

Authority: Licensing and Standards Committee Item 17.3, adopted as amended, by City of Toronto Council on November 27, 28 and 29, 2012 and Licensing and Standards Committee Item 19.3, as adopted by City of Toronto Council on April 3 and 4, 2013

CITY OF TORONTO

BY-LAW No. 599-2013

To adopt a new City of Toronto Municipal Code Chapter 395, Clothing Drop Boxes and to amend Chapter 441, Fees and Charges, Chapter 545, Licensing and Chapter 629, Property Standards.

Whereas under sections 7 and 8 of the *City of Toronto Act, 2006* (the "Act"), the City may pass by-laws in respect of the health, safety and well-being of persons and the economic, social and environmental well-being of the City; and

Whereas under sections 7 and 8 of the Act and the specific power in section 259, the City may pass a by-law imposing fees or charges on persons for services and activities provided or done by or on behalf of it; and

Whereas under sections 7 and 8 of the Act and the specific powers and restrictions respecting delegation in sections 20 to 24, the City may delegate its powers and duties under the Act to an officer or employee of the City, including administrative and quasi-judicial powers and legislative powers of a minor nature as provided in section 21; and

Whereas under section 366 of the Act, the City may pass by-laws providing that a person who contravenes a by-law of the City passed under this Act is guilty of an offence, and under section 370 may establish a system of fines for offences including special fines, in addition to the regular fine for an offence, that are designed to eliminate or reduce any economic advantage or gain from contravening the by-law; and

Whereas under subsections 384(3) and 385(4) of the Act, a by-law under section 366 may also provide that a person who contravenes an order (to discontinue the contravening activity) under subsection 384(1) or an order (requiring certain work to be done) under subsection 385(1) is guilty of an offence; and

Whereas subsection 8(1) of the Act, provides the City with broad authority to provide any service or thing the City considers necessary or desirable for the public; and

Whereas the City has the authority to pass by-laws respecting matters related to structures, including fences and signs under subsection 8(2) of the Act; and

Whereas the City has the authority to pass by-laws respecting matters related to protection of persons and property, including consumer protection under subsection 8(2) of the Act; and

Whereas the *City of Toronto Act, 2006* grants the City of Toronto the authority to enact by-laws for the licensing, regulating and governing of businesses wholly or partly carried on in the City of Toronto, including the ability to require the payment of fees; and

Whereas the City provides that the regulation of clothing drop boxes to the citizens of Toronto as a necessary and desirable service; and

Whereas Council has authorized increased enforcement services concerning the regulation of clothing drop boxes to alleviate the danger to the health and safety of the public created by improperly constructed, maintained, located and installed clothing drop boxes; and

Whereas Council has authorized regulations that will facilitate clothing drop boxes contributing positively to the quality of Toronto's appearance and its visual character to enhance the image and attractiveness of Toronto for its residents, business community and visitors; and

Whereas Council has authorized regulations for clothing drop box that are consistent with Toronto's goals for the quality and character of the City's streets, public spaces and buildings; and

Whereas notice of the intention to enact this by-law has been provided in accordance with the Act and its regulations;

The Council of the City of Toronto enacts:

1. The City of Toronto Municipal Code is amended by adding the chapter set out in Schedule "1" to this by-law as Chapter 395, Clothing Drop Boxes, in Part II - General By-laws.
2. The City of Toronto Municipal Code Chapter 545, Licensing, is amended as follows:
 - A. Section 545-501 is repealed.
 - B. Deleting the semicolon and the word "endorsement" from the title of § 545-502 and deleting the words "or for an endorsement of an operator's licence" from § 545-502A.
 - C. Section 545-503 is repealed.
 - D. Deleting all instances of the words "or endorsement" contained within § 545-504.
 - E. Subsection 545-505A is amended by:
 - (1) Deleting the "and" at the end of § 545-505A(2);
 - (2) Adding as a new § 545-505A(3) the following: "Display the licence number on a conspicuous part of the clothing drop box; and"; and
 - (3) Renumbering § 545-505A(3) as § 545-505A(4).
 - F. Deleting ", or who applies for an endorsement to permit him or her to operate an additional clothing drop box, shall pay a fee of \$60" and inserting, "shall pay a fee set out in Chapter 441, Fees and Charges" from § 545-507A.

G. Deleting § 545-507B and C.

3. Appendix C, Schedule 12, Municipal Licensing and Standards, of City of Toronto Municipal Code Chapter 441, Fees and Charges, is amended as follows:

A. By adding the following:

* (To unnumbered column for row numbers)

* (To Column I Activity)	(To Column II Fee Description)	(To Column III Category)	(To Column IV Fee Basis)	(To Column V Fee)	To Column VI Annual Adj.)
Property Standards & Maintenance Enforcement	Annual Permit Fee - Clothing Drop Boxes	Full Cost Recovery	Annual fee per Clothing Drop Box	\$100.00	No
Property Standards & Maintenance Enforcement	Removal Fee of Illegal Clothing Drop Box	Full Cost Recovery	Per removal	\$100.00	No
Property Standards & Maintenance Enforcement	Retrieval of Illegal Clothing Drop Box	Full Cost Recovery	Per Clothing Drop Box	\$200.00	No
Property Standards & Maintenance Enforcement	Storage of Illegal Clothing Drop Box	Full Cost Recovery	Per day	\$15.00	No
Property Standards & Maintenance Enforcement	Disposal Fee for Illegal Clothing Drop Box	Full Cost Recovery	Per Disposal	\$80.00	No

4. Subsection 629-10F of Chapter 629, Property Standards, is amended as follows:

A. By adding Subsection "A." to the first paragraph; and

B. By adding the following after the first paragraph:

"B. Subject to § 395-3 of Chapter 395, Clothing Drop Boxes, an owner of property shall not erect, display, locate or place or allow to be erected, displayed, located or placed on his or her property unless:

- (1) A permit has been obtained under Chapter 395, Clothing Drop Boxes;
- (2) The permit number or permit is displayed on the clothing drop box;
- (3) The clothing drop box is erected, displayed, located or placed in compliance with Chapter 395, Clothing Drop Boxes and any other applicable by-law; and
- (4) The clothing drop box is placed in the location for which the permit was granted.

C. An owner of property upon which a clothing drop box is placed that is in contravention of this subsection or Chapter 395, Clothing Drop Boxes, may be ordered to take any necessary action to remedy the contravention, including the removal of the clothing drop box from the property."

5. This by-law comes into force on September 1, 2013.

Enacted and passed on May 10, 2013.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

SCHEDULE "1"

**Chapter 395
Clothing Drop Boxes**

§ 395-1. Definitions.

§ 395-2. Clothing drop boxes; general requirements.

§ 395-3. Charity; religious institution; community organization.

§ 395-4. Removal of unlawful clothing drop boxes; costs of City removal.

§ 395-5. Offences and penalties.

§ 395-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CHARITY - A registered charity, as defined in subsection 248(1) of the federal *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 DROP BOX - Any receptacle used for the purpose of collecting donated clothing.

CLOTHING DROP BOX PERMIT - A clothing drop box permit issued under this chapter for the legal placement of a clothing box.

COMMUNITY ORGANIZATION - A non-profit group of persons organized for the advancement of activities of a civic, cultural or recreational nature.

EXECUTIVE DIRECTOR - The Executive Director, Municipal Licensing and Standards, or his or her designate.

LICENSED - Licensed under the provisions of any by-law licensing clothing drop box businesses, companies or operators in the City, in particular under Chapter 545, Licensing.

OPERATOR - An operator of a clothing drop box who is licensed as such or required to be licensed as such under Chapter 545, Licensing.

OWNER - An owner or operator of a clothing drop box.

RELIGIOUS INSTITUTION - An association of persons that is registered as a charity under the federal *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), or successor legislation, and is organized for the advancement of religion and for the conduct of religious worship, services or rites.

STREET - A highway as defined by the *City of Toronto Act, 2006*.

§ 395-2. Clothing drop boxes; general requirements.

A. General.

- (1) No person shall erect, display, locate, place or maintain a clothing drop box except as permitted by this chapter.
- (2) Clothing drop boxes shall comply with all other applicable City by-laws.
- (3) Where the provisions of this chapter are in conflict with any other by-law applicable to clothing drop boxes, this chapter shall prevail to the extent of the conflict.

B. Clothing drop box permit.

- (1) No person shall display, place, locate, alter or erect or cause to be displayed, placed, located altered or erected, any clothing drop box on any lands, without obtaining a permit from the Municipal Licensing and Standards Division.
- (2) Despite Subsection B(1), a charity, religious institution or community organization may erect, display, locate, place or maintain one clothing drop box on land which is primarily used for the operations or activities of the charity, religious institution or community organization without obtaining a clothing drop box permit.
- (3) An applicant for a clothing drop box permit shall furnish to the City the information required by the City to process the permit, including:
 - (a) The name and address of the owner of the clothing drop box;
 - (b) The name and address of the owner or business applying for the permit;
 - (c) The municipal address of the premise upon which the clothing drop box is to be located;
 - (d) A site plan or survey, identifying the location of the clothing drop box on the premises;
 - (e) A contact name and number for the individual responsible for the clothing drop box;
 - (f) Confirmation of authorization from the property owner or management company to permit the applicant to have the clothing drop box erected, displayed, located or placed on the premises. Should there be any dispute about the authorization, written authorization from the property owner or management company shall be produced upon request;

- (g) The completed application in a form satisfactory to the Executive Director;
 - (h) A signed declaration in a form satisfactory to the Executive Director:
 - [1] Stating that the owner has not been convicted more than three times for violations under any section of this chapter;
 - [2] Stating that the owner has not been charged more than three times under any section of this chapter for which the proceedings have not been finally disposed of; and
 - [3] Stating that the applicant is a charity, religious institution or community organization if the applicant is a charity, religious institution or community organization and the declaration shall include a Charity Registration Number or other proof of the declared status acceptable to the Executive Director;
 - (i) Provide proof of insurance in accordance with Subsection B(4); and
 - (j) The permit fee for the clothing drop box set out in Chapter 441, Fees and Charges.
- (4) Applicants for a clothing drop box permit shall provide the City with a general liability insurance certificate in the amount of no less than \$2,000,000.00 per event, naming the City as an additional insured and having provisions for cross-liability and severability of interest and the insurer or an authorized agent of the insurer must advise the City in writing in advance of a policy cancellation.
 - (5) Upon receipt of an application for a clothing drop box permit under this section, the Executive Director shall give written notice to the Councillor of any ward where the clothing drop box is to be displayed, placed, located or erected and where the clothing drop box is to be displayed, placed, located or erected on a boundary street between wards, to the Councillors of the adjoining wards.
 - (6) The refusal of an application for a clothing drop box permit based on failure to comply with any provision of this chapter is not appealable or reviewable.
 - (7) Where the City has refused an application for a clothing drop box permit based on failure to comply with any provision of this chapter, there shall be no refund of any permit fee paid.

C. Revocation of permit.

The City may revoke a permit issued under this chapter, with no refund, where:

- (1) The clothing drop box does not comply with this chapter or any other applicable by-law or legislation;

- (2) The permit has been issued in error by the City;
- (3) The permit has been issued under false, mistaken, incorrect or misleading information;
- (4) Written authorization from the property owner or management company to permit the applicant to have the clothing drop box erected, displayed, located or placed on the premises is not valid, expired, has been revoked or is not provided upon request; or
- (5) An owner has unpaid fees for the issuance of a permit under this chapter.

D. Location.

- (1) No more than two clothing drop box shall be erected, displayed, located or placed at each municipal address or business location.
- (2) Clothing drop boxes shall not obstruct or be located within one metre of a required parking space.
- (3) Clothing drop boxes shall not be erected, displayed, located or placed:
 - (a) On any centre median, traffic island or centre boulevard or otherwise within the road allowance unless it is in accordance with Chapter 743, Streets and Sidewalks, Use of;
 - (b) Affixed in any way to a utility pole, tree or other public property;
 - (c) Within three metres of a driveway entrance or exit or a side property line.
- (4) Clothing drop boxes shall be located as follows:
 - (a) Except as permitted by this chapter, on private property and not closer than one metre from a municipal sidewalk;
 - (b) No closer than nine metres from the edge of the nearest traffic control device and shall not pose a line of sight issue by impeding a pedestrian's or driver's view of the traffic control device; and
 - (c) No closer than nine metres from the closest edge of the nearest paved portion of an intersection and shall not pose a line of sight issue by impeding a pedestrian's or driver's view of the intersection.

E. Identification.

A clothing drop box shall:

- (1) Display the name of the operator and the owner in a conspicuous place on the clothing drop box, in lettering no smaller than 100 millimetres x 75 millimetres, and of a contrasting colour;
- (2) If any of the clothing collected by means of the clothing drop box is used to benefit a charity, community organization or religious institution, immediately below the message described in Subsection E(1), in lettering no smaller than 80 millimetres x 60 millimetres, and of a contrasting colour, state the amount (as a percentage of sales) dedicated to charities, community organizations or religious institutions;
- (3) If the owner or operator is a charity, religious institution or community organization, display identification of the charitable, religious institution or community organization status, including a Charity Registration Number or other proof of status, in a conspicuous place on the clothing drop box, in lettering no smaller than 100 millimetres x 75 millimetres, and of a contrasting colour; and
- (4) Display the permit number or other permit identifier issued under this chapter in a conspicuous place on the clothing drop box.

F. Maintenance and safety.

- (1) Every clothing drop box shall be erected, displayed, located placed or maintained in a good state of repair and shall not become, and shall not be altered to become, in the opinion of the Executive Director, deteriorated, damaged, unsafe, defective, upset, dislodged or inoperative.
- (2) No clothing drop box shall be located in an area that has tall grass or weeds, litter, trash or is generally unkempt, and it shall be the responsibility of the owner or operator of the clothing drop box to keep the property free of such conditions.
- (3) A clothing drop box that does not comply with Subsection F(1) or (2) shall be removed immediately.

§ 395-3. Charity; religious institution; community organization.

- A. Despite § 395-2B(1), a charity, religious institution or community organization may erect, display, locate, place or maintain one clothing drop box on land which is primarily used for the operations or activities of the charity, religious institution or community organization without obtaining a clothing drop box permit.
- B. The physical criteria in this chapter applicable to clothing drop boxes being utilized shall apply to clothing drop boxes erected, displayed, located, placed or maintained by

charities, religious institutions or community organizations under Subsection A, including §§ 395-2A, D, E and F and 395-4.

- C. A charity, religious institution or community organization shall obtain a permit and comply with this chapter for any additional clothing drop boxes that are erected, displayed, located, placed or maintained on land which is primarily used for the operations or activities of the charity, religious institution or community organization.

§ 395-4. Removal of unlawful clothing drop boxes; costs of City removal.

- A. If a clothing drop box is erected, displayed, located or placed in contravention of this chapter, the Executive Director, or persons acting upon his or her instructions, may, without notice, enter the land and pull down or remove the clothing drop box at the expense of the owner.
- B. Despite Subsection A, if a clothing drop box has been erected, displayed, located or placed in contravention of this chapter, the Executive Director, or persons acting upon his or her instructions, may:
- (1) Notify the owner to:
 - (a) Repair the clothing drop box;
 - (b) Pull down or remove the clothing drop box; or
 - (c) Correct the contravention so the clothing drop box complies with this chapter.
 - (2) An owner who receives notice under Subsection B(1) shall be required to comply with the notice and this chapter, at no cost to the City, within seven days of the date indicated on the notice.
 - (3) If a person, including an owner, fails to comply with a notice issued under Subsection B(1), then the Executive Director may, or any person acting under the Executive Director's direction, undertake any remedial work, including any removal, restoration, repair, renovation or modification that is required to ensure compliance with this chapter.
- C. Storage of clothing drop boxes.
- (1) Clothing drop boxes that have been removed under Subsections A or B shall be stored by the City for a minimum of 30 days, during which time the clothing drop box owner may retrieve the clothing drop box by:
 - (a) Paying any amounts owing to the City under this chapter, including the fee for retrieving and storing an illegal clothing drop box as set out in Chapter 441, Fees and Charges; and

- (b) Providing the City with a signed acknowledgement and release in a form acceptable to the City.
 - (2) A clothing drop box that has been removed by the City and stored for more than 30 days may be destroyed or otherwise disposed of by the City without notice and without compensation to the clothing drop box owner or operator.
- D. Fees for storage and removal of clothing drop boxes.
- (1) If a clothing drop box is removed under Subsections A or B, in addition to any fine or other penalty that may be imposed for an offence under this chapter, the clothing drop box owner shall pay to the City the following fees as set out in Chapter 441, Fees and Charges:
 - (a) The fee for removing an illegal clothing drop box;
 - (b) If a clothing drop box has been stored, the fee for storing an illegal clothing drop box; and
 - (c) If a clothing drop box has been destroyed or otherwise disposed of by the City, the fee for disposal of an illegal clothing drop box.
 - (2) If a clothing drop box is not retrieved, the fee for removing an illegal clothing drop box and the fees for storing and disposing of an illegal clothing drop box as set out in Chapter 441, Fees and Charges, shall be added to the subsequent year's permit fee.
 - (3) The fee for removing an illegal clothing drop box as well as the fees for storing and disposing of an illegal clothing drop box, as set out in Chapter 441, Fees and Charges, may also be recovered by action or adding the charge to the tax roll and collecting the charge in the same manner as taxes.

§ 395-5. Offences and penalties.

- A. Every person who contravenes any provision of this chapter is guilty of an offence and on conviction is liable to a fine of not less than \$500 and no more than \$100,000.
- B. Every person who contravenes any provision of this chapter may be liable, in addition to the fine provided for in Subsections A or D, to a special fine of not less than \$500 designed to eliminate or reduce any economic advantage or gain from contravening this chapter.
- C. In addition to offences referred to in Subsection A, every person is guilty of an offence under this chapter who:
 - (1) Hinders or obstructs or attempts to hinder or obstruct any person exercising a power or performing a duty under this chapter;

- (2) Neglects or refuses to produce or provide any information or thing to any person acting pursuant to an order made under section 378 of the *City of Toronto Act, 2006*;
 - (3) Knowingly makes, participates in, assents to or acquiesces in the provision of false information in a statement, affidavit, application or other document prepared, submitted or filed under this chapter;
 - (4) Erects, displays, locates, places, modifies or restores or causes to be erected, displayed, located, placed, modified or restored any clothing drop box for which a clothing drop box permit is required by this chapter without first obtaining a clothing drop box permit from the Executive Director;
 - (5) Erects, displays, locates, places, modifies, restores or causes to be erected, displayed, located, placed, modified or restored any clothing drop box prohibited by this chapter;
 - (6) Erects, displays, locates, places, modifies or restores or causes to be erected, displayed, modified or restored a sign contrary to a clothing drop box permit issued by the Executive Director;
 - (7) Erects, displays, locates or places or causes to be erected, displayed, placed or located a clothing drop box without displaying the identifier required by this chapter; or
 - (8) Is a director or officer of a corporation and knowingly concurs with actions taken by or on behalf of the corporation in relation to an offence described in Subsection C(1) to (7).
- D. Each offence in Subsection C is designated as a continuing offence and is subject to, for each day or part of a day that the offence continues, a minimum fine of no less than \$500 and a maximum fine of no more than \$10,000. The total of all of the daily fines imposed for each offence in Subsection C may exceed \$100,000.