

ORDINANCE NO. 2490

AN ORDINANCE OF THE CITY OF DUNCANVILLE, TEXAS, AMENDING THE CODE OF ORDINANCE BY ADDING NEW CHAPTER 12F "DONATION RECEPTACLES"; PROVIDING FOR DEFINITIONS, PURPOSE, APPLICABILITY, REGISTRATION, PERMIT REQUIREMENTS, APPLICATION REQUIREMENTS, DONATION BOX REQUIREMENTS, TRANSFER OF PERMIT PROHIBIT, FEES AND PENALTIES; PROVIDING FOR A FINE OF UP TO \$500 FOR EACH VIOLATION; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the increase in the number of persons or entities desiring to collect clothing and household products for charitable purposes has led to the proliferation of donation boxes in various areas of the City; and

WHEREAS, the inability of landowners to accurately identify the owners of said donation boxes has resulted in decreased accountability on the part of donation box owners; and

WHEREAS, the failure to properly empty and clean donation boxes has resulted in an unsightly and littered appearance near said donation boxes; and

WHEREAS, City Council finds that regulating the placement and use of donation boxes is necessary for the health, safety and welfare of the general public, the promotion of consistent land uses and development, and the protection of landowners and residents of the City of Duncanville;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. "CHAPTER 12F- DONATION RECEPTACLES

Sec. 12F-1. - Title.

The Chapter of the Code of the City of Duncanville is hereby designated and shall be known and referred to as the "Donation Boxes" Chapter of the City Code of Ordinances.

Sec. 12F-2. - Purpose.

The purpose of this Chapter is to protect the public health, safety and welfare of

Duncanville residents by requiring the registration and permitting of donation boxes on private property within the City limits of the City of Duncanville. This Chapter further serves to protect the aesthetic well-being of the community and promote the tidy and ordered appearance of developed property. The provisions included herein are intended to provide efficient legal remedies for unpermitted or poorly maintained donation boxes that threaten the orderly development of the City. These provisions are cumulative of all City ordinances.

Section 12F-3. - Applicability.

- a. The requirements of this Chapter shall apply to all donation boxes regardless of whether said boxes were placed prior to the effective date of these regulations. No previously placed donation boxes shall be granted any legally non-conforming rights under this Chapter.
- b. The operator of a donation box in existence within the city limits at the time of adoption of this article and the owner of the property on which the existing box is located shall be given written notice by the city that they have thirty (30) days to either obtain an annual permit for the existing donation box or remove the donation box from the property. The operator of an existing donation box or the owner of the property on which the box is located may, alternatively, within these thirty (30) day-time periods, give the city written permission to remove and dispose of the existing donation box.
- c. The notice required by this section shall be mailed to the address of the property owner listed on the appraisal district records and the address posted on the donation box, if any. The notice shall also be posted on the donation box itself. The operator and property owner shall have thirty (30) days from the day the notice is placed in the U.S. mail or posted on the box, whichever is later, to obtain a permit or otherwise comply with the requirements of this article.
- d. If the city removes and disposes of a donation box under this section, the property owner and donation box operator shall be responsible, jointly and severally, for payment to the city for the reasonable and necessary costs of removal and disposal.

Sec. 12F-4. - Definitions

Administrator is the director of the department designated by the city manager to enforce and administer this article, and includes the director's designees.

Donation box or receptacle is an enclosed structure, trailer, receptacle, container, or other similar free-standing structure located outside of an enclosed building in a place accessible by the public and designed or intended for the collection and temporary storage of donated personal property.

Operator is any person who owns, operates or is otherwise in control of a premises donation box.

Person is an individual, partnership, association, firm, company, organization,

corporation, or entity of any kind.

Property owner is the person or entity that is the owner, has custody or control of the real property upon which the donation box is located.

Sec. 12F-5. - Donation Box - General Provisions

a. It shall be unlawful for any person to place or maintain, or allow to be placed or maintained, any donation box within the City of Duncanville, without having first secured a permit and decal in compliance with the provisions of this Article.

b. Any donation box located within the jurisdiction of the City of Duncanville that does not have a current, valid permit (or any permitted donation box that has received more than two (2) notices of violation from the City in the past 12 months) shall be subject to impoundment by the City. Any donation box impounded by the City shall be released to the owner upon payment of all applicable impoundment and storage fees.

c. Donation boxes shall only be permitted to be placed on real property located within the following zoning use districts: (C) Commercial District, and (I) Industrial District. Donation boxes shall not be permitted to be placed on real property located within any other zoning use districts.

Sec. 12F-6. - Donation Box Permit and Decal Required

It shall be unlawful for any person that owns, leases, is in control of, or is entitled to possession of real property within the City of Duncanville, to cause, permit, suffer or allow any donation box to be placed on or remain on such real property without first obtaining a valid permit as provided in this Article.

Sec. 12F-7. - Permit Requirements

A permit and decal to allow a donation box to be placed and used on designated real property shall be issued by the Administrator after inspection and verification that the following conditions are satisfied:

1. The person receiving a permit to place or maintain a donation box is registered to operate in the State of Texas as a non-profit corporation or has proof of a written agreement to solicit on behalf of such a non-profit corporation.
2. The real property owner provides written authorization allowing the donation box on the property.
3. The permit holder agrees to be responsible for collecting the contents of the donation box in order to prevent on a weekly or bi-weekly and/or otherwise prevent overflow and littering.
4. No more than one (1) donation box may be permitted for placement on any one lot. In the case of a commercial or industrial development that consists of multiple platted lots, the Administrator shall treat the commercial or industrial development as if it is only one contiguous lot.

5. No donation box shall exceed 50 square feet in size.
6. Each donation box shall clearly indicate in writing on the side of each box that all donations must fit into and be placed within the donation box.
7. The permit holder placing or maintaining the donation box shall permanently display current contact information including street address and phone number on the donation box. Said information must be readable and clearly visible to the public.
8. Each donation box shall be constructed from a metal or weather resistant materials.

Sec. 12F-8. - Permit application requirements

An application for a donation box permit under this article shall be submitted annually upon a form provided by the City and shall include:

1. The address or other identification of the property where the donation box would be situated;
2. A site plan showing where on the property the donation box will be located and specifically containing:
 - a. Location and dimensions of all parcel boundaries;
 - b. Location of all buildings;
 - c. Proposed donation box location;
 - d. Distance between the proposed donation box and parcel lines and buildings; and
 - e. Location and dimensions of all existing and proposed driveways, garages, carports, parking spaces, maneuvering fire lanes ingress/egress, pavement and striping/markings.
3. An elevation of the donation box showing the appearance, materials, and dimensions of all sides of the donation box;
4. A description and/or diagram of the proposed locking and security mechanism of the donation box;
5. The name, physical address, mailing address, and telephone number of the applicant and all owners of the donation box as well as identify the persons who will benefit or profit from any donations generated by collecting from the donation box;
6. Written consent from the property owner and Lessee, if any, to place the donation box on the property;
7. A detailed maintenance and collection schedule for the donation box which collection will include removal of items and debris on and around the donation box on a weekly or biweekly schedule; and
8. Evidence of compliance with section 12F-9 of this article.

Sec. 12F-9. Donation box requirements

All donation boxes located within the city limits must meet the following requirements:

1. A donation box shall only be placed on a lot which contains a building that is as an ongoing business.
2. A donation box shall only be placed on a lot within a commercial or industrial zoning district.
3. No more than one (1) donation box may be permitted for placement on anyone (1) lot. In the case of shopping center or office development that consists of multiple platted lots, the administrator shall treat the shopping center or office development as if it is one contiguous lot.
4. A donation box shall be located so as not to interfere with visibility triangles, on-site vehicle or pedestrian circulation, landscaping, and required parking.
5. A donation box shall be placed on a concrete or asphalt surface.
6. A donation box shall not be placed in a required building setback, buffer yard, access easement, drainage easement, floodplain, utility easement or fire lane.
7. No donation box shall be located in or impede access to any required parking or driveways, pedestrian routes, emergency vehicle routes, building ingress or egress, required disabled access routes, required easements, trash enclosure areas or access to trash bins or trash enclosures, or any place that would impede the functioning of
 - exhaust, ventilation or fire extinguishing systems.
8. A donation box shall not be placed within two hundred (200) feet of any residentially zoned property, said distance to be measured from lot line to lot line.
9. No donation box shall be located closer than two hundred (200) feet from any other box even if located on different tracts of land or lots.
10. At least one (1) parking space dedicated shall be required for use of persons accessing the donation box.
11. A donation box shall be enclosed by use of a receiving door and locked so that the contents of the donation box may not be accessed by anyone other than those responsible for the retrieval of the contents.
12. A donation box shall not cover a ground surface area of more than fifty square feet, nor be more than seven (7) feet in height.
13. Each donation box shall be screened from view from the nearest public street or right-of-way. If a donation box is located on a corner of a lot, then the box shall be screened on a minimum of two sides adjacent to the public right of way. Minimum screening shall consist of a seven (7) foot masonry wall. All screening shall be

constructed to prevent the storage or placement of donations outside the donation box, with the screening wall itself being no more than two feet (2') from the screened donation box.

14. A donation box shall be constructed from metal material and be painted a solid color. No high-intensity or fluorescent colors shall be used for the box or associated signage.

15. Each donation box shall clearly indicate in writing on the side of each box that all donations must fit into and be placed within the box.

12F-10. Transfer of permit prohibited

No permit issued under the provisions of this Article shall be transferable and the authority a permit confers shall be conferred only on the permit holder named therein.

12F-11. Maintenance and upkeep

1. The operator and the property owner shall be held jointly and severally liable and responsible for compliance with this section, for the maintenance, upkeep and servicing of the donation box, and for clean-up and removal of any donations left on the property outside.

2. Each donation box shall be maintained in good working order and free from graffiti, damaged signs and notifications, peeling paint, rust, and broken parts or operating mechanisms.

3. The visual and structural integrity of the donation box must be maintained continuously.

4. Donation boxes shall be serviced not less than weekly between 7:00 a.m. and 6:00 p.m. on weekdays and 10:00 a.m. and 6:00 p.m. on weekends. This service includes the maintenance of the donation box, the removal of collected material, and the abatement of any graffiti, litter, or nuisance condition in, on and around the donation box.

5. The operator and property owner of each donation box shall ensure that each box is emptied of its contents weekly, in accordance with the maintenance and collection schedule submitted with the permit application for the donation box and more frequently, if necessary, to prevent overflow of donated items into the area surrounding the donation box. In cases where items are found outside the donation box, whether on the ground around the donation box or on top of the donation box, the operator and property owner shall be found to be in violation of this article.

6. The operator and property owner shall maintain, or cause to be maintained, the area within twenty (20) feet of the donation box free from any junk, debris, overflow items,

dumped materials, or other materials. The property owner and operator shall be responsible to the extent provided by law for the city's cost to abate any nuisance.

7. The visual and structural integrity of the donation box must be maintained continuously.

8. Each donation box shall at all times clearly and conspicuously display on the exterior of the donation box the name, address, and telephone number of the operator of the donation box and the permit number and its date of expiration as well as a statement that a copy of the permit application is on file with the city secretary.

9. The operator shall maintain on file with the city an active email address and a 24-hour telephone service with recording capability for the public to register complaints.

10. Any conditions that are in violation of this section must be remedied or abated within forty-eight (48) hours of being reported to the operator or property owner.

11. The Current permit decal for the specific box must be affixed and displayed at all times on the outside of the donation box.

12. The donation box shall only be used for the solicitation and collection of clothing and household materials. All donation materials must fit into and be placed inside the donation box. The collection of any materials outside the container is strictly prohibited.

13. The City shall have the authority to abate any property in violation of this article that is deemed a public nuisance under the procedures contained in the Code of Ordinances.

Sec. 12F-12. Fees

The nonrefundable annual permit fee shall be in an amount set by resolution of the City Council. The fee must be paid at the time of submission of the annual permit application. To the extent that any person may be exempt from paying this annual permit fee pursuant to any other law, that person must still annually apply for and secure a permit.

Sec. 12F-13. Revocation of Permit; removal of donation boxes and liability

1. The operator and property owner shall be given written notice of any conditions constituting a violation of this article. Any conditions that are in violation of this article and not remedied within forty-eight (48) hours of receipt of written notice thereof shall result in revocation of the permit for the donation box at issue.

2. The administrator shall have the right to revoke any permit issued hereunder if any of the grounds upon which the administrator may refuse to issue a permit is found by the

administrator to exist. In addition, the failure of the operator or property owner to comply with the provisions of this article or other provisions of this code or other law shall also constitute grounds for revocation of the permit. The administrator shall provide written notice to the operator, and property owner stating the specific grounds for revocation. Upon revocation, the donation box shall be removed from the property within thirty (30) calendar days and if not removed within this time period, the city may remove and dispose of the donation box and the operator and property owner will be jointly and severally liable for payment to the city of the reasonable and necessary costs of such removal and disposal. Upon revocation, the affected operator and property owner shall be prohibited from applying for a permit for a period of two years.

Sec. 12F-14. Offense/Penalty

1. A person who violates any provision of this Chapter by performing an act prohibited or by failing to perform an act required is guilty of a misdemeanor punishable by a fine not to exceed Five Hundred Dollars and No Cents (\$500.00). Each day the violation continues shall be a separate offense.

2. A culpable mental state is not required for the commission of an offense under this Chapter.

3. Nothing in Chapter shall limit the remedies available to the City in seeking to enforce the provisions of this Chapter.

4. All other legal remedies are reserved by the City if necessary to enforce the provisions of this Chapter. This shall be in addition to, and not in lieu of, the criminal penalties provided for in this Chapter.

SECTION 2. That all provisions of the Ordinances of the City of Duncanville, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance, or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

SECTION 4. That this ordinance shall take effect immediately from and after its passage as the law and charter in such cases provide.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 15th day of August, 2023.