

**CITY OF KENNESAW, GEORGIA**

**ORDINANCE NO. 2013-13, 2013**

**AN ORDINANCE TO AMEND THE KENNESAW CODE OF ORDINANCES  
BY AMENDING APPENDIX A “UNIFIED DEVELOPMENT CODE,” CHAPTER FIVE  
“STANDARDS FOR ACCESSORY AND TEMPORARY USES,” SECTION 5.01.03  
“CHARITABLE DONATION BIN STANDARDS” AND  
SECTION 5.03.00 “SIGNS”**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KENNESAW,  
COBB COUNTY, GEORGIA, AS FOLLOWS:**

**WHEREAS**, the Kennesaw Code of Ordinances of the City of Kennesaw, Georgia Appendix A “Unified Development Code,” Chapter 5 “Standards for Accessory and Temporary Uses,” will amend Section 5.01.00 “Accessory Structure” with new Section 5.01.03 as follows:

*Section 5.01.03 Charitable donation bin Standards*

**A. Definitions.**

***Charitable Donation Bin*** means any receptacle or container made of metal, steel, or any other material designed or intended for the collection and temporary storage of charitable donations of clothing or other materials.

***Person*** means any individual, sole proprietor, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, limited liability company, limited partnership, limited liability partnership, general partnership or other group or combination acting as a unit, whether public, private or quasi-public.

**B. Permit Required.**

- 1) Notwithstanding any other provision of law to the contrary, no person shall place, use or employ a charitable donation bin, within the City of Kennesaw, for solicitation purposes, unless the person has obtained a permit from the City of Kennesaw.
- 2) Charitable donation bins must be owned and operated by a not-for-profit charity registered in the State of Georgia.

**C. Annual Permit Fee.**

The annual permit fee per bin shall be paid as required at the time of filing the application, in accordance with the schedule of fees and charges maintained by the city clerk and established by the mayor and council.

**D. Application Requirements.**

The application for obtaining a permit shall include:

- 1) A diagram illustrating the precise location where the charitable donation bin would be positioned on the property;
- 2) Disclosure to the City of Kennesaw's zoning administrator or designee, the intended recipient of collected items and the percentage of funds collected or goods collected which will be paid or given to a charitable organization; the manner in which the clothing or other donations collected via the bin would be used, sold, or dispersed; and the method by which the proceeds of collected donations would be allocated or spent;
- 3) Written permission of the property owner or his/her authorized representative consenting to the placement, maintenance and associated liabilities of the charitable donation bin.
- 4) The name and telephone number of the bona fide office of the person which may share or profit from any clothing or other donations collected via the bin, which can be reached during normal business hours. For the purposes of this ordinance, an answering machine or service unrelated to the person does not constitute a bona fide office; and

#### **E. Renewal Application Requirements.**

An expiring permit may be renewed upon application and payment of a renewal fee in accordance with the schedule of fees and charges maintained by the city clerk and established by the mayor and council. In addition to the above application requirements, renewal applications must include:

- 1) A statement of the manner in which the charitable organization has used, sold, allocated, spent or dispersed any clothing or other donations during the previous permit period, and any changes the person may make in these process during the period covered by the renewal;
- 2) The name and telephone of the bona fide office of any person which shared or profited from any clothing or other donations collected via the bin; and

#### **F. Placement of Bins.**

- 1) The City of Kennesaw shall not grant an application for a permit to place, use, or employ a charitable donation bin if it determines that the placement of the bin could constitute a safety hazard. Such hazards shall include, but not be limited to, the placement of a charitable donation bin within 100 yards of any place which stores large amounts of, or sells, fuel or other flammable liquids or gases; or the placement of a bin where it interferes with vehicular or pedestrian circulation.
- 2) Charitable donation bins shall be permitted only as an accessory use to the principal use on an established lot of record.
- 3) Charitable donation bins shall be located to the side or rear of the primary structure only.
- 4) Charitable donation bins shall not be placed on a property where there is not a primary structure.
- 5) Charitable donation bins shall not be located in the Central Business zoning district (CBD) or any residential zoning district.

- 6) When located in commercial business districts, there shall not be more than one charitable donation bin on properties less than one (1) acre in size and no more than two (2) bins on properties greater than one (1) acre in size.
- 7) The location of the bin(s) shall not reduce the minimum parking requirements or be placed within the landscaped areas of the hosting lot.
- 8) Designated recycling collection centers, as determined by the City of Kennesaw, shall be exempt from this ordinance.
- 9) The person placing the charitable donation bin shall keep the area around the charitable donation bin free of litter at all times. Graffiti shall be removed from the bin within 48 hours of discovery. The bin shall be maintained, painted or otherwise un-rusted and un-dented and in good repair.
- 10) The bin(s) must be cleared of contents at least once per week.
- 11) The bin(s) shall not exceed a capacity of 512 cubic feet.
- 12) All bin(s) must be safely designed or secured in a manner that prevents tipping over and prevents children from entering the bin.

#### **G. Display of Permit.**

The following information shall be clearly and conspicuously displayed on the exterior of the clothing charitable donation bin:

- 1) The permit number and its date of expiration stating that a copy of the permit application is on file with the City of Kennesaw.
- 2) Each bin must bear the name and contact telephone number of the bin's owner as well as all charitable organizations which benefit from the collected materials.

#### **H. Receipt, investigation of complaints relative to charitable donation bin.**

- 1) Code Enforcement shall receive and investigate any complaints from the public regarding a charitable donation bin.
- 2) Whenever it appears that a person has engaged in, or is engaging in any act or practice in violation of this ordinance, the person who placed the bin and/or the property owner shall be issued a citation and loses eligibility for charitable donation bin for a period of one year.
- 3) If the bin(s) are not brought within compliance within 30 days from the date of the citation, the bin(s) in violation shall be deemed a nuisance under section 46-31 and enforcement procedures defined under sections 46-32, 46-33 and 46-34 of the Code of Ordinances of Kennesaw. Abatement of nuisance may involve bin(s) removed at the bin owner's expense. The bin(s) shall be held for a period of no more than 30 days at which, if not claimed, shall be disposed of. The bin owner shall be responsible for any and all fees associated with the removal, storage and disposal of the violating bin(s) and/or materials surrounding the bin(s) left on-site.

#### **I. Additional penalties, remedies.**

- 1) In addition to any other penalties or remedies authorized by the laws of this State, any person or property owner who violates any provision of this ordinance

shall be guilty of a misdemeanor and subject to the maximum penalties allowed by law.

- 2) In addition to any other penalties or remedies authorized by the laws of this State, any person or property owner who violates any provision of this ordinance shall be deemed ineligible to place, use, or employ a charitable donation bin for solicitation purposes pursuant to this Article. A person or property owner disqualified from placing, using, or employing a charitable donation bin by violating the provisions of this Article may apply to the Mayor and Council to have that person's eligibility restored.
- 3) The Mayor and Council may restore the eligibility of a person or property owner who:
  - a) Acts within the public interest; and
  - b) Demonstrates that they have made a good faith effort to comply with the provisions of this ordinance and all other applicable laws, ordinances and regulations, or had no fraudulent intentions.

**WHEREAS**, the Kennesaw Code of Ordinances of the City of Kennesaw, Georgia Appendix A "Unified Development Code," Chapter 5 "Standards for Accessory and Temporary Uses," Section 5.03.00 be amended as follows:

Section 5.03.02 (P) Prohibited Signs.

5. Permanent window signs which collectively cover more than ~~fifty (50)~~ percent thirty (30) percent of the window glass surface area.

Section 5.03.05 (A) (2) Temporary on-premises sign and advertising devices

- A. Only one (1) temporary on-premises sign or advertising device may be displayed on a lot at a time. Each occupant or tenant of a multi-occupant building or multi-tenant lot may display one (1) banner flush with a wall during the permit period without regard to the usage of other occupants or tenants and without regard to the prior usage of temporary on-premises signs by others on the lot. Banners can be displayed on existing free standing signs in a secure fashion. Banners to be weather resistant and cannot obscure sight visibility for pedestrian and motorists.

Section 5.03.05 (A) (3) Temporary on-premises sign and advertising devices

A temporary on-premises sign or advertising device (searchlight or banner) shall require a permit which allows for a display period as follows: **Banners** – 30 day period, with a maximum of four (4) permits per year, per business. There must be at least a thirty (30) day break between any permitted periods. **Searchlights** – 30 day period, with a maximum of two (2) permits per year, per lot. There must be at least a thirty (30) day break between any permitted periods. **Inflatables** – 30 day period, with a maximum of two (2) permits per year, per business. There must be at least a thirty (30) day break between any permitted periods. ~~for a fifteen (15) day period, with a maximum of four~~

~~permits per year, per business with the option to run two (2) fifteen (15) day permits back to back to utilize a temporary on premises sign or advertising device. There must be at least a thirty (30) day break between any permitted periods. Temporary advertising devices (inflatables) shall require a permit on a semiannual basis which allows two (2) weekends per month, to utilize the inflatable, i.e., one (1) permit from January 1 through June 30, and a second permit, July 1 through December 31. A one-time waiver of the permit fee for the temporary on-premise sign will be allowed for all new businesses for the first sixty (60) day period. All approved permits issued will require applicant to post expiration date of banner permit on the banner for visual recognition by public and city staff. Permit expiration date will be located at either corner of banner signage so as to visible by staff and public.~~

**SECTION 1. BE IT ORDAINED THAT** all ordinances, parts of ordinances, or regulations in conflict herewith are repealed as of the effective date of this ordinance.

**SECTION 2. BE IT FURTHER ORDAINED THAT** should any section of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

**SECTION 3. BE IT FURTHER ORDAINED THAT** this ordinance shall become effective immediately from and after its adoption and execution by the Mayor, pursuant to Section 2.11 of the City Charter of the City of Kennesaw.

PASSED AND ADOPTED by the Kennesaw City Council on this 15th day of July, 2013.

ATTEST:

CITY OF KENNESAW:

\_\_\_\_\_  
Debra Taylor, City Clerk

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Mark Mathews, Mayor