

ORDINANCE NO. 24-038

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING CHAPTER 8 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; PROVIDING FOR AMENDMENTS TO THE CITY'S DONATION CONTAINER REGULATIONS; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

WHEREAS, the City of Killeen has declared the application and enforcement of the City's building and construction regulations to be necessary for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare of the City; and,

WHEREAS, the failure of donation box owners to maintain said boxes in accordance with existing City of Killeen Ordinances has resulted in an unsightly and littered appearance near and around said donation boxes; and

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

WHEREAS, the City Council desires to amend the donation container regulations to ensure that development is safe, orderly, and visually appealing by increasing accountability to property owners; and,

WHEREAS, the City Council desires to amend the donation container regulations to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS:

SECTION I. That Chapter 8, Article VII of the City of Killeen Code of Ordinances is hereby amended to read as follows:

ARTICLE VII. - DONATION CONTAINER REGULATIONS

Sec. 8-531. – Short title.

The following regulations are hereby adopted and shall be known and may be cited as "City of Killeen Donation Container Regulations."

Sec. 8-532. – Purpose.

The purpose of this article is to establish standards and regulations for new and existing donation containers within the city limits. In the event of a conflict, the more stringent regulations shall apply.

Sec. 8-533. – Definitions.

Building shall mean any commercial building lawfully occupied by a business or charitable organization pursuant to a valid certificate of occupancy.

Donation container shall mean any box, structure, container, trailer or other receptacle, whether permanently or temporarily affixed or placed on real property, that is intended for use as a collection point for clothing, other household materials or other new and/or used personal property to be donated to a charitable organization; the term does not include recycle bins or any donation container located within a building.

~~Person~~ *Donation container operator* shall mean 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 that has obtained written permission from a property owner to locate or place a donation container on private property.

Property owner shall, for purposes of this Article, mean the owner of real property upon which a permitted or unpermitted donation container is located or placed.

Recycle bin shall mean a receptacle used for the collection of recycle materials governed or regulated by the City's zoning code and/or building code.

Sec. 8-534. – Permit required.

- (a) It shall be unlawful for a property owner or donation container operator to locate, maintain, or allow a donation container to be placed on property within the City without first obtaining a permit from the City.
- (b) A property owner wishing to locate a donation container on his or her property shall be responsible for obtaining a permit. To obtain a permit, a ~~person~~ property owner must:

1. Provide a site plan indicating the location where the donation container will be placed and the dimensions of the container; and
 2. Provide ~~proof that the property owner, property manager, or person who has a right to possess the property consents to the placement of the donation container on the property and acknowledges that they will be held responsible for maintenance of the area around the donation container; and the name and phone number for the donation container operator.~~
 3. ~~Affirm that the donation container will comply with all requirements of this article.~~
- (c) Both the property owner and donation container operator shall acknowledge and affirm on the application their understanding of and willingness to comply with all requirements of this Article.
- (d) An annual permit fee, as prescribed on the City's fee schedule, shall be required for each donation box. All permits shall expire on December 31 of each year. Any permits issued prior to the effective date of the ordinance from which this Section is derived shall expire on December 31, 2024, and a new permit shall be required in accordance with this Section.
- (e) Permits issued pursuant to this Section shall only be valid for the address and location stated on the permit application.
- (f) In the event that a permit of any permit holder is revoked as provided for by this Article, no additional permit shall be issued to such person within one year from the date the permit was revoked.
- ~~(c) Only nonprofit charitable organizations that serve the local community and have obtained a determination letter pursuant to 26 USC 501(c)(3) may obtain a permit to locate donation containers within the City.~~

Sec. 8-535. – Placement.

- (a) Donation containers shall not be located on any property within the Neighborhood Business District (NBD), University District (UD), Cemetery District (CD), or Historical Overlay District (HOD). Donation Containers shall not be located within any residential zoning district except on the premises of allowed non-residential uses such as churches and schools.

- (b) No more than two (2) donation containers may be located on a single platted lot or unplatted tract of land.
- (c) When located on different tracts of land or lots, a donation container shall not be ~~located~~ permitted closer than three hundred (300) feet from another permitted container.
- (d) A donation container shall not be located within ten (10) feet of the travelled portion of any street, road or highway or placed in a manner that blocks driveways, ~~or~~ interferes with traffic flow or visibility.
- (e) A donation container shall not be located within any right-of-way or easement dedicated to and/or owned by any governmental entity.
- (f) A donation container shall not be located at any location the City determines:
 1. May pose a safety hazard to public;
 2. Constitutes an obstruction to traffic entering, existing or circulation within the property on which the donation container is located;
 3. Constitutes an obstruction to pedestrian traffic using any public sidewalk; or
 4. Constitutes an obstruction to the flow of surface water on the property such that surface water will be diverted to other properties or otherwise inhibits or prevents surface water from draining to an existing drainage facility.
- ~~(g)~~ The donation box may not block or occupy any parking spaces that are required to meet the minimum amount or parking spaces that are required by this Code for the primary use structure.
- ~~(g)~~(h) No donation box shall be placed within 200 feet from a residential dwelling use district. Said distance shall be measure from lot line to lot line.

Sec. 8-536. – Construction.

- (a) Donation containers must:
 1. Be constructed of metal, ~~or fiberglass, or wood~~;
 2. Be labeled "no dumping" and include written notice that placement of bulky donations outside of the donation container is prohibited; and also
 - 2-3. Indicate the name, address and telephone number of organization and party~~the~~ donation container operator responsible for collection;
 - 3-4. Be secured at all times, except when they are being emptied;
 - 4-5. Have a lid or a top to protect the contents from the weather; and

~~5.6.~~ Be no larger than one hundred and fifty (150) cubic feet.

Sec. 8-537. – Maintenance.

- (a) ~~The donation box operator and property owner shall be jointly and severally liable and responsible for the maintenance and servicing of the donation box.~~
- (a)(b) ~~The area around the donation container shall be kept free of any junk, debris, or other materials, with the exception of including large bulky donation items that do not fit inside the container. Donations of large bulky items that do not fit inside the donation container shall be prohibited.~~
- (b)(c) ~~Donation containers shall be emptied at least once every two (2) weeks, and often enough or more often if necessary to ensure that donations do not overflow. Donations of large bulky items that do not fit inside the donation container shall be picked up within twenty-four (24) hours. The property owner shall indicate on the permit application the days that the donation container is scheduled to be emptied.~~
- (c)(d) ~~Donation containers shall be maintained in good condition and appearance with no structural damage, holes, or visible rust. Containers shall be kept free of graffiti.~~
- (d)(e) ~~The donation box shall be used for the solicitation and collection of clothing and small household items that can fit within the donation box. Large items or items placed outside of a donation container shall be considered a public nuisance and may be removed by the City. The City shall give the permit holder property owner seventy-two (72) twenty-four (24) hours written notice to clear any junk, debris, bulky items, overflow donations, or other materials placed outside of the donation container. If the debris or materials are not cleared after the expiration of that time, the City may clear it and bill the property owner for the cost to abate any violation.~~

Sec. 8-538. – Existing donation containers.

- (a) ~~Operators of existing containers or~~ ~~the owner or owners of the real property on which the a new or existing donation container is located shall be given written notice that they have thirty (30) days to obtain a permit. Written notice shall be mailed to the address of the property owner listed on the appraisal district records, and to the address on the donation container if available. Notice shall also be posted on the donation container itself. The property owner shall have thirty (30) days from the day a letter is mailed or posted on the container to obtain a permit.~~

~~(a)(b) If the operators or owners property owner does not apply for obtain a permit, the operators or owners have within thirty (30) days of receiving written notice to remove the donation containers or the property owners may give the City permission to may remove the donation container(s) and bill the property owner for the cost to abate the violation.~~

~~(b) Existing donation containers of any size may be permitted, provided they are maintained in accordance with Sec. 8-537.~~

~~(c) If an operator or property owner cannot be reached, a letter will be mailed to either the address of the property owner listed on the appraisal district records or the address on the donation container, if available, or both. Notice shall also be posted on the donation container itself. The operator or property owner shall have thirty (30) days from the day a letter is mailed or posted on the container to obtain a permit.~~

~~(d) Donation containers located closer than three hundred (300) feet prior to the effective date of this ordinance shall not be required to be removed to comply with Section 8-535(c).~~

~~(e) Notwithstanding Sec. 8-538(e), a donation container that was located less than three hundred (300) feet from another donation container that is removed from such location for more three (3) days must be relocated to a location that complies with Section 8-535(e).~~

Sec. 8-539. – Permit revocation Failure to comply.

~~(a) If, within thirty (30) days of receiving written notice of the requirement to obtain a permit, a property owner fails to do so, the City may remove the donation container and bill the property owner for the cost to abate the violation.~~

~~(b) The City may revoke a permit for failure of the operator or property owner to comply with the requirements in this article. The operator or owner may appeal the revocation to the City Manager or their designee within seventy-two (72) hours of the revocation notice. The City Manager's or their designee's decision shall be final. In such case, the donation container must be removed within seventy-two (72) hours of the permit revocation or appeal hearing, as applicable. If the property owner fails to remove the donation container within seventy-two (72) hours, the City may remove it and bill the property owner for the cost to abate the violation.~~

~~(a)(c) If the City removes a donation container, as provided above, it shall be released to the donation container operator or property owner only upon payment of all applicable~~

charges and storage fees. Any donation container not claimed within fourteen (14) calendar days shall be considered abandoned property subject to disposal or sale at the City's sole discretion.

~~(b) The donation container must be removed within seven (7) days of the permit revocation or appeal hearing, as applicable.~~

SECTION II. That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

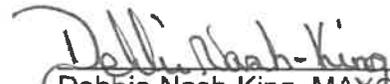
SECTION III. That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

SECTION IV. That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

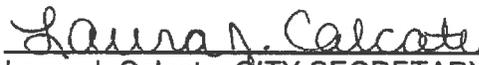
SECTION V. That this ordinance shall be effective after its passage and publication according to law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 17th day of September, 2024, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

APPROVED:


Debbie Nash-King, MAYOR

ATTEST:


Laura J. Calcote, CITY SECRETARY



APPROVED AS TO FORM:


Holli C. Clements, CITY ATTORNEY