

**CHAPTER 1465**  
**DONATION BINS/BOXES**

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**1465.01 DEFINITIONS.**

As used in this chapter:

(a) "Donation bin/box" means a receptacle designed with a door, slot, or other opening that is intended to accept and store donated items, including but not limited to, clothing or household items. The definition of a donation bin/box shall not include trailers where personnel are present to accept donations at all times that the trailer is present and accepting donated items.

(b) "Owner" means a person or an agent or officer of a person in whom is vested ownership, dominion, control or title of a donation bin/box.

(c) "Property owner" means a person or entity that has a legal or equitable ownership, dominion, or title in the real property and/or premises, or has possession, charge, care or control of the real property and/or premises.

**1465.02 OWNER DUTIES.**

(a) Donation bin/box owners and property owners shall have all the duties and responsibilities prescribed in this chapter, and no owner shall be relieved from any such duty or responsibility or be entitled to defend against any charge of violation of this chapter by reason of the fact that another is also responsible therefore and in violation thereof.

(b) Unless expressly provided to the contrary in this chapter, the respective obligations and responsibilities of the donation bin/box owner on one hand, and the property owner on the other, shall not be altered or affected by any agreement or contract by and between any of them or between them and other parties.

(c) The provisions of this chapter shall apply equally to any occupant, owner, agent, superintendent, officer, member, partner, trustee or receiver who, alone or with others, has a legal or equitable ownership in the donation bin/box, premises, or has possession, charge, care or control of the premises.

**1465.03 GENERAL PROHIBITION; REGISTRATION AND PERMIT APPLICATION; RENEWAL AND FEE.**

(a) Donation bins/boxes are prohibited in the City.

(b) Exceptions:

(1) Registered and permitted charitable nonprofit organizations under 26 U.S.C. Section 501 (c) of the Internal Revenue Code are permitted to place a donation bin/box on nonresidential property in conformity with all applicable laws, rules and regulations. A donation bin/box located inside of a building shall not require a permit.

(2) Public facility zoned parcels.

(c) Before placing a donation bin/box on any property in the City, the owner of the donation bin/box shall file a permit application with the Building Commissioner containing the following:

(1) Proof of charitable nonprofit organizations under 26 U.S.C. Section 501(c) of the Internal Revenue Code;

(2) The name, address, phone, fax and e-mail of the owner;

(3) The name, address, phone, fax and e-mail of a person or persons primarily responsible for placing, emptying, servicing, maintaining, and removing the donation bin/box;

(4) A one hundred dollar (\$100.00) fee, per donation bin/box, per year, which shall not be prorated based upon the time of the year the permit application is filed;

(5) The name and address of the property owner upon which the donation bin/box will be placed; the written authorization from the property owner on a form provided by the City, including the terms of its placement by lease or otherwise; the property owner's acknowledgement of joint and severally liability for any maintenance or other violations;

(6) Site map with proposed bin/box placement;

(7) Such other information or material as the Commissioner may require.

(d) The Commissioner shall review and issue a determination within 10 days of the filing of the completed application. The Building Commissioner shall not approve the application unless he or she finds that no provisions of the City's Building Code or Zoning Code will be violated by issuance of the permit, including without limitation the following:

(1) Set back requirements;

(2) Use restrictions;

(3) Those portions of the Zoning Code that require that a specified number of parking spaces be available for the use of a particular business.

(e) Permit Term. Permits shall be valid from the date of issuance until October 30th of each year. Prior to expiration of a permit, any owner who intends to place, display or maintain a donation bin/box shall obtain a new permit for the next calendar year.

#### **1465.04 STANDARDS.**

(a) Every donation bin/box shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the forgoing, each donation bin/box shall be serviced and maintained so that it is free of dirt and grease, free of chipped, faded, peeling, and cracked paint, free of rust and corrosion, and free of cracks, dents, blemishes, and discoloration.

(b) Donation bins/boxes shall be emptied regularly and within forty-eight (48) hours of the primary contact person being notified by any City official that the bin/box is full. Each donation bin/box shall clearly state the name, address, and phone number of the charity to which the donated items will benefit.

(c) No donation bin/box shall exceed 84 inches in height, 84 inches in width and 84 inches in depth.

#### **1465.05 LOCATION AND MAXIMUM NUMBER OF DONATION BINS/BOXES PER PROPERTY.**

(a) No person shall place or maintain and no property owner or tenant shall permit or maintain any donation bin/box in any location that obstructs the sight lines of vehicular traffic, or within 30 feet of a sidewalk or right of way.

(b) The minimum parcel size required to permit placement of one donation bin/box shall be one (1) acre.

(c) Regardless of the size of the parcel, no more than two (2) donation bins/boxes shall be permitted on any parcel of property.

#### **1465.06 VIOLATIONS; ORDERS; REMOVAL.**

(a) Upon determination of the Building Commissioner that a donation bin/box has been placed or is being maintained in violation of this chapter, an order to correct the offending condition shall be served on the donation bin/box owner or primary contact person designated by the permit holder by certified mail.

(b) If no permit application for the donation bin/box has been filed with the City, as required by Section 1465.03 the order shall be served on the property owner in person or by certified mail.

(c) The order shall describe the offending condition and actions necessary to correct the condition. The order shall provide that the permit holder shall correct the offending condition within five (5) business days after receipt of the order, or to file an appeal from the order with the Board of Zoning Appeals. If a violation is neither remedied nor appealed within the time period set forth in the order, the Building Commissioner shall cause the donation bin/box to be immediately impounded and removed by the direct employment of labor or by the municipal employees and shall thereafter give notice to the owner of the bin/box and parcel by certified mail at his or her tax mailing address or by posting a notice on the parcel to pay the costs of such removal and storage, which notice shall be accompanied by a statement of the amount of cost incurred.

(d) Costs incurred by the use of employees, materials and equipment of the Municipality, or by contract for labor, materials and equipment, or both, for removal, including the cost of service or publication of notice, together with a proper description of the premises, shall be certified by the Finance Director to the County Auditor and placed by him or her upon the tax duplicate. Such costs shall be a lien upon such lands from and after the date of entry and shall be controlled and collected as other taxes and returned to the Municipality.

#### **1465.07 APPEALS.**

Appeals of a person adversely affected by any order, requirement, decision or determination by the Building Commissioner under this chapter, including a denial of a permit, shall be heard and decided by the Board of Zoning Appeals. The Board may affirm, disaffirm, or grant exception from the order, requirement, decision or determination from which the appeal has been taken. If the Board affirms an order of the Commissioner issued pursuant to this section, the owner shall have three (3) working days to correct the violation or remove the donation bin/box in question; if the owner fails to correct the violation within that time, the Commissioner shall impound the donation bin/box. Within two (2) days of the date of an impoundment made pursuant to this section, notice of the impoundment, including the reasons therefore shall be served by certified mail to the donation bin/box owner or primary contact person designated by the permit holder. If no permit application for the donation bin/box has been filed with the City, as required the notice of impoundment shall be served on the party in control of the property in person or by certified mail.

#### **1465.08 DISPOSITION OF IMPOUNDED DONATION BIN/BOX.**

Unless the donation bin/box and its contents are being held as evidence in a criminal prosecution, the owner of a donation bin/box may, at any time after impoundment, recover the donation bin/box and its contents upon payment of an impound fee of three hundred dollars (\$300.00) plus the reasonable additional costs, if any, of impounding the donation bin/box, including a storage charge of thirty dollars (\$30.00) per bin/box per day for each day in excess of five (5) working days after notification is given to the owner that the donation bin/box is in the possession of the City. If after 30 days the donation bin/box is not retrieved by the owner, the donation bin/box will be sold for scrap and the funds will be credited to the City.

**1465.99 PENALTY; CONFLICT OF LAWS.**

(a) Whoever violates any provision of this chapter shall be guilty of a fourth degree misdemeanor on the first offense, a misdemeanor of the third degree on the second offense, and a misdemeanor of the first degree on the third and any subsequent offense. Each day during which noncompliance or a violation continues shall constitute a separate offense.

(b) In any case where the provisions of this chapter impose a higher standard than is set forth in any other ordinance of the City or under the laws of the State, the standard set forth herein shall prevail, but if the provisions of this chapter impose a lower standard than that imposed by any other ordinance of the City or law of the State, then the higher standard contained in any such other ordinance or law shall prevail.