

AN ORDINANCE 2009 - 10 - 29 - 0860

AMENDING CHAPTER 16 OF THE CITY CODE OF SAN ANTONIO, TEXAS, LICENSES AND BUSINESS REGULATIONS, TO REGULATE AND PERMIT DONATION CONTAINERS THAT ARE PLACED IN OPEN SPACES AND ON PRIVATE PROPERTY TO INCLUDE A NEW ANNUAL PERMIT FEE, PERMIT REQUIREMENTS, AND A PENALTY FOR VIOLATION, PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

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WHEREAS, the City currently takes various measures to combat illegal dumping under the existing City Code and approximately 300 donation containers are placed in different areas of San Antonio by numerous non-profit organizations; and

WHEREAS, large amounts of donated materials outside of donation containers, such as clothing or other household materials, have the potential to become a larger illegal dumping issue because many containers have items placed outside of the designated container; and

WHEREAS, this proposed addition to the City Code will increase the City's ability to combat illegal dumping around donation containers by enacting new permit requirements and more accountability of property owners and non-profits for the maintenance, upkeep, servicing and signage for the donation containers; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Chapter 16 of the City Code of San Antonio, Texas, is hereby amended by the addition of a new Article XVIII Donation Containers, deleting the language ~~strike through~~ and adding the language underlined as follows:

CHAPTER 16, ARTICLE XVIII Donation Containers

Sec. 16-910 Definitions

Attended Donation Container means any donation container at which an employee or representative of the sponsoring company or organization is present to accept donations. A donation container shall have a person present to accept donations at least twenty (20) hours a week to be considered attended. Donation containers placed inside of permitted buildings shall be considered attended.

Donation container means any box, building, trailer or other receptacle that is intended for use as a collection point for donated clothing or other household materials.

Person includes an individual, sole proprietorship, corporation, association, nonprofit corporation, partnership, joint venture, limited liability company, estate, trust, public or private organization that is not a state agency, business trust, public corporation, or any other legal or commercial entity.

Recyclable material means material that has been recovered or diverted from the solid waste stream for purposes of recycling, or reclamation, a substantial portion of which is consistently used in the manufacture of products which may otherwise be produced using raw or virgin materials. Examples of recyclable materials under this Article include, but are not limited to:

Paper: Most types of paper, such as ad circulars, catalogs, carbonless paper, dry goods packaging with liners removed (example: cereal, pasta, rice, beer/soda cartons), envelopes, file folders, flattened cardboard, junk mail, magazines, newspapers, office paper, paperback books, paper bags, paper towel/toilet paper cores, phone books, non-metallic gift wrap. **Plastics:** Labeled #1 through #7 with the recycling symbol  on the bottom. Examples include: beverage bottle, shampoo and lotion bottles, meat trays, condiment bottles, prescription and medicine bottles. **Glass Bottles and Jars All Colors:** Examples: beverage bottles, food and condiment bottles and jars (jelly, mustard, mayonnaise). **Metal Cans:** Aluminum, steel and tin beverage and food cans, aerosol cans, baking tins.

Recycling means a process by which recyclable materials that have served their intended use or are scrapped, discarded, used, surplus, or obsolete are collected, separated, or processed and returned to use in the form of raw materials in the production of new products.

Recycling container means any box, building, trailer or other receptacle that is intended for use as a collection point for the collection of recyclable material that will be subject to recycling by any person.

Unattended donation container means any donation container at times when no employee or representative of the sponsoring company or organization is present to accept donations. Donation containers placed inside of permitted buildings or businesses shall not be considered unattended.

Figure 16-910-1. Example of Unattended Donation Containers:



16-911. Donation containers prohibited.

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

2. Any donation container located within the jurisdiction of the City of San Antonio that does not have a current, valid permit shall be subject to impoundment by the City. Any donation container impounded by the City shall be released to the owner upon securing a permit, and the payment of an impound fee of \$200.00, and a daily storage fee of \$20.00 for each day in City possession after impound.

3. Notwithstanding any other provision of the City Code, no provisions of this Article shall apply to recycling containers. No provisions of this Article shall apply to any donation container located on the property of any public or private school, church or community center.

16-912. Authorizing or allowing donation containers on real property prohibited.

It shall be unlawful for any person that owns, leases, or is entitled to possession of real property within the City of San Antonio, to authorize or allow any donation container to

be placed on or remain on such real property without a valid permit decal in compliance with the provisions of this article.

16-913. Permit Requirements

A permit and container decal to allow a donation container as an accessory use shall be issued by the Department of Housing and Neighborhood Services provided the following conditions are satisfied:

1. The person receiving a permit to place or maintain a donation container is registered to operate in the State of Texas as a non-profit corporation.
2. The property owner provides written authorization allowing the donation container on the property.
3. The permit holder shall be responsible to collect the contents of the donation container to prevent overflow.
4. The visual and structural integrity of the donation container must be maintained continuously.
5. The placement of the donation container shall not impede traffic nor visually impair any motor vehicle operation within a parking lot, driveway or street.
6. The donation container shall not be located in a required building setback, buffer yard, access easement, drainage easement, floodplain, driveway, utility easement or fire lane.
7. A minimum of one (1) stacking or parking space per donation container shall be required on-site.
8. Occupation of any parking spaces by the donation container shall not reduce any required parking spaces for the principal use on a lot.
9. The permit holder placing or maintaining the donation container shall display current contact information including street address and telephone number on the donation container. This information must be readable and clearly visible to the public.
10. The current permit decal for the specific donation container must be affixed and displayed at all times on the outside of the container
11. All signage shall comply with Chapter 28, Signs and Billboards. For the purposes of on-premises signs, signage visible on the donation container shall be considered an attached sign.
12. The donation container may only be used as a collection container for clothing and household materials. All donation materials must fit into and be placed inside the donation container. The collection or storage of any materials outside the container is prohibited.
13. The donation container shall be located at least 200 feet away from any residential dwelling.
14. The number of donation containers allowed for each property by a permit holder shall not exceed two (2).
15. The maximum number of donation containers allowed for each property shall not exceed four (4).
16. The size of each donation container shall not exceed four (4) cubic yards.

17. Each donation container must have an attached sign indicating that all donations must fit into and be placed inside the container.
18. The property is not located in a single-family or multi-family zoning district unless the primary use on the property is not residential, such as a church, public or private school or community center.

16-914. Application for permit.

1. Applicants for permits under this article shall file a written sworn application with the Department of Housing and Neighborhood Services. The application shall include the written authorization from the property owner allowing the donation container on the property.
2. A separate permit and application shall be required for each container regardless of the ownership thereof. Permits issued under the provisions of this article shall be valid only at the address stated in the permit.
3. The annual permit fee for a donation container shall be forty-eight dollars (\$48.00). All permits shall expire on December 31st of each calendar year regardless of the date of issuance, provided however that the fee for each permit shall be prorated at four dollars (\$4.00) for each month or portion of a month for which the permit is issued.
4. Any person denied a permit shall have the right to appeal such action. In such case the procedure shall be the same as in revocation.

16-915. Transfer of permit prohibited.

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

16-916. Revocation of permit.

1. Grounds. Any permit issued hereunder shall be revoked by the Department of Housing and Neighborhood Services if the permit holder is in violation of any of the provisions of this article or has knowingly made a false material statement in the application or otherwise becomes disqualified for the issuance of a permit under the terms of this article.
2. Notice. Notice of the revocation shall be given to the permit holder in writing, with the reasons for the revocation specified in the notice, served either by personal service of such notice upon the permit holder or by certified United States mail to their last known address. The revocation shall become effective the day following personal service or if mailed, three (3) days from the date of mailing.
3. Appeal; hearing. The permit holder shall have ten (10) days from the date of such revocation in which to file notice with the Director of Housing and Neighborhood Services of their appeal to the Director of Housing and Neighborhood Services from the order revoking such permit. The Director of Housing and Neighborhood Services shall provide for a hearing on the appeal

not later than 15 days after the notice of appeal is filed. After holding a hearing on such revocation, the Director of Housing and Neighborhood Services shall either sustain the action of the Department of Housing and Neighborhood Services or issue an order reinstating the permit. The decision of the Director of Housing and Neighborhood Services may be appealed by the permit holder to the Board of Adjustment in accordance with procedures for appeal to that Board.

4. In the event of the filing of an appeal from a revocation issued under the provisions of this article, then until such appeal has been finalized such revocation order shall be stayed.
5. In the event the permit is finally revoked as provided herein, the person, firm or organization placing or maintaining the donation container shall remove such donation container from the property not later than 10 days after such final decision.
6. In the event the permit of any person issued under the provisions of this article shall be revoked by the Department of Housing and Neighborhood Services, as provided herein, no second or additional permit shall be issued to such person within one year of the date such permit was revoked.

16-917. Maintenance and Upkeep

The permit holder and the property owner shall be held jointly and severally liable and responsible for the maintenance, upkeep, and servicing of the container and clean up and removal of any donations left on the property outside of the container. 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 Chapter 14, Article V, sections 14-61 to 14-67, of the City Code.

16-918. Offense/Penalty

1. A violation of this section is a class C misdemeanor and upon conviction a person shall be fined an amount not to exceed five hundred dollars (\$500).
2. No culpable mental state shall be required to support a conviction for a violation of this section.
3. Nothing in this section shall limit the remedies available to the city in seeking to enforce the provisions of this Article. Each day's violation thereof shall constitute a separate offense.
4. Where it is deemed necessary by the city manager and the director, the city attorney's office is hereby empowered to secure injunctive relief to enforce the provisions of this Article. This shall be in addition to, and not in lieu of, the criminal penalties provided for in this Article.

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SECTION 2. All other provisions of Chapter 16 of the City Code remain in full force and effect.

SECTION 3. The City Clerk of the City of San Antonio, Texas, is hereby directed to publish this Ordinance in a newspaper published in the City of San Antonio, Texas, as authorized by Section 17 of the Charter of the City of San Antonio. The penalty, fine or forfeiture provisions in this ordinance shall apply five days after publication.

SECTION 4. The revenue generated will be deposited in the General Fund 11001000, Internal order 261000000007, and General ledger 4203015. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 5. This ordinance shall be effective immediately upon passage by eight or more affirmative votes; otherwise, it shall be effective on the tenth day after passage. The effective date for permitting to begin is January 1, 2010.

PASSED AND APPROVED this 29th day of October, 2009.


M A Y O R
JULIÁN CASTRO

ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney
FOR

Agenda Item:	19 (in consent vote: 5, 6, 7, 8, 9, 11, 13A, 13B, 15, 16, 19, 22A, 22B, 22C, 22D, 22E, 22F, 22G, 22H, 22I, 22J, 22K, 23, 24, 25)						
Date:	10/29/2009						
Time:	09:38:59 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance amending the City Code, Chapter 16, Licenses and Business Regulations, to regulate and permit donation containers that are placed in open spaces and on private property to include a new annual permit fee of \$48.00, permit requirements, and a penalty up to \$500.00 for violations. [T.C. Broadnax, Assistant City Manager; David D. Garza, Director, Housing and Neighborhood Services]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x			x	
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				x
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Justin Rodriguez	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
John G. Clamp	District 10		x				