

Authority: Public Works and Infrastructure Committee Item 32.19, as adopted by City of Toronto Council on July 8, 9, 10 and 11, 2014

CITY OF TORONTO

BY-LAW No. 226-2015

To amend City of Toronto Municipal Code Chapter 841, Waste Collection, Commercial Properties, to replace the Donated Items Reduced Rate Program with a Waste Diversion Rate Waiver Program.

Whereas subsection 8(1) of the *City of Toronto Act, 2006* provides the City with the broad authority to provide any service or thing the City considers necessary or desirable for the public; and

Whereas City Council has the authority to pass by-laws respecting matters related to services and things that the City considers necessary or desirable to provide to the public under subsection 8(2) of the *City of Toronto Act, 2006*; and

Whereas the City provides solid waste management services to the citizens of Toronto as a necessary and desirable service; and

Whereas under section 259 of the Act, Council may pass by-laws imposing fees and charges on persons for services or activities provided or done by or on behalf of it; and

Whereas City Council has amended various fees and charges and adopted new fees charges through its annual budget process; and

Whereas at its meeting of November 29, 30 and December 1, 2011, City Council adopted a Non-Residential Rate Structure during its consideration of Item EX13.2, "2012 Rate Supported Budgets - Solid Waste Management Services and Recommended 2012 Solid Waste Rates"; and

Whereas By-law No. 773-2012 was enacted by City of Toronto Council on June 8, 2012 to amend City of Toronto Municipal Code Chapter 841, Waste Collection, Commercial Properties, Chapter 441, Fees and Charges, Chapter 442, Fees and Charges, Administration of, and Chapter 849, Water and Sewage Services and Utility Bill, with respect to the implementation of collection fees for non-residential customers, a rate adjustment to the Commercial, ABCD and School Board front end collection rates and the application of Transfer Station tip fees to charitable organizations; and

Whereas, at its meeting of October 2, 3 and 4, 2012, City Council approved the creation of a Reduced Rate Donated Goods Program during its consideration of action report Item PW17.14, "Solid Waste Management Donated Items Reduced Rate for Non-Residential Special Category", such program to offset the rate for eligible organizations that receive public donations for redistribution to their clients or their retail store operations and rely on City services to dispose of the unusable items from these programs; and

Whereas, at its meeting of December 16, 17 and 18, 2013, City Council considered Item EX36.18, "2014 Rate Supported Budgets - Solid Waste Management Services and Recommended 2014 Solid Waste Rates", and voted to suspend the rate for 2014 and instructed

staff to explore further options to reduce the burden of waste collection rates on the City's charitable and non-profit sector; and

Whereas, at its meeting on July 8, 9, 10 and 11, 2014, City Council decided to replace the Reduced Rate Donated Goods Program for non-residential customers that are non-profit organizations, including federally registered charities, with a more comprehensive Waste Diversion Rate Waiver Program only for non-residential customers that are federally registered charities;

The Council of the City of Toronto enacts:

1. Chapter 841, Waste Collection, Commercial Properties, is amended as follows:

A. By deleting the following definitions from § 841-1:

APPLICATION PERIOD -The time period that commences when a non-residential property submits to the City a complete application for the donated items reduced rate and that terminates either on the date when the City issues a written notice of its decision not to accept the non-residential property into the donated items reduced rate program or on the date specified in the written acceptance notice that Solid Waste Management Services issues following the accepted non-residential property's donated items waste audit.

COLLECTIONS CUSTOMER - A customer receiving collection services.

DIVERSION PROGRAMS - The City's collection and processing of source separated organics, recyclables and any other materials that the General Manager of Solid Waste Management Services designates pursuant to § 841-21I.

DONATED ITEMS - Any non-monetary item - such as clothing, books, food, furniture, and toys – provided to a reduced rate non-residential property without expectation or receipt of compensation.

DONATED ITEMS WASTE AUDIT - Assessments conducted by Solid Waste Management Services of a reduced rate non-residential property:

- A to determine the quantity of waste set out for collection that qualifies as donated items to receive the donated items reduced rate;
- B. to confirm that the reduced rate non-residential property is complying with the following requirements of § 841-6J(2):
 - (1) donated items are being pre-sorted;
 - (2) participation in the City's diversion programs is occurring; and
 - (3) donated items are predominantly from Toronto sources; and

- C. to determine whether the reduced rate non-residential property qualifies to receive premium organic materials collection at no charge and, if so, how frequently.

DONATED ITEMS REDUCED RATE - Up to a 100% waiver on applicable waste disposal fees under Chapter 441, Fees and Charges (including those for curbside collection services or front end collection services in bins, bags, or containers as well as tip services) for all donated items except organic materials and up to a 100% reduction in applicable commercial organics collection fees as set forth in Appendix A to Chapter 441, Fees and Charges for those donated items that are organic materials.

DONATED ITEMS REDUCED RATE PROGRAM - The program administered by the City under this Chapter to provide to reduced rate non-residential properties a donated items reduced rate for donated items.

EDUCATION PROGRAM REQUIREMENT - The posting in optimum locations of the City's diversion program instructions for residents and/or program participants in order to prevent contamination.

EFFECTIVE DATE OF SERVICE - The calendar day on which the City determines that a non-residential property is entitled to receive waste collection service from the City.

INCOME TAX ACT - Federal Income Tax Act, R.S.C., 1985, c. 1 (5th Supp.).

INFORMATION GATHERING - Document requests made by the City to reduced rate non-residential properties in connection with any aspect of the donated items reduced rate program, including the application process and the donated items waste audit.

OPEN TO THE COMMUNITY - An element of a regular program that requires that the regular program:

- A. Is communicated to the public in a manner that targets individuals for whom the activity is intended to benefit.
- B. Serves not only the members of the organization providing the regular program but also non-members and also may focus on participants with a particular need or focus on a particular geographic area.
- C. Fully complies with the:
- (1) *Accessibility for Ontarians with Disability Act* (S.O. 2005, CHAPTER 11);
 - (2) Criminal Code of Canada (R.S.C., 1985, c. C-46);

- (3) *Employment Standards Act* (S.O. 2000, CHAPTER 41);
- (4) *Occupational Health and Safety Act* (R.S.O. 1990, CHAPTER O.1); and
- (5) *Ontario Human Rights Code* (R.S.O. 1990, CHAPTER H.19);

OVERPAYMENTS - Payments received by the City that were in excess of the donated items reduced rate on waste disposal fees under Chapter 441, Fees and Charges (including those for curbside collection services or front end collection services in bins, bags, or containers as well as tip services) for all donated items except organic materials and on commercial organics collection fees as set forth in Appendix A to Chapter 441, Fees and Charges.

REDUCED RATE NON-RESIDENTIAL PROPERTY - A non-residential property that satisfies the eligibility criteria in § 841-6J(1) to be accepted into the donated items reduced rate program and that satisfies the continuing participation requirements in § 841-6J(2) to continue to participate in the donated items reduced rate program.

REDUCED RATE PERIOD - The time period during which a reduced rate non-residential property receives the donated items reduced rate on donated items. The time period commences on the date specified in the written acceptance notice that Solid Waste Management Services issues following the accepted non-residential property's donated items waste audit and continues so long as the reduced rate non-residential property is complying with § 841-6J(2) or the City otherwise terminates the donated items reduced rate program.

REGULAR PROGRAM - Activities, including Winter "Out of Cold" Type Programs, that:

- A. are offered at least once per month;
- B. serve 20 or more people each time; and
- C. operate during at least five months of the year.

RETROACTIVE PERIOD - The time period between:

- A. the later of July 1, 2012 or the effective date of service; and
- B. the date specified in the written acceptance notice that Solid Waste Management Services issues following the accepted non-residential property's donated items waste audit.

TIPPING CUSTOMER - A customer exempt from tipping fees at the City's transfer stations prior to July 1, 2012.

WINTER "OUT OF COLD" TYPE PROGRAMS - Programs offered by volunteers during the months of November through April that provides meals or shelter at no cost to people who are homeless or at risk of homelessness.

B. By adding the following definitions to § 841-1:

APPLICATION - The submission made to the City by a collections customer or exempt tipping customer to demonstrate eligibility to receive the fee waiver pursuant to this Chapter.

APPLICATION PERIOD - The time period that commences when a collections customer or exempt tipping customer submits to the City a complete application for the fee waiver and that terminates on the date that the City issues an eligibility letter.

CHARITABLE ORGANIZATION - An organization which is 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.

CHARITY DUMPING AUTHORIZATION SLIP - A dumping authorization slip that must be presented by the exempt tipping customer approved to use Toronto's Transfer Station for loads of waste (garbage, recyclables and tires). Charity Dumping Authorization slips must be provided with each load that is disposed of at Toronto's Transfer Stations.

COLLECTIONS CUSTOMER - A customer receiving collection services.

CUSTOMER - An owner, occupant, lessee, tenant or any other person in charge or in control of an eligible non-residential property.

DIVERSION PROGRAMS - The City's collection and processing of source separated organics, recyclables and any other materials that the General Manager of Solid Waste Management Services designates pursuant to § 841-21I.

EDUCATION PROGRAM REQUIREMENT - Providing the donors, members and/or service recipients of charitable organizations with information about:

- (1) The City's diversion program instructions to prevent contamination, environmentally sound re-use and disposal issues; and
- (2) How the charitable organization is complying with such measures in its own operations.

ELIGIBILITY LETTER - A letter sent from the City to the collection customer or exempt tipping customer that has submitted an application for the fee waiver to indicate whether such customer is eligible for the fee waiver and, where such customer is eligible, the date on which the fee waiver will begin to apply. The

Eligibility Letter also may contain recommendations that direct the customer to modify his or her current waste management practices to maintain eligibility for the fee waiver.

EXEMPT TIPPING CUSTOMER - A charitable organization customer that the City exempted from tipping fees at the City's transfer stations prior to July 1, 2012.

FEE WAIVER - A complete waiver of all collection and tipping fees for Toronto generated waste applicable to a qualifying customer pursuant to this Chapter and Chapter 441, Fees and Charges but not including any applicable fees for bins.

FEE WAIVER PERIOD - The time period during which an eligible customer receives the fee waiver. The time period commences on the date specified in the eligibility letter and continues so long as the customer does not receive a removal letter or City Council does not modify or repeal this program or any other applicable City by-law. Continued receipt of the fee waiver may be subject to periodic review.

INCOME TAX ACT - Federal Income Tax Act, R.S.C., 1985, c. 1 (5th Supp.).

INFORMATION GATHERING - Information and document requests and related inquiries made by the City staff (including but not limited to staff from the Solid Waste Management Services Division and the Social Development Finance and Administration Division) to a customer applying to receive or an eligible customer receiving a fee waiver to confirm compliance with the eligibility criteria in § 841-6J(1) and/or the ongoing participation requirements in § 841-6J(2).

REMOVAL LETTER - A letter sent from the City to the customer indicating that the customer is no longer eligible to receive the fee waiver as of a certain date and until the end of the calendar year because of a failure to comply with §§ 841-6(J)(1) and/or (2). The removal letter also may indicate that the customer can apply again for the fee waiver beginning in the following calendar year.

SPOT WASTE INSPECTIONS - Unannounced inspections of organics, garbage and/or recyclables placed at curbside for collection that is conducted by City staff in accordance with the process set forth in the Solid Waste Charity Fee Waiver Guidelines to determine whether the customer can continue to receive the fee waiver based on the following factors:

- A. Participating in applicable diversion programs;
- B. Satisfying applicable Eligibility Letter recommendations;
- C. Confirming that waste set out for collection is predominantly from Toronto sources.

TIPPING RATIO - A ratio of the portion of the tipping generated from non-Toronto sources to the total tipping tonnes, as determined periodically by negotiations between the General Manager, or his or her delegate(s), and the exempt tipping customer(s) in accordance with the Solid Waste Management Services Division Fee Waiver Guidelines.

WASTE AUDIT - Scheduled inspection of the waste practices of a customer that has applied for or is receiving the fee waiver, conducted by City staff in accordance with the process set forth in the Solid Waste Charity Fee Waiver Guidelines and that forms part of the determination of whether the customer is eligible to receive or to continue to receive the Fee Waiver. The inspection will confirm that such waste practices comply with:

- A. Applicable diversion programs;
 - B. The education program requirement;
 - C. Applicable requirements set forth in this Chapter and Chapter 442, Fees and Charges, Administration of, and Chapter 846, Waste Transfer Stations;
 - D. Recommendations contained in a customer's Eligibility Letter, where applicable; and
 - E. The requirement to demonstrate that waste set out for collection is predominantly from Toronto sources.
- C. By deleting the following subsection from Section 841-6:
- J. Any non-residential property that satisfies the eligibility criteria in § 841-6J(1) and complies with the ongoing participation requirements in this § 841-6J(2) will be able to participate in and receive the benefits of the donated items reduced rate program which provides a donated items reduced rate on donated items.
 - (1) Eligibility Criteria

At all times during the application period and the reduced rate period, the non-residential property must satisfy the following criteria:

 - (a) Waste removal/disposal status
 - [1] The non-residential property must be an eligible non-residential property; and

[2] The non-residential property must be:

- (a) a collections customer that complies with all relevant subsections of this Chapter, including § 841-3J; or
- (b) a tipping customer.

(b) Organizational status

The non-residential property must provide satisfactory evidence that it is:

[1] a charitable organization, as defined in § 442-1; or

[2] incorporated as a non-profit corporation, as defined in Section 149.1 of the Income Tax Act.

(c) Programming status

The non-residential property must demonstrate that it offers regular programs that are open to the community and that use donated items

(2) Ongoing Participation Requirements

At all times during the reduced rate period, the reduced rate non-residential property must satisfy the following:

- (a) participate in all of the City's diversion programs, except that eligible tipping customers, as defined in § 841-1, are exempt from this requirement;
- (b) participate in and cooperate with donated items waste audits conducted by the City's Solid Waste Management Services Division;
- (c) participate in and cooperate with any information gathering conducted by either the City's Solid Waste Management Services Division or the City's Social Development Finance and Administration Division;
- (d) ensure that donated items for waste removal are pre-sorted for diversion;
- (e) comply with the education program requirement;

- (f) demonstrate that donated goods are predominantly from Toronto sources;
 - (g) participate in efforts to educate donors and users of goods on environmentally sound re-use and disposal issues; and
 - (h) demonstrate continued compliance with the eligibility criteria in § 841-6J(1)(a)-(c) in response to periodic City staff inquiries and document requests.
- (3) The City shall provide a monetary or in-kind credit for reduced rate non-residential properties for any qualifying overpayments during the retroactive period or any qualifying overpayments during the reduced rate period provided that the City receives from the reduced rate non-residential property within 18 months of the latter of July 1, 2012 or the non-residential property's effective date of service an application that the General Manager determines sufficiently demonstrates grounds for such credits.
- (4) Determinations
- (a) The General Manager and the Executive Director, Social Development Finance and Administration, shall together implement the process for applying to the donated items reduced rate program and determine whether an applicant is and remains eligible under § 841-6J(1) to be accepted into the reduced rate program, including any information gathering.
 - (b) The General Manager, shall conduct donated items waste audits, information gathering and other methods to determine when the reduced rate period commences for a non-residential property and whether a reduced rate non-residential property is complying with § 841-6J(2) to continue participating in the donated items reduced rate program. The date specified in the acceptance letter that Solid Waste issues is the date on which the General Manager will have accepted the results of the non-residential property's donated items waste audit.
 - (c) The General Manager shall administer the credits permitted under § 841-6J(3). Such administration shall include determining whether the non-residential property qualifies for a credit and whether such credit should be monetary or in-kind; calculating the amount of the credit; and appropriately issuing the credit.

- D. By deleting the following subsection from Section 841-10.2:
- H. For purposes of the donated items reduced rate program only, as set forth in § 841-6J, the General Manager may determine whether the reduced rate non-residential property needs to use bags instead of bins or containers for disposal of the donated items.
- E. By adding the following subsection to Section 841-6:
- J. A customer that satisfies the eligibility criteria in Subsection (1) and that complies with the ongoing participation requirements in Subsection (2) will receive a fee waiver, as confirmed in an eligibility letter. Such customer that no longer satisfies the eligibility criteria in Subsection (1) or no longer complies with the ongoing participation requirements in Subsection (2) will no longer receive a fee waiver, as confirmed in a removal letter.
- (1) Eligibility Criteria
- At all times during the application period and the fee waiver period, the customer must satisfy the following criteria
- (a) Waste removal/disposal status
- The customer must be:
- [1] A non-residential property; and
- [2] Either
- [a] A collections customer that complies with all applicable sections of this Chapter and Chapter 442, Fees and Charges, Administration of; or
- [b] An exempt tipping customer that complies with all applicable subsections of Chapters 442, Fees and Charges, Administration of, and 846, Waste Transfer Stations.
- (b) Organizational status
- The customer must provide satisfactory evidence that it is a charitable organization in good standing.

(c) Application information

The customer must provide the information requested in the application unless the Executive Director, Social Development Finance and Administration or his or her delegate(s) or unless the General Manager, Solid Waste Management Services or his or her delegate(s), indicates otherwise.

(2) Ongoing Participation Requirements

To continue to receive the fee waiver the eligible customer must satisfy the following ongoing participation requirements:

- (a) Participate in all applicable diversion programs as verified by spot waste inspections, waste audits and/or information gathering, except that eligible exempt tipping customers are exempt from this requirement;
- (b) Comply with the education program requirement, as verified by waste audits and/or information gathering;
- (c) Comply with all applicable sections of this Chapter and Chapter 846, Waste Transfer Stations, as verified by spot waste inspections, waste audits and/or information gathering;
- (d) Update existing application information and/or provide additional related information, as requested through information gathering; and
- (e) Demonstrate that waste is predominantly from Toronto sources, as verified as follows:
 - [1] For collection customers, as part of a spot waste inspection or waste audit; or
 - [2] For exempt tipping customers, by written, signed declaration submitted to City staff, provided, however, that if the customer has an approved tipping ratio, then such exempt tipping customer must pay that portion of the applicable Commercial rate as set forth in Chapter 441, Fees and Charges, equal to the tipping ratio.

- (3) Determinations
- (a) The General Manager or his or her delegate(s) shall use the application, information gathering, spot waste inspections and/or waste audits to determine whether the customer:
- [1] Satisfies the waste/disposal status requirements set forth in § 841-6J(1)(a);
 - [2] Continues to satisfy the waste/disposal status requirements set forth in § 841-6J(1)(a);
 - [3] Continues to satisfy the ongoing participation requirements set forth in § 841-6J(2); or
 - [4] Should be removed from the program with or without the opportunity to reapply in the next calendar year.
- (b) The Executive Director, Social Development Finance and Administration, or his or her delegate(s) shall use the application and/or information gathering to determine whether the customer:
- [1] Satisfies the organization status requirements set forth in § 841-6J(1)(b);
 - [2] Continues to satisfy the organization status requirement set forth in § 841-6J(1)(b); or
 - [3] Should be removed from the program with or without the opportunity to reapply in the next calendar year.
- (4) The General Manager or his or her delegate(s) shall administer the fee waiver for eligible customers and negotiate and apply the Tipping Ratio, where applicable.

Enacted and passed on February 11, 2015.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)