

**THE CORPORATION OF THE
TOWNSHIP OF ZORRA**



BY-LAW NO. 37-11

**BEING A BY-LAW TO PROVIDE FOR THE LICENSING,
REGULATING, AND GOVERNING OF CERTAIN BUSINESSES,
ACTIVITIES AND UNDERTAKINGS IN THE TOWNSHIP OF ZORRA.**

WHEREAS under Section 8 (1) 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 enable the municipality to govern its affairs as it considers appropriate, and to enhance its ability to respond to municipal issues;

AND WHEREAS under Sections 10, and 11 of the Municipal Act, municipalities may pass a By-laws to address matters related to the well being of the municipality and its inhabitants including health, safety, protection of property and consumer protection;

AND WHEREAS section 151 and Part IV of the *Municipal Act* provide for a municipal system of licenses for regulating businesses;

AND WHEREAS a category of businesses within the Township operate Donation Drop boxes;

AND WHEREAS the use and operation of Donation Drop Boxes by these businesses can have impacts on the Township and its residents including: accumulation of litter, dirt, debris, graffiti in on and in the vicinity of Donation Drop Boxes, and business practices which mislead consumers by giving the appearance that drop box articles which are sold for profit are collected solely for charitable purposes;

AND WHEREAS an administrative and enforcement program is required to ensure that the protection of consumers, the health and safety of the public; the control of nuisance and consumer protection as it relates to the use and operation of Donation Drop Boxes can be achieved within the Township;

AND WHEREAS a licence fee is required in order to ensure sufficient funding is available to cover the costs of the efficient administration and enforcement this program;

AND WHEREAS, for the reasons outlined above the Council of The Corporation of the Township of Zorra is desirous of passing a Licensing By-law to regulate and govern certain business activities, specifically the operation of Donation Drop Boxes.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF ZORRA ENACTS AS FOLLOWS:

1.0. TITLE

This By-law shall be known as the "**Licensing - Donation Drop Box By-law**"

2.0. DEFINITIONS AND INTERPRETATION

2.1 DEFINITIONS

In this By-law the following terms have the following meanings:

“Additional Fees” means a fee, in addition to the licensee fee, imposed by the Township on a licensee at any time during the term of the license for costs incurred by the Township attributable to the activities of the licensee.

“Applicant” means a person who makes application for a license or for the renewal of a license pursuant to the provisions of this By-law;

“Charitable Organization” means a not for profit organization whether or not incorporated, where all the resources of which are devoted to non-profit or charitable activities carried on by the organization itself or by the organization in combination with other organizations and where no part of the profits earned by the organization are payable to or otherwise available for the personal benefit of any owner, member, director or shareholder thereof and which is a Registered Charity as defined under 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.;

“Clerk” means the Clerk of the Township, as appointed under the authority of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended;

“Donation Drop Box” means any receptacle used for the purpose of collecting donations by the public, on an ongoing basis and as part of the regular activity of the Operator which is a registered Charity.

“Highway” means a highway or street as defined in the *Highway Traffic Act, R.S.O. 1990, c. H.8*, as amended

“License” means an authorization obtained or granted under this By-law to carry on a business, activity or undertaking that requires a license, and the document, certificate or card issued to provide evidence of such authorization as the context may allow;

“Licensee” means a person has been issued and maintains a valid license pursuant to the terms of this By-law;

“Municipal Law Enforcement Officer” means is a person who is appointed pursuant to the provisions of the *Police Services Act*, or other provincial statute, who is actively employed in the enforcement of by-laws of a municipality, law enforcement service, board, authority or commission or whose duties include the enforcement of by-laws or Provincial Acts on behalf of a municipality

“Person” means a natural person, individual, corporation, organization, association or partnership.

“Township” means the Township of Zorra

2.2 INTERPRETATION

(1) The Schedules attached hereto shall be and hereby form part of this By-law.

(2) In this By-law, words expressed in one gender shall include both genders.

(3) If a Court of competent jurisdiction declares any provision or any part of a

provision of this By-law to be invalid or of no force and effect, it is the intention of the Council in enacting this By-law that each and every other provision of this By-law authorized by law, be applied and enforced in accordance with its terms, to the extent possible according to law.

3.0. GENERAL PROVISIONS

- (1) Only Charitable Organizations registered as a Charity under the federal *Income Tax Act*, R.S.C. 1985, c. 1, as amended, are permitted to make application for a license to provide, place, maintain or secure a donation drop box on private property within the Township.
- (2) No person shall carry on or engage in the activity of providing, placing, maintaining or securing a donation drop box within the Township, unless and until he or she has procured a license to do so from the Township.
- (3) Every person or licensee, upon demand of any person authorized to enforce the provisions of this By-law, shall produce the document, certificate or card known as a license, issued by the Township of Zorra.
- (4) The fees required pursuant to this By-law shall not be pro-rated.
- (5) Where a person has made application for a licence or the renewal of a licence and submitted the fee for the license or license renewal and such person is refused a license or license renewal or such person terminates the application prior to the issuance of the license, ninety (90) percent of the application fee shall be refunded.

4.0. ADMINISTRATION, REGULATIONS, APPLICATIONS AND RENEWALS

4.1 ADMINISTRATION

- (1) The Clerk for the Township of Zorra or his or her designate is authorized to administer the provisions of this By-law on behalf of the Township.
- (2) The following persons are authorized to enforce the provisions of this By-law on behalf of the Township:
 - a) Clerk or designate
 - b) Police
 - c) Any person appointed by by-law of the Township from time to time as a Municipal Law Enforcement Officer pursuant to section 15 of the *Police Services Act*, R.S.O. 1990, c. P.15, as amended.
- (3) The Clerk or his or her designate shall have the following duties and responsibilities under this By-law:
 - a) Receiving and processing all applications for licenses and renewals of licenses to be issued under section 4.2;
 - b) Maintaining and keeping records of all applications received and all licenses issued, renewed, refused, revoked or suspended under this By-law;
 - c) Assisting with the enforcement of this By-law;
 - d) Issuing licenses to persons who meet the requirements of this By-law;
 - e) Imposing terms and conditions on a license where he or she is of the opinion that a term or condition should be imposed;
 - f) Refusing to issue, renewing a license or revoking or suspending a license, where he or she is of the opinion that the applicant or licensee is disentitled to a licence under section 6.1 of the By-law;
 - g) Performing all other functions incidental to the due administration and enforcement of this By-law.

4.2 APPLICATIONS

- (1) Every Charitable Organization who establishes or operates, or wishes to establish or operate one or more Donation Drop Boxes shall, for each Donation Drop Box or proposed Donation Drop Box, make an application for a license under this By-law.
- (2) Every Charitable Organization making an application for a license under this By-law shall at the time of application submit the following:
 - (a) A completed application form;
 - (b) The applicable fee;
 - (c) A copy of the registration demonstrating that the Charitable Organization is a Registered Charity under the federal Income Tax Act, R.S.C. 1985, c. 1, as amended.
- (3) Receipt of the application, request for renewal, or submission of the license fee shall not constitute approval of the application for, or renewal of a license, nor shall it obligate the Township to issue or renew any such license.
- (4) If an applicant for license renewal has remitted the prescribed fee, the Clerk may deem the license to continue until the renewal is granted.
- (5) A license issued under this By-law shall be a period of one (1) year commencing January 1st, and expiring on December 31st in that year.
- (6) Any notice or other information required or authorized to be forwarded, given or served under this By-law is sufficiently given if delivered personally or sent by first-class prepaid mail addressed to the person to whom delivery is required to be made at the address shown on the application or at the last address shown or appearing at the Township of Zorra.
- (7) Where service is effected by mail, it shall be deemed to be made on the fifth (5) day after the date of mailing, unless the person on whom service is being made establishes that he or she did not, acting in good faith, through absence, accident, illness or other cause beyond his or her control, receive the notice or order until a later date.

4.3. REGULATIONS

- (1) Every owner of property on which a donation box is used or located shall ensure that the donation drop box is clean, rust free, in good repair and free of graffiti.
- (2) Every owner of property on which a donation drop box is used or located shall ensure that all areas immediately adjacent to the drop box are clean and free of litter, refuse and debris.
- (3) Only Charitable Organizations registered as a Charity are permitted to make application for a license to provide, place, maintain or secure a donation drop box on private property with the Township.
- (4) A donation drop box shall be located within designated areas and subject to compliance with the provisions of this By-law.
- (5) The applicant shall:
 - (a) Pay in full in advance an annual permit fee of Twenty-Five (\$25.00) dollars for each donation drop box;

- (b) Provide proof of insurance in an amount of at least two million (\$2,000,000) dollars;
 - (c) Agree, in writing, to indemnify and save harmless the Township from any action, claims, damages or loss whatsoever arising from the issuance of the permit or anything done or neglected to be done in connection with the privilege conferred;
 - (d) Provide a letter of consent from the property owner, acknowledging responsibilities under the By-law and permission from the property owner for installation of said donation boxes on the property;
 - (e) Provide a sketch and description of the location on the private property for the proposed donation drop box.
- (6) Every licensee shall follow the placement criteria for the placement of a donation drop box as follows:
- (a) No donation drop box shall be placed:
 - (i) On any street or property owned or maintained by the Township;
 - (ii) On the frontage on any property zoned residential;
 - (iii) Within a parking space or 1 meter thereof;
 - (b) Donation drop box shall only be placed:
 - (i) On private property in a common area, grouped together and approved by and to the satisfaction of the Township;
 - (ii) Set back not less than 2m from the front yard or exterior side yard property lines, so as not to restrict sight lines from nearby driveways or pathways.
- (7) Only the following information and identification of the Charitable Organization shall be permitted on any donation drop box:
- (a) The name of the Charitable Organization in a conspicuous place on the donation drop box, in lettering no smaller than 100 millimetres x 75 millimetres, and of a contrasting colour;
 - (b) A notice on the donation drop box to indicate that all donated articles must fit into the donation drop box, with a prohibition on items such as paint, garbage, soiled rags, propane tanks or any like items that may create a safety hazard;
 - (c) A pick-up schedule of donations between 9 a.m. and 9 p.m. so as to ensure there is not an overflow and accumulation of goods left outside the drop box which is unsightly, and to minimize pilferage of goods.
- (8) In the event that boxes are not maintained in accordance with this By-law, the Township may issue a notice to the owner of property on which a donation drop box is used or located and/or the licensee to rectify same, failure of which may lead to suspension and/or revocation of the license.
- (9) The licensee shall maintain, and provide to the Clerk, an up-to-date list of the specific locations of all donation drop boxes operated by the licensee in the Township.
- (10) In the event the license is revoked or not renewed, the licensee shall remove the donation drop box that was the subject of the licence and all of its installations within seven (7) days of written notice from the Clerk or designate. If the licensee neglects, refuses or fails to do so within the seven (7) days specified in the written notice, the Township may remove, without notice, any such donation drop boxes and all of its installations.

- (11) When the Township removes a donation drop box pursuant to subsection 4.3 (10), a charge shall be imposed against the licensee. The donation drop box will be stored at a Township facility for a maximum period of thirty (30) days at a cost of five (\$5.00) dollars per day, payable by the licensee to the Township of Zorra upon retrieval of the donation drop box. Failure by the licensee to retrieve the donation drop box within the thirty (30) day period may result in the Township disposing, without notice, the donation drop box as it sees fit.

5.0. CHANGES IN INFORMATION

- (1) Every applicant or licensee shall notify the Clerk in writing within seven (7) days of any change in any information contained in the application for a license or renewal, and whether before or after a license or license renewal is issued.
- (2) Where a change has occurred in the business name or operating name of a Licensee, the Licensee shall provide to the Clerk the change within seven (7) days of the date of the change.

6.0. NOTICES TO COMPLY

- (1) In the event of non-compliance with any of the provisions of this By-law by any person, a Notice to Comply may be issued and served upon such person, by any person authorized to enforce this By-law.
- (2) Every person to whom a Notice to Comply is issued, or upon whom a Notice to Comply is served, shall, forthwith, take such steps as are necessary to comply with the Notice within the time provided for compliance.
- (3) Where any holder of a license fails to comply with the Notice to Comply, the Clerk may suspend or revoke their license.

6.1 GROUNDS FOR LICENSE REFUSAL, NON-RENEWAL, REVOCATION OR SUSPENSION

- (1) An applicant whose application meets all the requirements of the By-law is entitled to a license or the renewal of a license except where:
 - a) An applicant for a license or licensee seeking the renewal of a license has not:
 - (i) completed the prescribed application form, renewal form or delivered all required accompanying documentation;
 - (ii) delivered with the application the fee to be paid in full in respect of such license renewal, or any other fees required, as set out in this By-law; or
 - (iii) complied with any other application or renewal requirements for the applicable class of business as set out in this By-law; or
 - b) There are reasonable grounds to believe that the information provided on the application or renewal forms contains a false statement or information;
 - c) Where the applicant or licensee has failed to pay a fine or fines imposed by a court as a sentence arising from convictions for breach of this By-law or any other Township By-law;
 - d) Where any Additional Fee imposed on a Licensee remains unpaid;

- e) Where the Clerk has received three (3) or more substantiated complaints against the person, entity, business or other activity that holds a valid license;
- f) There is any other matter that the Clerk is authorized by law to consider.

6.1.1 LICENSE ON TERMS AND CONDITIONS

- (1) Notwithstanding any other provisions of this By-law, the Clerk may impose terms and conditions on any licence at issuance, renewal or any time during the license period, including special conditions, as are necessary to give effect to this By-law.

6.2 CLERK'S POWER TO REFUSE TO ISSUE, RENEW A LICENSE OR REVOKE OR SUSPEND A LICENSE

- (1) The powers and authority to refuse to issue or renew a license, to cancel, revoke or suspend a license, or to impose terms and conditions on a license, are hereby delegated to the Clerk.

- (2) Where the Clerk is of the opinion that:

- (a) An application for a license or renewal of a license should be refused;
- (b) A license should be revoked;
- (c) A license should be suspended; or
- (d) A term or condition of a license should be imposed;

He or she shall make that decision.

- (3) After a decision is made by the Clerk, written notice of that decision shall be given to the applicant or licensee advising the applicant or licensee of the Clerk's decision with respect to the application or license.

- (4) The written notice given to be given under subsection (3) shall:

- (a) Set out the grounds for the decision;
- (b) Give reasonable particulars of the grounds;
- (c) Be signed by the Clerk; and
- (d) State that the applicant or licensee is entitled to a hearing by Council if the applicant or licensee delivers to the Clerk, within seven (7) days after the notice under subsection (4) is served, a notice in writing requesting a hearing by Council.

- (5) Where no appeal is registered within the required time period, the decision of the Clerk shall be final.

- (6) Where the applicant or licensee requests a hearing before Council within the required time period, the Clerk shall notify the applicant or licensee of the time, place and date of the appeal hearing.

- (7) An appeal hearing under this section shall be commenced by Council no earlier than 15 days and no later than 30 days from the date of receipt of the appeal request.

7.0. COUNCIL HEARING

- (1) Council shall hold a hearing at the time, place and date set out in notice referred to in section 6.2(6).
- (2) At the hearing, the onus shall be upon the applicant or licensee to show cause why:
 - (a) The license applied for should not be refused;
 - (b) The license should not be suspended or revoked; or
 - (c) Conditions or special conditions should be imposed on the license.
- (3) All appeal hearings shall be public hearings unless the applicant or licensee requests that the hearing be held in camera in accordance with Section 239 of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended.
- (4) When an appeal hearing date before Council has been set or fixed, and the applicant or licensee, having been provided with written notice referred to in section 6.2(60), and the applicant or licensee fails to attend at the appointed time, place and date, Council may proceed in his or her absence and the applicant or licensee will not be entitled to any further notice in the proceedings.
- (5) In making its decision, Council may uphold or vary the decision of the Clerk, or make any decision that the Clerk was entitled to make in the first instance.
- (6) At the conclusion of the appeal hearing, Council may give its decision orally or reserve its decision, but in any case it shall provide its decision in writing, with reasons, within twenty (20) days of the hearing to the applicant or licensee and the Clerk.
- (7) The decision of Council is final.

8.0. DELEGATION

- (1) For the purposes of subsection 23.3(4) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, it is the opinion of Council that the powers delegated to the Clerk pursuant to this By-law are of a minor nature.

9.0. APPLICATION

- (1) The provisions of this By-law apply whether before or after this By-law comes into force, and as a result of such conduct required or require a license under this By-law.
- (2) Council may amend the fee, identified in subsection 4.3(5)(a) of this By-law, by resolution.

10.0. OFFENCES AND PENALTIES

- (1) Every person who contravenes any of the provisions of this By-law is guilty of an offence and liable to a fine not exceeding one-hundred thousand (\$100,000.00) dollars.
- (2) Where a person has been convicted of an offence under this By-law, a court of competent jurisdiction may, in addition to any other penalty

imposed, make an order prohibiting the continuation or repetition of the offence.

11.0. EFFECTIVE DATE

(1) This By-law shall come into full force an effect upon third and final reading.

READ A FIRST AND SECOND TIME THIS 19th day of April, 2011.

READ A THIRD TIME AND FINALLY PASSED THIS 19th day of April, 2011.

**DEPUTY MAYOR
JIM VERWER**

**CLERK
KAREN GRAHAM**

*****READ CAREFULLY BEFORE SIGNING THIS APPLICATION*****

This application may contain personal information as defined under the Municipal Freedom of Information and Protection of Privacy Act. The information collected is required pursuant to the terms of the Municipal Act and will be used by the Township of Zorra to process the application, and to determine whether to issue a license. Information will also be used for administration of such license, and for law enforcement purposes to ensure compliance with all applicable statutes, regulations and by-laws.

Questions relating to the collection of this information should be directed to the Clerk, 274620 27th Line, Ingersoll, N5C 3K5 (519-485-2490)

By signing this application the Applicant agrees that all information provided is true. The Applicant further agrees that any false information may result in a revocation of any license that may be issued.

Signature of Applicant: _____ Date: _____

OFFICE USE ONLY

Application submitted for review on _____
(Date)

Application complete: Yes No
If No, information required yet to be filed:

Approved: Yes No Deferred

(Reason _____)

Date Approved: _____

License # _____ License Valid _____ to _____

Comments:

**Corporation of the Township of Zorra
Part I Provincial Offences Act
By-law No. 37-11: Licensing – Donation Drop Box
Schedule “B”**

SCHEDULE OF FINES – VOLUNTARY PAYMENT OUT OF COURT:

Pursuant to Section 10.0 of By-law Number 37-11 of the Corporation of the Township of Zorra, the following is a schedule of fines voluntarily payable, out of Court for offences committed under this By-law being:

SCHEDULE OF FINES:

Item	Short Form Wording	Provision Creating or Defining Offence	Set Fine
1.	Carry on, engage in activity without a license	3(2)	\$50.00
2.	Fails to produce License upon demand by authorized person	3(3)	\$50.00
3.	Fails to make application for license	4.2 (1)	\$50.00
4.	Fails to maintain in good repair	4.3 (1)	\$50.00
5.	Fails to keep free of litter, refuse and debris	4.3 (2)	\$50.00
6.	Fails to follow placement criteria	4.3 (6)	\$50.00
7.	Fails to provide current list of locations	4.3 (9)	\$50.00
8.	Fails to remove within specified time	4.3 (10)	\$50.00
9.	Fails to obtain removed bin from Township Office	4.3 (11)	\$5.00
10.	Fails to notify change in information	5 (1)	\$50.00
11.	Fails to notify change of operating name	5 (2)	\$50.00