

ORDINANCE 19-03

To Amend Chapter 26 Of The 2001 Revised Code Of The City Of Dalton, Georgia Captioned “Businesses”; By Adding Article VIII Captioned “Donation Bins”; To Provide For An Effective Date; To Provide For The Repeal Of Conflicting Ordinances; To Provide For Severability; And For Other Purposes.

BE IT ORDAINED by the Mayor and Council of the City of Dalton and by the authority of the same, **IT IS HEREBY ORDAINED** as follows:

Section 1.

Amend Chapter 26 Of The 2001 Revised Code Of The City Of Dalton, Georgia Captioned “Businesses”; By Adding Article VIII Captioned “Donation Bins” which shall read as follows:

ARTICLE VIII. DONATION BINS.

The purpose of this article is to regulate the placement of unattended donation bins. The procedures and requirements of this article are intended to: promote the community's health, safety, and welfare by regulating unattended donation bins for clothing or other salvageable personal property; ensure that unattended donation bins do not pose a hazard to pedestrian and vehicular traffic; ensure that material is not allowed to accumulate outside of the unattended donation bins where it can be scattered by adverse weather conditions, animal contacts and human activities; and establish criteria that avoid attracting vermin, unsightliness, and public health hazards. Donation bins shall be subject to the following:

Section 26-306. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator shall mean the City Administrator or any person designated by the City Administrator to enforce the requirements of this article.

Applicant means any person or entity who applies for a donation bin permit.

Bin owner means the owner of the donation bin and any agent thereof designated to operate such donation bin.

Donation bin means any freestanding, unattended container, drop-off box, receptacle, trailer or similar device that is located outdoors and is held out to the public as a place for the public to donate household materials, clothes, or other salvageable personal property to store such items until taken away for donation or resale by one who owns, operates, or maintains such container.

Property means any real property within the City of Dalton upon which a donation bin is located or is proposed to be located.

Property owner means the owner or leaseholder of any such property upon which a donation bin is located or is proposed to be located, and any agent thereof designated to manage such property.

Section 26-307. Permit procedure.

- (a) All bin owners of existing donation bins shall, within 60 days of the effective date of this ordinance, apply for a permit with the Administrator in accordance with this section.
- (b) All bin owners of new donation bins shall apply for a permit in accordance with this section prior to installation.
- (c) An application shall include the following information:
 - (1) The name, address, telephone number, email address (if applicable) of the bin owner and of the property owner. If the property owner or bin owner is not an individual, a specific contact person shall be named to receive notices.
 - (2) A statement signed by the applicant indicating that the applicant is the bin owner or authorized agent of the bin owner, and that applicant is familiar with and shall comply with the responsibilities and obligations of this code section including all penalties for violations thereof.
 - (3) If the applicant is not the property owner, the application shall include a statement signed by the bin owner consenting to the immediate removal and disposal of the donation bin at the request of the property owner.
 - (4) If the applicant is not the property owner, the application shall also include a statement signed by the property owner indicating that the property owner consents to the installation of the donation bin on the property and that the property owner is familiar with the and shall comply with the responsibilities and obligations of this code section including all penalties for violations thereof.
 - (5) A site plan or drawing depicting the size (height, width, and length) and location of any and all donation bins located on the property;

- (6) A description or diagram of any locking mechanism(s) for any lids or covers on the donation bin;
- (7) A plan stating the frequency and methods by which the donation bin will be inspected for general cleanliness, graffiti, and litter or other rubbish located on or around the donation bin and a plan for remediation of the same;
- (8) A plan stating the frequency and methods by which the collected materials will be removed from the donation bin;
- (9) The appropriate registration fee. This fee shall be set by a fee schedule adopted and approved by the Mayor and Council, as may be amended from time to time. The fee schedule for donation bin registrations under this section shall be on file at the City Clerk's office.

(d) Upon review of a completed application and payment of all fees as set forth in section (c) hereof, and upon determining that the donation bin and proposed location comply with all requirements of this article, the Unified Zoning Ordinance, and all other ordinances and laws, the administrator shall grant the permit. However, the administrator shall deny any application for a bin permit if any of the following circumstances exist:

- (1) The application does not comply with or contain all information required by section (c) hereof;
- (2) The donation bin or proposed location thereof do not comply with the requirements of this article;
- (3) The application contains any materially false information;
- (4) The applicant is currently in violation of any provision of this article or has been found to be in violation of any provision of this article within one (1) prior to the date of submitting the application or has been denied a donation bin permit within one (1) year prior to the date of submitting the application.

(e) Denial of any application may be appealed to the Mayor and Council by filing a written notice of appeal in the office of the City Clerk with a copy to the City Administrator within fourteen (14) calendar days of the decision date. In the event no appeal is filed within this fourteen period, the decision shall be final.

- (f) In the event that a timely appeal is filed, the Mayor and Council shall review the application, the decision of the administrator, and any information submitted by the applicant in support of the appeal to determine if the application, the donation bin, and the proposed location of the donation bin comply with the requirements of this article and all other laws and ordinances of the City. The review of the Mayor and Council shall be limited to a determination of whether or not the decision of the administrator was clearly erroneous.
- (g) The Mayor and Council shall make a final determination of the appeal within sixty (60) calendar days of the date the appeal was filed. Any appeal of the decision of the Mayor and Council shall be taken to the Superior Court by a petition for a writ of certiorari.
- (h) Donation bins not permitted within the prescribed timeframe shall be removed at the expense of the property owner and bin owner, and shall be subject to enforcement and fines pursuant to section 26-309.
- (i) The permit for the donation bin shall be valid for a period of two years, after which the applicant shall be required to apply for a new permit.

Section 26-308. Design, location, safety and maintenance requirements.

- (a) Donation bins shall only be located in zoning district C-2 as defined by the Unified Zoning Ordinance.
- (b) Donation bins are permitted only on properties where there is an active primary use and shall not be located on vacant lots or abandoned property.
- (c) Donation bins must be placed on a paved surface and be located to the side or rear of the lot. The location of the donation bins must meet the minimum setback requirements for the lot and the donation bins may not be placed in any fire lane, loading zone, drive aisles or circulation area.
- (d) Donation bins are not permitted to be located in a manner that obstructs visibility at intersections or at any other location that may cause hazardous conditions, constitute a threat to public safety, or create a condition detrimental to surrounding land uses.
- (e) The maximum size for any donation bin shall be five feet in width by five feet in depth and seven feet in height.
- (f) When multiple donation bins are located on an individual property, they must be adjacent to one another.

(g) The total allowable number of donation bins depends on the size of the parcel on which the donation bin is located with the following limitations:

(1) Property equal to or less than one acre shall have a maximum of one donation bin.

(2) Property greater than one acre shall allow one donation bin per acre.

(h) All donation bins must be designed so that they are secured from unauthorized access, and shall have a lid or top to protect the contents from the weather. Such lid or top shall remain closed at all times except when the contents of the collection bin are being removed.

(i) Donation bins shall be maintained in good condition and appearance with no structural damage, holes, visible rust, or graffiti.

(j) All donation bins shall have the following clearly identified, in writing on the face of the bin:

(1) Specific items and materials requested for donation.

(2) Information identifying the organization(s) responsible for the maintenance and monetary proceeds of the donation bin including a contact name, phone number, and website for the organization(s).

(3) Statement that no items or materials may be left outside of the donation bins.

(4) Statement that the box is not intended for refuse disposal, garbage, candy, food wrappers, drink bottles, etc., and that liquids are prohibited.

(5) The City issued permit number shall be affixed to the front face of the donation bin.

(k) No donation bin shall be permitted to overflow with donated items or to accumulate such items, litter, rubbish, or other materials surrounding it.

(l) The owner or operator of the donation bin, as well as the property owner of the parcel, shall be responsible for maintaining the area around each donation bin so that it is free of litter, garbage, and any other undesirable material.

(m) Each donation bin must be serviced at least every two weeks. Servicing shall include the following actions:

- (1) The removal of collected items;
- (2) The removal of any litter, junk, debris, or other materials surrounding the donation bin;
- (3) The removal of any graffiti on such bin;
- (4) The abatement of any nuisance condition;
- (5) The inspection of the donation bin for any peeling paint, rust, dents, holes, and the repair of any such condition found.

(n) The bin owner shall maintain a written log showing the date of each service and maintenance action taken under this subsection and shall make such log immediately available to any agent of the City upon request.

Section 26-309. Enforcement and penalties for violation.

- (a) The property owner, donation bin owner, and operator of the donation bin shall each be jointly and severally responsible for ensuring compliance with the regulations of this article.
- (b) All notices required under this article shall be provided by email, certified mail, statutory overnight delivery, hand-delivery, or first class U.S. Mail to the address listed for the bin owner and for property owner on the permit application. The bin owner and property owner shall each be responsible for ensuring that all contact information is current.
- (c) The administrator or any other agent of the City shall be authorized to enter upon the property to ensure compliance with this article, the Unified Zoning Ordinance, or any other laws and regulations of the City, which pertain to the donation bin. Upon discovery of any circumstance concerning a donation bin that appears to be in violation of this article (including, but not limited to, overflowing donated items, junk, litter, rubbish or other materials surrounding such bin, the presence of graffiti on such bin, or any physical damage to the donation bin, the administrator, or his/her designee, shall provide written notice to the bin owner and property owner of such condition. The bin owner and the property owner shall remedy, repair, replace or remove such condition within forty-eight (48) hours following such notice. If the condition is donated items, junk, litter, rubbish or other materials surrounding the collection bin and the bin owner or the property owner

has not remedied such condition within said 48-hour period, the City is authorized to remove such litter, junk, debris or other materials and to invoice the bin owner and the property owner such clean-up costs. The bin owner and the property owner shall be jointly and severally liable for any such costs, which shall be due and payable within ten (10) days of the City providing written notice of the same to the property owner and bin owner.

- (d) Anyone who violates any provision of this article shall be subject to citation to the municipal court, and upon a determination by the municipal court that a violation of this article has occurred, shall be subject to a civil penalty not to exceed \$1,000.00. If such violation is continuing, the municipal court shall also be empowered to require the abatement of any such violation.
- (e) Any person or entity that is found by the municipal court or by the public safety commission to be in violation of any provision of this article shall be subject to the suspension of the donation bin permit for 60 days by the public safety commission for the first violation, suspension of the donation bin permit for 180 days by the public safety commission if it is the second violation found by the municipal court within a 12-month period, or revocation of the donation bin permit and the denial of any renewal thereof for a period of five years by the public safety commission if it is the third violation found by the municipal court within a five-year period. A separate offense shall be deemed committed each day during or upon which a violation occurs or is permitted to continue. Any donation bin placed or maintained on a lot in violation of this section for more than fifteen (15) days shall also be subject to removal by the city at the expense of the bin owner or the property owner, who shall be jointly and severally responsible for any such costs.

Section 26-310. Notice and Hearing before the public safety commission.

- (a) The city clerk shall notify the bin owner and property owner of any charge of conduct or offense subject to penalty, suspension or revocation or any combination thereof. If the potential sanction is suspension or revocation the notice shall also state the place and time the public safety commission will hear the charges against the licensee. The notice may also contain such additional information, as the city clerk may deem appropriate. The notice shall be sent at least five days prior to the hearing date.
- (b) The public safety commission shall then conduct a hearing at its next regularly scheduled meeting, unless a continuance is granted at the request of the city or the bin owner or property owner, or unless the hearing is scheduled for a special called meeting. The bin owner and property owner shall be allowed to appear at said hearing and present evidence and cross-examine witnesses. If a violation is found to have occurred, the public safety commission shall impose the penalties set forth in this article. If the donation bin permit is suspended or revoked, the public safety commission is further authorized to assess payment of all costs against the bin owner and property owner for the hearing

and for removal of the donation bin.

Section 26-311. Appeal to mayor and council.

- (a) The decision of the public safety commission may be appealed to the Mayor and Council by filing a written notice of appeal in the office of the City Clerk with a copy to the City Administrator within fourteen (14) calendar days of the decision date. In the event no appeal is filed within this fourteen period, the decision shall be final.
- (b) In the event that a timely appeal is filed, the Mayor and Council shall review the record of the hearing before the public safety commission and any evidence admitted therein.
- (c) The Mayor and Council shall make a final determination of the appeal within sixty (60) calendar days of the date the appeal was filed. Any appeal of the decision of the Mayor and Council shall be taken to the Superior Court by a petition for a writ of certiorari.

Section 2.

This Ordinance shall be effective upon the posting of this Ordinance in two (2) public places in the City of Dalton for five (5) consecutive days following its enactment by the Mayor and Council, the public health, safety, and welfare requiring it.

Section 3.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4.

It is hereby declared to be the intention of the Mayor and Council of the City of Dalton that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

SO ORDAINED this ____ day of _____, 2019.

The foregoing Ordinance received its first reading on _____ and a second reading on _____. Upon second reading a motion for passage of the ordinance was made by Councilmember _____, second by Councilmember _____ and upon the question the vote is ____ ayes, ____ nays and the Ordinance is adopted.

ATTEST:

CITY CLERK

MAYOR

A true copy of the foregoing Ordinance has been published in two public places within the City of Dalton for five (5) consecutive days following passage of the above-referenced Ordinance as of _____.

CITY CLERK, CITY OF DALTON