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| <p>1. CLOTHING DONATION BOXES - PRIVATE PROPERTY</p> <p>BOÎTES DE COLLECTE DE VÊTEMENTS - PROPRIÉTÉ PRIVÉE</p> |
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COMMITTEE RECOMMENDATIONS

That Council approve that:

- 1. The regulatory provisions for enhanced notice on clothing donation boxes, as outlined in Option Number 4 of this report, as well as the public awareness strategy contained in Option 2 of this report;**
- 2. The enactment of a by-law, substantially in the form attached as Document 1, with an effective date of June 3, 2013, and delegation of authority to the City Clerk and Solicitor to make minor revisions which are consistent with the intent and purpose of the by-law; and**
- 3. That staff conduct a review of the effectiveness of this combined approach over a two-year period following enactment of the by-law and report back to Committee and Council on the results.**

RECOMMANDATIONS DU COMITÉ

Que le Conseil approuve :

- 1. Les dispositions réglementaires concernant l'amélioration des avis devant figurer sur les boîtes de collecte de vêtements, conformément à la description énoncée dans l'option 4 du présent rapport, ainsi que la stratégie de sensibilisation de la population énoncée dans l'option 2 du présent rapport;**

- 2. La promulgation, le 3 juin 2013, d'un règlement correspondant pour l'essentiel au texte du document 1, et la délégation au greffier municipal et chef du contentieux du pouvoir d'apporter des changements mineurs respectant l'esprit du règlement;**

- 3. L'examen par le personnel de l'efficacité de cette démarche sur une période de deux ans à compter de la date de promulgation du règlement, et la présentation d'un rapport d'examen au Comité et au Conseil.**

DOCUMENTATION / DOCUMENTATION

Rick O'Connor, City Clerk and Solicitor, report dated 14 March 2013 / Rapport de le Greffier et Chef du contentieux daté du 14 mars 2013 (ACS2013-CMR-LEG-0003).

Report to/Rapport au :

Community and Protective Services Committee
Comité des services communautaires et de protection

and Council / et au Conseil

March 14, 2013
14 mars 2013

Submitted by/Soumis par : M. Rick O'Connor, City Clerk and Solicitor/Greffier et Chef du contentieux

*Contact Person / Personne ressource: Taffy Nahas, Legal Counsel/Conseiller juridique
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CITY WIDE / À L'ÉCHELLE DE LA VILLE

Ref N°: ACS2013-CMR-LEG-0003

SUBJECT: CLOTHING DONATION BOXES – PRIVATE PROPERTY

OBJET: BOÎTES DE COLLECTE DE VÊTEMENTS – PROPRIÉTÉ PRIVÉE

REPORT RECOMMENDATIONS

That the Community and Protective Services Committee recommend that Council approve:

1. The regulatory provisions for enhanced notice on clothing donation boxes, as outlined in Option Number 4 of this report, as well as the public awareness strategy contained in Option 2 of this report;
2. The enactment of a by-law, substantially in the form attached as Document 1, with an effective date of June 3, 2013, and delegation of authority to the City Clerk and Solicitor to make minor revisions which are consistent with the intent and purpose of the by-law; and
3. That staff conduct a review of the effectiveness of this combined approach over a two-year period following enactment of the by-law and report back to Committee and Council on the results.

RECOMMANDATIONS DU RAPPORT

Que le Comité des services communautaires et de protection recommande au Conseil d'approuver :

- 1. Les dispositions réglementaires concernant l'amélioration des avis devant figurer sur les boîtes de collecte de vêtements, conformément à la description énoncée dans l'option 4 du présent rapport, ainsi que la stratégie de sensibilisation de la population énoncée dans l'option 2 du présent rapport;**
- 2. La promulgation, le 3 juin 2013, d'un règlement correspondant pour l'essentiel au texte du document 1, et la délégation au greffier municipal et chef du contentieux du pouvoir d'apporter des changements mineurs respectant l'esprit du règlement;**
- 3. L'examen par le personnel de l'efficacité de cette démarche sur une période de deux ans à compter de la date de promulgation du règlement, et la présentation d'un rapport d'examen au Comité et au Conseil.**

BACKGROUND

The purpose of this report is to respond to a direction from Council seeking information with respect to the regulatory options available to the City concerning clothing donation boxes on private property.

On March 28, 2012, Council passed a motion concerning the issue of clothing donation boxes located on City property (Document 2). That motion was specifically initiated by concerns that only registered charities executed the required license of occupation to permit their clothing donation boxes to be located on City property whereas other for-profit organizations had not done so. Subsequent concerns regarding clothing donation boxes were also identified, including: the problem of for-profit businesses misleading residents/consumers that their donations were going to charity; and the failure to keep the area surrounding the boxes clear of litter and excess debris.

With respect to complaints arising from clothing donation boxes, the City received 29 complaints for the ten year period between 2002 and 2011. These complaints can be summarized as follows:

- 2 - visibility and issues with sightlines;
- 8 - legitimacy/legality of boxes on private property and/or City property; and
- 19 – cleanliness or neglect of box.

The March 2012 motion directed that clothing donation boxes are only permitted on City property if the operator is a registered charitable organization as recognized by the Canada Revenue Agency and the operator obtains written approval from the City in the form of a License of Occupation Agreement. As a result, two licenses have been executed permitting Ottawa Neighbourhood Services and the Canadian Diabetes Association to locate clothing donation boxes (28 and 5 respectively) at various public sites in the City. In this regard, the Council motion has assisted in formally registering

the charitable groups with licenses of occupation, as well as preventing non-profit and for-profit operators from placing their clothing donation boxes on City property.

Following the enactment and implementation of the March 2012 motion, reported concerns about clothing donation boxes almost doubled, as the City received 52 complaints. A summary of those complaints, below, tend to demonstrate that 50% of the complaints focused upon the legitimacy of the boxes' locations:

- 1 - theft (box being broken into);
- 5 - requests for boxes to be investigated (no specific reason);
- 5 – cleanliness or neglect of box;
- 5 - visibility and issues with sightlines;
- 8 - legitimacy/legality – did the boxes have correct (or any) permits; and
- 28 - property issue/removal complaints, with either boxes being placed on private property with no permission or appear to be on City property/road allowance.

Concerns over signage were also cited in a number of these complaints, apparently after attempts to contact the donation box operators proved unsuccessful.

On November 6, 2012, the Finance and Economic Development Committee received a staff response to the following inquiry posed by Councillor Hubley: “Would City staff provide an overview of the options available to the City with respect to regulating the presence of such clothing donation boxes on private property.” Inquiry No. 11/12 (set out as Document 3 to this report) identified the following, three basic options:

- 1) Self-regulation or *status quo*;
- 2) Public Relations, being an advertising campaign to educate the public as well as property owners; and
- 3) Regulation involving signage and licensing.

On November 14, 2012, Council directed Staff to prepare a detailed report, for Committee and Council consideration, on the regulation of clothing donation boxes on private property. The motion (found at Document 4) set out the following specific areas to be examined:

- A business license regime on a full cost recovery basis for non-charities;
- A requirement for operators to place clear and visible signage on donation boxes, clearly defining whether the operator is a charitable or for-profit business; and
- An information campaign to educate the public as well as private property owners on the rules for clothing donation boxes on municipal lands versus private property.

DISCUSSION

It is generally accepted that clothing donation boxes can provide two, recognized benefits to the community in which they are located: (i) assisting in the diversion of clothing and household items from landfills; and, (ii) sometimes, aiding in the charitable efforts of various organizations. The second benefit is qualified as it remains difficult to quantify this measure since operators of clothing donation boxes may be: registered charities which may rely heavily on such donations to operate; for-profit operators who may, or may not, keep all of the proceeds arising from the donations; and, non-profit organizations. Such non-profit groups dedicate part of their proceeds to social welfare, civic improvement, sport and recreation or some other purpose except for profit. Furthermore, it is also generally conceded that an outright ban of all clothing donation boxes in a municipality would have a correspondingly negative impact locally on registered charities and non-profit operators, as well as landfills.

Based upon that context, set out below is the review of the different options with respect to the placement of clothing donation boxes on private property.

Option 1: Self-Regulation:

Under this *status quo* option, the City of Ottawa would continue to address requests for clothing donation boxes on municipal property in accordance with the Council motion from March 2012 (e.g. License of Occupation Agreement for registered charities only). In addition, clothing donation boxes located on private property would continue. In this scenario, the open market prevails where private property owners and clothing donation box operators presumably negotiate agreements on their own terms. This option is based on the following factors:

Supporting Rationale:

- Existing agreements in the private sector would be honoured and the City would avoid allegations of intervening with contractual relations;
- Potential privacy concerns between private property owners and operators would be averted; and
- No budget or resource pressures arise.

Potential Challenges:

- Lack of a consistent regulatory approach with respect to clothing donation boxes on private property may lead to ongoing consumer protection issues for residents (e.g. is the box operator a registered charity, a non-profit group, or a commercial business that contributes a percentage of its proceeds to charity).

This option is not recommended as it does not address the main issues identified, being consumer confusion over the operator's status and the cleanliness/maintenance of the donation box and surrounding area).

Option 2: Public Awareness Campaign

The City would prepare and implement a public awareness campaign through its operational staff and the Corporate Communications Department to help orient the public on the rules applying to clothing donation boxes on City property in accordance with the Council directive. This could be done in a cost-effective manner and would include public service announcements, tweets and updates to the ottawa.ca website. As for clothing donation boxes on private property, the public would be reminded to take appropriate measures to determine for themselves whether an operator is a charitable organization or not and therefore become better aware to whom they are making their donations.

Supporting Rationale:

- The awareness campaign will assist residents in how to determine for themselves which clothing donation bins belong to registered charities, non-profit groups or for-profit organizations; and
- Publicize further the Council motion of March 2012 by emphasizing to residents that all clothing donation boxes on City property belong to registered charities.

Potential Challenges:

- Lack of a consistent regulatory approach (as noted above).

Option 2 is recommended in conjunction with a Property Standards Regulation set out below in Option 4.

Option 3: Business Licensing:

As discussed in the "Legal Implications" section below, the City has the statutory authority to enact a by-law to license business operators who place clothing donation boxes on private property. In effect, a comprehensive Clothing Donation Box By-law could require that all organizations, including those with a charitable designation, seeking to place clothing donation boxes on any property, whether City or private, must meet a number of financial and administrative requirements. Based upon other models currently in use in Ontario, this business licensing regime would likely have some or all of the following characteristics:

- 1) Require all clothing donation boxes to provide the following information on their initial license application:

- a) The name and address of the owner of the clothing donation 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 donation box is to be located;
 - d) A site plan or legal survey, identifying the specific location of the clothing donation box on the premises;
 - e) Written authorization from the property owner or management company to permit the applicant to have the clothing donation box located and placed on the premises;
 - f) The commencement and termination dates for the placement of the clothing donation box;
 - g) A current contact name, phone number and e-mail address for the individual responsible for the clothing donation box;
 - h) Proof of insurance (generally being about \$2M, naming the municipality as an additional insured and having provisions for cross-liability and severability of interest and the requirement to provide the municipality in writing in advance of a policy cancellation);
 - i) The completed application in a form satisfactory to the municipality; and
 - j) The permit fee for the clothing donation box set out in the Fees and Charges By-law.
- 2) Require all clothing donation box operators to pay an initial license application fee as well as individual location permit fees for each box;
 - 3) Municipality required to maintain a registry of all clothing donation box operators as well as the locations of each box;
 - 4) Require that every clothing donation 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 deteriorated, damaged, unsafe, defective, upset, dislodged or inoperative;
 - 5) No clothing donation 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 donation box to keep the property free of such conditions;
 - 6) A clothing donation box that does not comply with the By-law shall be removed immediately;
 - 7) Non compliant operators to pay various fees related to the removal of illegal boxes; storage of boxes; and return of boxes; and

- 8) The inspection process will be complaint-driven and clothing donation boxes shall comply with all other by-laws, including the property standards by-law and the roads encroachment by-law.

The City will have the authority to inspect and issue notices requiring the removal of clothing donation boxes placed on public or private property. It would be the responsibility of the property owner, (and box operator) to maintain the area surrounding the clothing donation box free of litter and debris.

Supporting Rationale:

- The City can impose various requirements on operators to obtain a business license to ensure the safety and cleanliness of the City is maintained; and
- Consistent regulation for non-compliant clothing donation boxes on both City and private property.

Potential Challenges:

- Budget pressure and possible FTE requirements although these may be offset by imposing various license fees;
- Perceived interference with existing commercial relations and contracts; and
- Enforcement may prove problematic with respect to “absentee” operators.

This option is not recommended at this time for the reasons set out under the “Potential Challenges” section and for not being directly responsive to the main issues identified earlier (e.g. consumer confusion over the operator’s status and the cleanliness/maintenance of the donation box and surrounding area).

Option 4: A Regulatory Approach focusing on property standards combined with public awareness

A further option has been considered, involving a focus on the property standards aspects of locating these boxes on private property by regulating the operators in a more limited fashion without employing the type of full-scale licensing regime summarized above. In effect, the City could require, by by-law, that the operators place mandatory signage on the donation boxes that would clearly define whether the operator is a registered charity (along with the Canada Revenue Agency number), a for-profit business, or a non-profit organization. In addition, the sign would also state the operator’s current contact information (e.g. phone number and e-mail address), as well as the pick-up schedule for that particular box, as well as any applicable alternate box locations. However, additional requirements would be placed on the property owner to ensure the signage is provided and the property surrounding the box is kept clean and free of debris.

Supporting Rationale:

- Modest regulation aimed at remedying any consumer confusion over the charitable status of the operator;
- Enforcement would occur on a complaint basis; and
- Minimal interference with existing commercial relations and contracts.

Potential Challenges:

- There will be a need to formally notify all operators and private property owners of these requirements.

This option is recommended, in conjunction with the Public Awareness Campaign outlined in Option 2, as it would address directly the complaints identified by the public in that both the operator and the property owner would need to comply with the provisions of the by-law which address all of these issues. A draft of the recommended by-law is attached as Document 1. It is recommended that the effective date of the by-law be delayed until June 3, 2013, to enable staff to implement the public awareness strategy and advise the public of the by-law. Furthermore, it is recommended that a review be conducted of the effectiveness of this by-law over a two year period after the enactment date and that staff report to Committee and Council on the results of the review.

RURAL IMPLICATIONS

There are no rural implications associated with this report.

CONSULTATION

During the preparation of this report, staff surveyed most of the organizations that have clothing donation boxes on either City lands or private property. Of the 6 operators contacted, two operators were registered charities with a total of 33 donation boxes on municipal property, while the four remaining operators (two registered charities and two other groups that give part of their proceeds to charity) have approximately 226 donation boxes located on private property throughout Ottawa. Furthermore, it would appear that most would agree to some form of regulation by the City of boxes on private property.

LEGAL IMPLICATIONS

The *Municipal Act, 2001* (the "Act") has a number of broad provisions that are relevant to the issue of regulating clothing donation boxes on private property. To begin with, Subsection 8(1) of the legislation provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on it to enable the municipality "to govern its affairs as it considers appropriate and to enhance the municipality's ability to

respond to member issues.” Further, Subsection 10(1) of the *Act* states that a single-tier municipality (like the City of Ottawa) may provide “any service or thing that the municipality considers necessary or desirable for the public.” In accordance with Subsection 10(2), the City may pass by-laws regarding the “health, safety and well-being of persons”, as well as for “the protection of persons and property, *including consumer protection*” and “business licensing” (emphasis added).

In addition, Subsection 128(1) of the *Act* allows the City to prohibit and regulate with respect to “public nuisances”, including “matters that, in the opinion of council, are or could become or cause public nuisances.”

Furthermore, Sections 150 and 151 provide municipalities with the necessary authority to enact business licensing by-laws concerned with regulating specific businesses or activities. This statutory authority includes the ability to “impose conditions as a requirement of obtaining, continuing to hold or renewing a licence” as well as the power to suspend or revoke a licence.

Legal staff have researched the various approaches taken by Ontario municipalities to address clothing donation boxes on both municipal property and private property. These approaches appear to be subdivided into two main categories: (i) a comprehensive business licensing regime for all operators of clothing donation boxes on both municipal lands and private property (e.g. Toronto); or (ii) requiring that only registered charities operate clothing donation boxes on private property (e.g. Markham, Scugog and Vaughan).

Despite the possible regulatory approaches for clothing donation boxes, it would remain the property owner’s responsibility to ensure maintenance and cleanliness of the boxes, as well as the surrounding area. In this regard, By-law and Regulatory Services staff would enforce the Property Standards By-law against the property owner with respect to any non-compliance issues on a compliant basis.

The City’s current Official Plan and zoning by-laws do not have specific provisions that regulate the location of clothing donation boxes. Finally, the temporary and unique structure of the clothing donation boxes do not come within the ambit of the *Building Code* so building permits are not required for the placement of the boxes. That said, there is sufficient legislative provisions and no legal impediments to implementing the recommendations of this report.

RISK MANAGEMENT IMPLICATIONS

Any risks associated with this report have been identified and explained above.

FINANCIAL IMPLICATIONS

There are no financial implications with the approval of the recommendations in this report.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

ENVIRONMENTAL IMPLICATIONS

Clothing donation boxes assist in the diversion of clothing and household items from landfills.

TECHNOLOGY IMPLICATIONS

There are no technology implications associated with this report.

TERM OF COUNCIL PRIORITIES

ES3: Reduce environmental impact

SUPPORTING DOCUMENTATION

Document 1 – Draft by-law

Document 2 – Motion No. 31/10

Document 3 – Inquiry No. 11/12

Document 4 – Motion No. 44/8

DISPOSITION

Should the report's recommendations be approved by Committee and Council, Legal Services will prepare the necessary by-law, By-law & Regulatory Services will implement the by-law and Corporate Communications will implement the public awareness campaign.

DOCUMENT 1 (REVISED VERSION)

BY-LAW NO. 2013-

A by-law of the City of Ottawa to regulate the location and use of clothing donation boxes on private property.

WHEREAS section 8 of the Municipal Act, 2001, S.O. 2001, c.25, as amended (the Municipal Act”) provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to govern its affairs as it considers appropriate and to enhance its ability to respond to municipal issues;

AND WHEREAS subsection 10(2) of the Municipal Act provides that the municipality may pass by-laws regarding the health, safety and well being of persons;

AND WHEREAS section 128 of the Municipal Act provides that a municipality may prohibit and regulate with respect to public nuisances including matters that, in the opinion of Council, are or could become public nuisances;

AND WHEREAS the City of Ottawa deems it necessary to regulate clothing donation boxes to prevent public nuisances caused by the accumulation of debris in the vicinity of the clothing donation bins;

THEREFORE the Council of the City of Ottawa enacts as follows:

DEFINITIONS

1. “charity” means a registered charity as defined in subsection 248(1) of the Income Tax Act, R.S.C. 1985 (5th Supp) or successor legislation that has a registration number issued by the Canada Revenue Agency or successor agency.

“clothing donation box” means any receptacle used for the purpose of collecting clothing donations from the public;

“Chief” means the Chief, By-law and Regulatory Services or a designate;

“City” means the municipal corporation of the City of Ottawa;

“operator” means the operator of the clothing donation box;

“owner” means the owner or occupant of the private property on which the clothing donation box is located;

“private property” means any property not owned by the municipality;

REGULATIONS

2. No operator shall place a clothing donation box on private property without the consent of the owner.

3. No operator shall fail to place the following information in a conspicuous place on the clothing donation box in lettering no smaller than Arial 150 font or other fonts of similar dimensions and in a contrasting colour:

- (a) name and address of the owner;
- (b) business name of the owner and operator, if applicable;
- (c) type of organization if the operator not a charity;
- (d) the Canada Revenue Agency registration number if the operator is a charity;
- (e) the name, address and telephone number of the operator;
- (f) schedule of times for pick up of donated clothing; and
- (g) location of any alternative clothing donation boxes of the same operator.

4. The operator shall ensure that the information contained in Section 3 is maintained current at all times.

5. No owner shall fail to ensure that,

(a) the information required pursuant to Section 3 is provided on the clothing donation box; and

(b) the information required by Section 3 is kept current.

6. No operator shall place a clothing donation box on property zoned residential.

7. No owner shall permit a clothing donation box to be located on the property if the property is zoned residential.

8. No owner shall permit a clothing donation box to be placed on the property in a location that creates a visual obstruction for vehicular traffic or pedestrians.
9. No owner shall permit a clothing donation box to be placed on the property in a location that is within three metres of an access or egress to any property.
10. The owner shall ensure that all areas immediately adjacent to the clothing donation box are maintained in accordance with the Property Standards By-law and the Property Maintenance By-law of the City.

NOTICE

11. (1) When any clothing donation box and the area immediately adjacent to the clothing donation box are not maintained pursuant to the requirements of this by-law, the Chief shall send a Notice, by registered mail or direct delivery of the Notice by hand to the owner or occupant's last known address, requiring the owner or occupant as the case may be to make the clothing donation box and the surrounding land conform to the requirements of this by-law and the Notice shall specify the time allowed for compliance.

(2) The Notice contained in subsection (1) shall be deemed to have been given on the fifth day after it was mailed if it is sent by registered mail.

(3) No person shall fail to comply with a Notice sent pursuant to subsection (1).

DEFAULT

12. (1) Where a notice has been sent by the Chief pursuant to Section 11, and the requirements of the notice have not been complied with, the City may remove the clothing donation box or undertake work to bring the clothing donation box and the surrounding area into compliance with the by-law at the expense of the owner.

(2) The costs of the work or the removal pursuant to subsection (1) may be recovered from the owner by action or by adding the costs to the tax roll and collecting them in the same manner as taxes.

13. Every person who contravenes any provision of this by-law is guilty of an offence as provided for in subsection 429(1) of the Municipal Act, 2001.

14. A person who is convicted of an offence under Section 13 of this by-law is liable to a minimum fine of \$500.00 and a maximum fine of \$100,000.00 as provided for in subsection 429(3)1 of the Municipal Act, 2001.

EFFECTIVE DATE

15. This by-law shall be deemed to come into force and take effect on June 3, 2013.

ENACTED AND PASSED this day of , 2013.

CITY CLERK

MAYOR

DOCUMENT 2

MOTION NO. 31/10

Moved by Councillor A. Hubley
Seconded by Councillor T. Tierney

WHEREAS there are a number of agreements with the City that permit the use of public space by private groups; and

WHEREAS the City currently has a License of Occupation Agreement with Ottawa Neighbourhood Services for the placement of donation drop boxes at specific City-owned facilities; and

WHEREAS Ottawa Neighbourhood Services is a registered charitable organization under the federal *Income Tax Act*; and

WHEREAS it has been reported to City officials that private and for-profit companies have placed clothing donation boxes on City property without a License of Occupation Agreement; and

WHEREAS in cases where an operator places donation boxes on the City right-of-way without a written agreement, Subsection 3(1) of the Encroachment By-law No. 2003-446 applies such that no person shall construct, erect or alter an encroachment without first obtaining a permit in accordance with the provisions of this by-law and as such are subject to the penalties provided in this by-law; and

WHEREAS in cases where an operator places donation boxes on parkland and City facilities, Subsection 7(1)(b) the Parks and Facilities By-law No. 2004-276 applies such that no person shall, in a park and without a permit issued by the Director practice, carry on, conduct or solicit for any trade, calling, business or occupation and as such are subject to the penalties provided in this by-law; and

WHEREAS in cases where an operator places donation boxes on other City-owned property, Subsection 2(1) of the *Trespass to Property Act* applies such that any person who is not acting under a right or authority conferred by law and who, without the express permission of the owner, enters on premises when entry is prohibited under this Act, or engages in an activity on premises when the activity is prohibited under this Act and as such is subject to the penalties as provide in this Act;

WHEREAS there are provisions in both By-laws and in the Act for the removal of any such unauthorized encroachments;

THEREFORE BE IT RESOLVED THAT any clothing donation box on City property that is placed by an operator without registered charitable status as recognized by the Canada Revenue Agency and without written approval from the City in the form of a License of Occupation Agreement will be removed by City staff; and

BE IT FURTHER RESOLVED THAT any costs associated with the removal will be charged to the operator with ownership of the illegally placed box.

CARRIED

DOCUMENT 3

Council Member Inquiry/Motion Form
Demande de renseignements d'un membre du Conseil /Formulaire de motion

From/Exp.: Councillor / conseiller
A. Hubley
Date : 26 September / septembre 2012
File/Dossier : 11/12

To/Dest. :
City Clerk and Solicitor / Greffier municipal et chef du contentieux

Subject/Objet : Clothing Donation Boxes / des boîtes de dons de vêtements

Inquiry/Demande de renseignements
Motion

On March 28th, 2012, Council endorsed a resolution to address the increasing number of clothing donation boxes by requiring only operators with registered charitable status recognized by the Canada Revenue Agency to enter into a License of Occupation Agreement with respect to City property.

Would City staff provide an overview of the options available to the City with respect to regulating the presence of such clothing donation boxes on private property.

Response/Réponse (Date: October 23, 2012) \

Response to be listed on the Finance and Economic Development Committee Agenda of November 6th, 2012 and the Council Agenda of November 14th, 2012.

La réponse devrait être inscrite à l'ordre du jour de la réunion du Comité des finances et du développement économique prévue le 6 novembre et à l'ordre du jour de la réunion du Conseil prévue le 14 novembre.

By way of overview, there would appear to be a number of options available to municipalities seeking to address and/or regulate the presence of clothing donation boxes on private property. For convenience, the key alternatives are summarized below.

1. Self-Regulation:

Under this option the City would continue to address requests for donation boxes on private property in accordance with Council's earlier directive and to require a License of Occupation for such boxes. Furthermore, the placement of such clothing donation boxes would continue on in the open market where private land owners and business operators would negotiate these matters on their own terms.

2. Public Relations

A second approach would enable the City to prepare and implement an advertising campaign to educate the public as well as property owners on the rules for clothing donation boxes on municipal property in accordance with the Council directive. As for clothing donation boxes on private property, the public would be cautioned to determine for themselves the status of a particular donation box operator (e.g. non-profit charitable organization or not) and therefore, be aware of whom they are making their donations.

3. Regulation:

At first glance, two options would appear available with respect to the placement of clothing donation boxes on private property. On the one hand, the signage option would be less intrusive and aimed at better informing the public of the relevant facts, whereas the licensing option would be viewed as a fuller and more robust regulatory scheme.

a) Signage:

This option could see the City is to require the operators to place clear and visible signage on the donation boxes, clearly defining whether the operator is a charitable or for profit business including its Canada Revenue Agency charitable number, as applicable.

b) Licensing:

The City the legislative authority to pass a by-law to regulate donation boxes on private property by way of a business licensing based on the objective to protect residents and private property owners. There are a number of different models used in Ontario to regulate operators, both charitable and non-charitable.

Plusieurs options semblent s'offrir aux municipalités qui désirent réglementer ou à tout le moins traiter la question des boîtes de don de vêtements situées sur des

terrains privés, notamment :

1. Autoréglementation :

Selon cette option, la Ville continuerait à répondre aux demandes de boîtes de dons de vêtement sur les terrains privés en s'inspirant de la directive donnée par le Conseil municipal, c'est-à-dire en exigeant un permis pour exploiter de telles boîtes. Le placement des boîtes de dons continuerait à répondre aux lois du marché, c'est-à-dire que les propriétaires privés et les organismes négocieraient leurs arrangements selon leurs propres conditions.

2. Relations publiques

Selon cette deuxième option, la Ville pourrait préparer et lancer une campagne de publicité pour informer le public et les propriétaires privés des règles qui s'appliquent aux boîtes de dons de vêtements sur les terrains municipaux en vertu de la directive du Conseil municipal. Pour les boîtes de dons situées sur des terrains privés, il faudrait signaler au public que c'est à lui de décider quel organisme (à but non lucratif ou non) gère et reçoit les dons.

3. Réglementation

A priori, l'une ou l'autre de ces options pourrait s'appliquer aux boîtes de dons de vêtements situées sur des terrains privés. La signalisation imposerait moins de contraintes, car elle ne viserait qu'à mieux informer le public des faits pertinents, tandis que les permis seraient perçus comme un système de réglementation plus complet et plus rigide.

a) Signalisation :

Selon cette option, les organismes qui gèrent les boîtes de dons pourraient devoir y placer une enseigne facilement visible faisant état de leur statut (organisme à but lucratif ou non lucratif) et de leur numéro d'organisme de bienfaisance à l'Agence du revenu du Canada, le cas échéant.

b) Permis :

Selon cette option, la Ville adopterait un règlement pour gérer les boîtes de dons de vêtements sur les terrains privés, en exigeant des organismes responsables qu'ils obtiennent un permis d'exploitation, afin de protéger les résidents et les propriétaires privés. En Ontario, il y a déjà plusieurs modèles de règlements de ce type s'appliquant aux organismes à but tant lucratif que non lucratif.

DOCUMENT 4

MOTION NO. 44/8

Moved by Councillor A. Hubley
Seconded by Councillor S. Moffatt

WHEREAS On March 28th, 2012, Council endorsed a resolution to address the increasing number of clothing donation boxes by requiring only operators with registered charitable status recognized by the Canada Revenue Agency to enter into a License of Occupation Agreement with respect to City property; and

WHEREAS on October 24, 2012, City staff provided an overview of the options available to the City, with respect to regulating the presence of such clothing donation boxes on private property.

THEREFORE BE IT RESOLVED that Staff prepare a detailed report for committee and Council consideration to regulate donation boxes on private property, including by way of a business license on a full cost recovery basis for non-charities, based on the objective to protect residents and private property owners by the end of the first quarter of 2013; and

BE IT FURTHER RESOLVED that this report examine requirements for the operators to place clear and visible signage on the donation boxes, clearly defining whether the operator is a charitable or for profit business, including its Canada Revenue Agency charitable number if applicable and a working contact number should there be concerns with the box such as overflows; and

BE IT FURTHER RESOLVED that as part of this report, the City consider introducing an information campaign to educate the public as well as property owners on the rules for clothing donation boxes on municipal and private property in accordance with the previous Council directive.

CARRIED