

STATE OF MICHIGAN
COUNTY OF WAYNE
CITY OF ALLEN PARK

ORDINANCE 04-2015

AN ORDINANCE OF THE CITY OF ALLEN PARK CODE OF ORDINANCES;
AMENDING CHAPTER 52, ZONING, ARTICLE VI, SUPPLEMENTAL
REGULATIONS, BY THE REPEAL AND READOPTION OF SECTION 52-908 TO
REGULATE DONATION BOXES.

The City of Allen Park Ordains:

SECTION 1. Amendment to Code.

Chapter 52, Zoning
Article VI, Supplemental Regulations

Section 52-908 is hereby repealed and readopted to hereafter read as follows:

Sec. 52-908. – Donation Boxes.

Sec.1. Intent and definitions.

(a) The donation boxes ordinance is intended to be a regulatory ordinance in the public's health, safety and welfare for the protection of all citizens who use donation boxes. The intent of this ordinance is to impose restrictions and conditions on all donation boxes in the city so that they are, and remain, clean, safe and do not create hazards to pedestrians and to vehicular traffic. The article is passed under the city's regulatory authority pursuant to MCLA 117.4 et seq., and the Allen Park City Charter.

(b) Definitions:

Donation box means any metal container, receptacle, or similar device that is located on any parcel or lot of record within the city and that is used for soliciting and collecting the receipt of clothing, household items, or other salvageable personal property. This term does not include recycle bins for the collection of recyclable material, any rubbish or garbage receptacle or any collection box located within an enclosed building.

Director means the Director of Building and Engineering for the City of Allen Park.

Operator means a person who owns, operates or otherwise is in control of donation boxes to solicit collections of salvageable personal property.

Permittee means a person over 18 years of age or an entity who is issued a permit authorizing placement of donation box(es) on real property.

Property owner means the person who is an owner of real property where the donation box(es) are located.

Real property, property or land means a lot of record located in the City of Allen Park.

Sec.2. - Donation box permit.

No later than 90 days from the effective date of this ordinance, no person shall place, operate, maintain or allow any donation box on any real property without first obtaining an annual permit issued by the Department of Building and Engineering ("department"), to locate a donation box.

Sec.3. - Application for a permit.

(a) Any person desiring to secure a permit shall make an application to the Department of Building and Engineering.

(b) A permit shall be obtained for each donation box(es) proposed. Combining fees for donation box(es) located on a lot of record may be addressed in the fee resolution.

(c) (1) The application for a permit shall be upon a form provided by the department and be signed by an individual who is an officer, director, member or manager of an entity applicant. The applicant shall furnish the following information:

- a. Name, address and email of all partners or limited partners of a partnership applicant, all members of an LLC applicant, all officers and directors of a non-publicly traded corporation applicant, all stockholders owning more than five percent of the stock of a non-publicly traded corporate applicant, and any other person who is financially interested directly in the ownership or operation of the business, including all aliases.
- b. Date of birth of individuals and date of establishment of an entity or the birthdate of an individual applicant.
- c. Whether the applicant has previously received a permit for a donation box in the city or operates a donation box or similar type receptacle without a permit in the city.
- d. The name, address, email and telephone number of a contact person for all matters relating to a donation box located in the city.

- (2) The physical address of the real property where the donation box is proposed to be located.
- (3) A scaled drawing sufficient to illustrate the proposed location of the donation box on the real property, the dimensions of the proposed donation box and that the location complies with all code requirements.
- (4) If not the owner of the real property, an affidavit from the property owner providing written permission to place the donation box(es) on the property, as well as an acknowledgment from the property owner of receipt of a copy of this article, shall be provided on a form provided by the director. For purposes of this subsection, the affidavit and acknowledgment may be executed by an individual who is an officer, director, member or manager of an entity owning the property.
- (5) A nonrefundable fee in an amount established by resolution of city council.
- (6) Proof of general liability insurance no less than \$1 million per occurrence.

(d) Within ten days of receiving an application for a permit, the director shall notify the applicant whether the permit is granted or denied. If the director denies an application, the director shall state in writing the specific reasons for denial.

(e) No person to whom a permit has been issued shall transfer, assign or convey such permit to another person or legal entity.

(f) A person shall be issued a permit by the director if the requirements of this article are satisfied.

Sec.4. - Requirements for a permit.

- (a) A permittee shall operate and maintain, or cause to be operated and maintained, all donation boxes located in the city for which the permittee has been granted a permit as follows:
 - (1) Donation boxes shall be metal and be maintained in good condition and appearance with no structural damage, holes or visible rust and shall be free of graffiti.

- (2) Donation boxes shall be locked or otherwise secured in such a manner that the contents cannot be accessed by anyone other than those responsible for the retrieval of the contents.
- (3) Donation boxes shall have, at minimum, one-half-inch type visible from the front of each donation box the name, address, email, website and phone number of the operator, as well as whether the donation box is owned and operated by a for profit company or a not for profit company. The donation box shall not have information, advertising or logos other than those relating to the operator.
- (4) Donation boxes shall be serviced and emptied as needed, but at least every 30 days.
- (5) The permittee and property owner shall maintain, or cause to be maintained, the area surrounding the donation boxes, free from any junk, debris or other material. The property owner shall be responsible to the extent provided by law for the city's cost to abate any nuisance, in accordance with the City Code.
- (6) Donation boxes shall:
 - a. Not be permitted on any land used for residential purposes;
 - b. Not be permitted on any unimproved parcel, nor where the principal use of the land has been closed or unoccupied for more than 30 days;
 - c. Not be less than 1,000 feet from another donation box as measured along a straight line from one box to the other. Notwithstanding this separation requirement, up to two donation boxes on a single lot of record are permitted if the two donation boxes are side by side and are no more than one foot apart;
 - d. Not exceed seven feet in height, six feet in width and six feet in depth;
 - e. Not cause a visual obstruction to vehicular or pedestrian traffic;
 - f. Not be placed closer than ten feet from: (i) a public or private sidewalk except that this provision does not apply to a private sidewalk as long as the private sidewalk maintains a five-foot clearance; (ii) a public right-of-way; (iii) a driveway; or (iv) a side or rear property line of adjacent property used for residential purposes;
 - g. Not cause safety hazards with regard to a designated fire lane or building exit;
 - h. Not: (i) interfere with an access drive, off-street parking lot maneuvering lane and/or required off-street parking space to an extent which would cause safety hazards and/or unnecessary inconvenience to vehicular or pedestrian traffic; (ii) encroach upon

an access drive, off-street parking lot maneuvering lane and/or required off-street parking space; and

- i. Be placed on a level, hard (asphalt or concrete) paved, dust-free surface.

Sec.5. - Term of permit and renewal of permit.

- (a) The permit year shall begin on January 1 in each year and shall terminate on December 31 of the same calendar year. An annual permit issued between December 1 and December 31 of any year shall expire on December 31 of the calendar year next following issuance thereof.
- (b) A donation box permit shall be renewed annually. The application for renewal must be filed not later than 30 days before the permit expires. The application for renewal shall be upon a form provided by the director.
- (c) The director shall either approve or deny the renewal of a permit within ten days of receipt of the complete renewal application and payment of the renewal fee. Failure of the director to act before expiration of the permit shall constitute approval of the renewal of the permit.
- (d) A permit renewal fee set by resolution of the city council shall be submitted with the application for renewal.
- (e) Prior to expiration of the permit, the permittee may voluntarily cancel the permit by notifying the director in writing of the intent to cancel the permit. The permit shall become void upon the director's receipt of a written notice of intent to cancel the permit.
- (f) The director shall approve the renewal of a permit if the director finds that no circumstances existed during the term of the permit which would cause a violation to exist, and that at the time of submission of the application for renewal, or at any time during the renewal of the application for renewal, there were not circumstances inconsistent with any finding required for approval of a new permit. Any permittee whose permit has been revoked shall be denied renewal of the permit for the subsequent calendar year.
- (g) If the permit expires and is not renewed, the donation box(es) must be removed from the real property within a maximum of ten days after expiration of the permit.

Sec.6. - Revocation of permit, removal of donation boxes and liability.

- (a)
 - (1) The director shall have the right to revoke any permit issued hereunder for a violation of this ordinance. Any of the grounds upon which the director may refuse to issue an initial permit shall also constitute grounds for such revocation. In addition, the failure of the permittee to comply with the provisions of this ordinance or other provisions of this Code or other law shall also constitute grounds for revocation of the permit. The director shall provide a written notification to the permittee and property owner stating the specific grounds for a revocation and a demand for correction and abatement. The notice shall allow a maximum of ten days from mailing of the notice to correct or abate the violation. Upon failure to make the correction or abatement, the permit shall be revoked by the director and, thereafter, the permittee shall not be eligible for a permit on the property for the subsequent calendar year.
 - (2) Upon revocation, the donation box shall be removed from the real property within ten days and, if not so removed within the time period, the city may remove, store or dispose of the donation box at the expense of the permittee and/or real property owner. All costs associated with the removal of the donation box incurred by the city, or the city's contractor shall be the responsibility of the property owner. If such obligation is not paid within 30 days after mailing of a billing of costs to the property owner, the city may place a lien upon such real property enforceable as a tax lien in the manner prescribed by the general laws of this state against the property and collected as in the case of general property tax. If the same is not paid prior to the preparation of the next assessment roll of the city, the amount shall be assessed as a special tax against such premises on the next assessment roll and collected thereunder.
- (b) A permit for a donation box may be revoked if any governmental authority or agency determines that the donation box has violated the Michigan Consumer Protection Act and/or the Charitable Organizations and Solicitations Act.

Sec.7. - Appeal to planning commission.

Any person aggrieved by the decision rendered by the director in granting or denying an application for a permit under this ordinance or in revoking a permit issued under this ordinance may appeal the decision to the planning commission. The appeal shall be made by filing a written notice thereof with the Department of Building and Engineering setting forth the grounds for the appeal not later than ten days after receiving notice of the decision of the director. The planning commission may grant relief if the applicant presents clear and convincing evidence that there was an error in the decision of the director.

Sec.8. - Penalty and remedies.

- (a) In addition to revocation of permit pursuant to Section 6, any person violating the provisions of this ordinance is guilty of a civil infraction.
- (b) In addition to the penalty provided in subsection (a) of this section, any condition caused or permitted to exist in violation of the provisions of this ordinance, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.
- (c) Nothing in this ordinance shall prevent the city from pursuing any other remedy provided by law in conjunction with or in lieu of prosecuting persons under this section for violation of this ordinance.
- (d) The real property owner and permittee shall be jointly and severally liable for each violation and for payment of any fine and costs of abatement.
- (e) No fines shall be imposed for a violation of this ordinance until 90 days after its effective date. All donation boxes existing at the effective date of the article shall apply for a permit as required herein within 30 days of the effective date. Any donation boxes not in compliance with this ordinance after 90 days of the effective date shall be subject to all remedies for violation as provided herein.

SECTION 2. Repeal. All ordinance or parts of ordinances in conflict herewith are repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 3. Saving Clause.

Nothing in this Ordinance or in the code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquiring or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

SECTION 4. Severability.

Should any word, sentence, phrase or any portion of this Ordinance be held in a manner invalid by any court of competent jurisdiction or by any state agency having authority to do so for any reason whatsoever, such holdings shall be construed and limited to such work, sentence, phrase, or any portion of the Ordinance held to be so invalid shall not be construed as affecting the validity of any of the remaining words, sentences, phrases or portions of this Ordinance.

SECTION 5. Publication.

The Clerk for the City of Allen Park shall cause this ordinance to be published in the manner required by law.

SECTION 6. Adoption.

This Ordinance is hereby declared to have been adopted by the City Council of the City of Allen Park, County of Wayne, State of Michigan, at a regular meeting, called and held on the **13TH day of OCTOBER, 2015.**

WILLIAM MATAKAS, Mayor
City of Allen Park

MICHAEL I. MIZZI, City Clerk
City of Allen Park

Application for Donation Box Permit

The following form and required information must be completed for any person wishing to obtain a permit to place, operate, maintain or allow any donation box on any real property within the City of Allen Park.

APPLICANT INFORMATION		
Name (refer to note below):	Company/Organization:	
Street Address:		
City:	State:	Zip Code:
E-mail address:		
Street address of donation box location:		
Is a scaled drawing that shows the proposed site location, verification that another donation box(es) is not located within 1,000 feet and dimensions of each donation box attached to this application? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, the information must be attached before the application is submitted.		
If the Applicant is not the owner of the real property where the donation box will be located, is the completed owner affidavit form attached? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, the information must be attached before the application is submitted.		
Has Applicant previously received a permit for a donation box in city? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is Applicant currently operating a donation box in the city without a permit? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list the street address location(s) below <hr/> <hr/>		
Is the permit review fee for each location (\$50 for a new permit or \$25 for permit renewal) enclosed with this application? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, the fee must be provided at the time the application is submitted.		
CONTACT INFORMATION (For all matters relating to the donation box(es) in the city)		

Contact Name:	Contact telephone:	
	Contact e-mail address:	
Contact street address:		
City:	State:	Zip Code:
<p>NOTE: The Applicant must provide his name, address and email of all partners or limited partners of a partnership applicant, all members of an LLC applicant, all officers and directors of a non-publicly traded corporation applicant, all stockholders owning more than five (5%) percent of the stock of a non-publicly traded corporate applicant, and any other person who is financially interested directly in the ownership or operation of the business, including all aliases. The applicant must also provide the date of birth of individuals and date of establishment of an entity or the birthdate of an individual applicant. If needed, a separate sheet(s) may be attached to this application form.</p>		
<p>The permit is valid for one year beginning on January 1st and expiring on December 31st of the same calendar year. Prior to expiration of the permit, the Permittee may voluntarily cancel the permit by providing written notification to the Department of Building and Engineering. Otherwise, the donation box permit must be renewed annually and must be filed with the Department of Building and Engineering no later than thirty (30) days before the permit expires. If the permit expires and is not renewed, the donation box(es) must be removed within ten (10) days after expiration of the permit.</p>		
Signature of Applicant:	Printed Name of Applicant:	
Date:		