are safe and structurally sound.
- **Enhanced enforcement:** Some issues with clothing drop boxes and their impact on the public realm arise from unpermitted or otherwise non-compliant boxes (for example, boxes placed too close to the sidewalk, or on the right-of-way). Staff will pursue an enforcement strategy of using targeted enforcement blitzes to address unpermitted and non-compliant clothing drop boxes in areas around the city based on complaint data and history of non-compliance. These bolstered enforcement efforts will help ensure that clothing drop boxes are compliant with the By-laws.

Comments on prohibiting clothing drop boxes placed adjacent to sidewalks

MLS was directed to explore an option of prohibiting clothing drop boxes abutting or placed adjacent to sidewalks. Currently, the Clothing Drop Boxes By-law requires that boxes be placed at least 1 metre away from a municipal sidewalk, to prevent interference with pedestrian and driver sightlines, and for the safety of those who use the boxes. Although an increase in the required setback may improve the public realm in some cases, a numeric standard greater than 1 metre would have different implications on different sites, and may limit the opportunities for placement. This limitation, as well as the option of prohibiting clothing drop boxes from being placed adjacent to sidewalks, may result in clothing drop boxes being placed in locations that compromise safety.

Providing additional guidance to permit applicants

The City has a number of policies, guidelines, and approaches for the design of streets and the interface of buildings and the public realm. Some of the City's guiding documents, such as the Vibrant Streets Guidelines and Complete Streets Guidelines present approaches for the design of the public right-of-way (for example, placement of street furniture on the right-of-way). Although clothing drop boxes cannot be placed on the public right-of-way, these guiding documents do include overarching design principles and guidelines, for example, consideration of the coordination, siting, organization and design of both buildings and other public-facing elements (e.g. street

furniture, lighting standards) on the public realm. The Public Realm and Built Form policies in Chapter 3 of the City's Official Plan policies, which are currently under review, include general language and guidance that may be helpful and applicable to support the appropriate placement of clothing drop boxes. For example:

- Acknowledging that city streets are significant public open spaces which connect people and places and support the development of sustainable, economically vibrant and complete communities;
- Suggestions to "balance the needs and priorities of the various users and uses", "reflecting differences in local context and character", "locating and designing...in a manner that will minimize negative impacts on the natural pedestrian and visual environment", "universal accessibility", and "promote pedestrian safety and security".

As noted in GL5.3 Clothing Drop Boxes By-law Review, MLS has identified operational enhancements to encourage operators to consider unique site-specific conditions and criteria. MLS may encourage clothing drop box operators to become familiar with relevant Official Plan policies, such as those noted above, and where available, may provide resources to support operators in determining the best placement of a clothing drop box on a site.

Impacts of introducing a minimum separation distance between clothing drop boxes

At the General Government and Licensing Committee meeting on May 21, 2019, the Committee adopted a motion to require new clothing drop boxes to have a minimum linear separation distance of 250 metres from other permitted clothing drop boxes. Some charitable operators have noted that such a requirement would have negative impacts on their abilities to serve their communities. Additionally, reducing access to clothing drop boxes in places with high volumes of donations may have unintended consequences of exacerbating issues of overflowing, illegal dumping, and unpermitted clothing drop boxes.

The distance requirements within the current By-law are intended to manage safety issues and potential interference with pedestrian and driver sight lines. For example, boxes may not be placed on the right-of-way, within three metres of a driveway entrance/exit or a side property line, or within one metre of a municipal sidewalk. The By-law also limits clothing drop boxes to two per property to help restrict the proliferation of boxes on any one property, and includes tools for enforcement of non-compliant boxes.

In GL5.3 Clothing Drop Boxes By-law Review, staff recommended against introducing minimum separation distances. Existing provisions, including the limit of two boxes per property and distance requirements on a site, as well as Committee-adopted recommendations (for example, licensing requirement for all operators, tools to allow for more expedient enforcement of non-compliant clothing drop boxes, and deleting the requirement for the City to store clothing drop boxes upon removal), and the improved enforcement strategy, would be more effective tools to address the core concerns of litter, debris, and proliferation of boxes.

Right of the councillor to refuse a permit request for new clothing drop boxes

At the General Government and Licensing Committee meeting on May 21, 2019, the Committee adopted a councillor motion to allow a local councillor to refuse a permit request for new clothing drop boxes in their ward, and for permit requests to be denied upon a local councillor's refusal. If a permit request is refused by a local councillor, an applicant may appeal the decision to Community Council.

Currently, MLS processes applications and approves ones that meet all conditions set out in the By-law, using a permit approval process similar to that of other Canadian cities. Applications may be refused based on failure to comply with the By-laws. MLS also has the authority to revoke a clothing drop box permit under certain conditions, for example, if there is non-compliance with the By-laws.

Enabling the ward councillor to refuse permit requests would impact licensed operators and charities that operate within the regulations, and may not have the intended impact of addressing those operators and boxes that are not in compliance with the By-laws. Stakeholders have noted during consultations that approximately 5 to 92 percent of their proceeds come from clothing drop box collections. Drastic changes to clothing drop box regulations would have an impact on these organizations. While staff will continue efforts to enforce against unpermitted boxes, the unintended consequence of limiting or effectively banning permitted boxes in a ward could result in unpermitted boxes proliferating within that ward and permitted and unpermitted boxes may cluster around that ward.

MLS will be pursuing an enforcement strategy to more strategically and effectively address unpermitted and non-compliant clothing drop boxes. Improved enforcement of unpermitted clothing drop boxes, combined with other Committee-adopted By-law amendments meant to strengthen and improve the regulations, would better address current concerns with clothing drop boxes.

Additional information and clarification

At the General Government and Licensing Committee meeting on May 21, 2019, the Committee raised questions on By-law requirements and offences. Below, staff have provided additional information on key areas of concern: identification of clothing drop boxes, and offences and fines.

Identification of clothing drop boxes

The Clothing Drop Boxes By-laws include labelling requirements to help identify whether boxes are operated by for-profit or charitable operators. All operators are required to display in a conspicuous place on each clothing drop box:

- The permit label;
- The name of the operator and owner; and

- If any of the clothing collected by means of the clothing drop box is used to benefit a charitable organization, must state the amount (as a percentage of sales) dedicated to charitable organizations;

Charitable operators must also display identification of their charitable organization status, including a Charity Registration Number or other proof of status.

All other operators are required to display the words "**Not** a Charity, Community Organization or Religious Institution" immediately below the name of the operator.

Overview of current approach to offences and fines

The Clothing Drop Boxes By-laws hold operators, permit holders, and property owners responsible for compliance. MLS addresses issues with non-compliance by working with the appropriate parties to bring them into compliance. Where there continues to be non-compliance, MLS can take several courses of action, including denying issuance or renewal of a licence, refusing or revoking permits, removing clothing drop boxes, or laying a charge.

On the administrative side, MLS could:

- Deny the issuance or renewal of an operator licence under certain conditions, described in Toronto Municipal Code Chapter 545, Licensing. While this currently only applies to operators who must be licensed (charitable operators are exempt), a Committee-adopted amendment would mean that this would apply to all operators;
- Refuse a permit application for failure to comply with any provision of the By-law; or
- Revoke a permit at any time if there is non-compliance with the By-law or other applicable By-laws or legislation, if it was issued in error by the City, if a permit was issued under false, mistaken, incorrect, or misleading information, if permission from property owner has been revoked or is not provided upon request; or if an operator has unpaid fees.

On the enforcement side, MLS could:

- Remove unpermitted or otherwise non-compliant clothing drop boxes at the expense of the operator, permit holder, or property owner;
- Issue a ticket with a set fine between \$200 and \$500, depending on the offence. Note that MLS cannot impose an automatic fine as a penalty - MLS must apply for set fines through the Ontario Court of Justice and a person who receives a set fine may contest it in court; or
- Issue a summons with a potential fine between \$500 and \$100,000, with each offence as a continuing offence where the total daily fines may exceed \$100,000. Summons are typically used for more serious offences, where the defendant must appear before a Justice of the Peace, who will determine the appropriate penalty if the offender is convicted.

Additionally, Committee-adopted amendments will allow for more expedient enforcement, by reducing the required notice period for non-compliance from 7 days to 3 days, and by removing the requirement for the City to store clothing drop boxes that have been removed.

CONTACT

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SIGNATURE

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