

THE CITY OF WARWICK
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 32, ARTICLE II

No..... Date.....

Approved.....Mayor

**AN ORDINANCE RELATIVE TO PERMITTING AND REGULATING CHARITABLE
DONATION BINS**

Be it ordained by the City of Warwick:

Section I: Chapter 32, of the City of Warwick Code of Ordinances is hereby amended by adding Article II as follows:

Chapter 32 – Junk Dealers and Charitable Donation Bins

Article II. Donation Drop-Off Boxes

§ 32-9. Purpose.

The purpose of this Article shall be to regulate and monitor donation drop-off boxes, as defined herein via a permit program, so as to avoid illegal dumping and blight. The Building Department is hereby authorized and empowered to institute fees related to permits for donation drop-off boxes. The income raised from such fees shall be directed into a fund restricted to the maintenance of the permit program.

§ 32-10. Definitions.

As used in this article, the following terms shall have the meanings indicated:

DONATION DROP-OFF BOX — A closed, outdoor receptacle or container made of metal, wood, steel or similar material designed or intended for the collection of unwanted clothing, shoes, textiles and/or other household items. For the purpose of this Article, a donation drop-off box may alternatively be referred to as a “bin.”

PROPERTY OWNER — The person or entity having legal title to property and/or the person shown as the owner of the property on the current assessment rolls of the City. For the purposes of this article, it shall refer to the property upon which the donation drop-off box sits.

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2 PROPERTY OWNER'S AGENT — Party that has express written or implied authority through
3 employment, by contract or apparent authority to act for the owner so as to bring the owner into
4 contractual relationships with other parties.

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6 PERSON IN LAWFUL POSSESSION OF PROPERTY — A person that rents or leases a
7 property from a property owner, or a person that represents the lessee, such as a store manager,
8 regional manager, superintendent or other person with authority from the lessee.

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10 PERMITTEE — Any person, organization or corporation that receives a permit to operate a bin
11 in the City pursuant to this article.

12
13 § 32-11. Fees; permit required.

14
15 A. Permit required; dates of issuance, expiration, response.

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17 (1) It shall be unlawful for any person, firm, or corporation to erect, place, maintain or
18 operate any collection bin without first obtaining a permit issued by the City Clerk.

19 (2) A permit issued under this article shall be valid from the date of issuance for a period
20 not to exceed the sooner of one (1) year or until January 31 of the following calendar
21 year.

22 (3) A permitting agency must respond to a permittee's application for a permit within
23 thirty (30) days and must provide adequate justification if the permit request is denied.

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25 B. Fee required.

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27 (1) Initial application (one-year period): \$50, per site.

28 (2) Renewal applications (one-year period): \$25, per site.

29 (3) Permit fee (one-year period): \$10, per bin.

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31 C. Form of application.

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33 The application for a collection bin permit shall require the following information from the
34 permittee:

35
36 (1) Proof that the permittee is a registered charitable 501(c)(3) organization and
37 information pertaining to the permittee's status with the state corporation regulatory
38 agency; or if the permittee is a for-profit company, information pertaining to the
39 permittee's status with the state corporation regulatory agency, such as a certificate of
40 good standing with the state. In addition, as to all entitled, proof shall be submitted to
41 the City Clerk that the entity is authorized through the Rhode Island Secretary of
42 State to conduct business in the State of Rhode Island.

43 (2) A certificate of liability insurance of at least \$1 million dollars for each permitted bin.

44 (3) Name, address, telephone number, E-mail address and name of contact person of the
45 organization that is applying for the permit. It is the responsibility of the permit

holder to keep such information updated whenever the permit holder changes its mailing address.

- (4) Written consent from the property owner or owner's agent or person in lawful possession of the property to place the bin on the property, including name, address and telephone number of the owner or owner's agent.
- (5) A check in the appropriate amount to be made payable to the City of Warwick Building Department.
- (6) A site plan demonstrating the following:
 - a. The location of the bin(s) on the real estate upon which such bins are to be located;
 - b. Measurements rounded to the nearest foot of the metes and bounds of said property;
 - c. Location and size of any buildings or structures to the nearest foot; and
 - d. Evidence demonstrating that the bin(s) are set back at least five (5') feet from any public roadway.

D. Proof of permit.

The City shall provide the permittee with one permit sticker for each approved permit. Such sticker shall display the City Seal, name of permittee, bin number, expiration date, and such other information as required by the City of Warwick. The sticker shall be placed in a conspicuous place in front of the bin that is installed on the permitted property. The City will provide replacement stickers for \$5 should the original sticker become damaged, fall off or disappear.

§ 32-12. Location; management; maintenance.

A. Location Restriction. The City shall not grant an application for a permit to place, use, or employ a collection bin if it determines that the placement of the bin could constitute a safety hazard. If a permitted bin is moved outside or away from the property area for which the permit was originally designated, or to such a location where it poses a safety hazard, the City Building Official may notify the permittee of said violation. Upon receipt of said notice, permittee has twenty-four (24) hours to rectify the violation or move the bin back to its original location. Failure to address the violation within twenty-four (24) hours will result in a fine, as indicated in Section § 32-13.

B. Management; insurance and maintenance and requirements.

- (1) The permittee must provide proof to the Building Department of a certificate of liability insurance of at least \$1 million for each permitted bin.
- (2) The permittee must maintain the aesthetic presentation of the bin, including fresh paint, readable signage and general upkeep; and includes regular collection of donated goods.
- (3) The permittee must provide the property owner or owner's agent with a telephone number for requests to respond to bin maintenance complaints.

1 (4) The permittee must maintain a telephone number that is answered by a live person
2 and has an answering machine, and, at a minimum, return messages the next business
3 day.

4 (5) The permittee must maintain regular business hours, and respond to bin maintenance
5 complaints within twenty-four (24) hours of receiving notification during regular
6 business hours. Should the permittee receive a complaint outside regular business hours,
7 the aforementioned twenty-four (24) hour response period will begin to toll the following
8 business day.

9 (6) Permittee must remove graffiti within seventy-two (72) hours following notice of its
10 existence.

11 (7) If a bin becomes damaged or vandalized, it shall be repaired, replaced or removed
12 within five days of receipt of notice of such condition, unless damage is such as to
13 constitute a danger to persons or property, in which case it shall be made safe within
14 twenty-four (24) hours of notice of such condition.

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16 C. Information and label requirements.

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18 The front of every collection box shall conspicuously display the following:

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20 (1) The name, address, telephone number, and, if available, the Internet web address of
21 the owner and operator of the collection box.

22 (2) A statement, in at least two-inch typeface, that either reads, "This collection box is
23 owned and operated by a for-profit organization," or "This collection box is owned and
24 operated by a nonprofit organization."

25 (3) For purposes of this article, a commercial fundraiser shall be classified as a for-profit
26 organization.

27 (4) If the collection box is owned by a nonprofit organization, the front of the collection
28 box shall also conspicuously display a statement describing the charitable cause that will
29 benefit from the donations.

30 (5) If the collection box is owned by a for-profit entity, the front of the collection box
31 shall also conspicuously display a statement that reads "This donation is not tax
32 deductible." If the collection box is owned and operated by a commercial fundraiser, the
33 commercial fundraiser may post notice of donations to a charitable cause only on the
34 sides of the box. Such notice may not be larger in font size and cover area than the for-
35 profit entity's name and address that is posted on the box's primary area, the front, and/or
36 shall constitute less than twenty-five percent (25%) of the notice space of the box.

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38 § 32-13. Violations and penalties.

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40 A. In addition to any other penalties or remedies authorized by the laws of this state or City, any
41 person who violates any provision of this article shall be subject to penalties for each violation,
42 which may include:

43
44 (1) Unpermitted placement of a collection bin.

45 (2) Failure to respond to maintenance requests pursuant to this article.

46 (3) Failure to maintain collection bins pursuant to this article.

1 (4) Failure to adhere to placement and removal provisions pursuant to this article.

2 (5) Failure to adhere to all permit requirements pursuant to this article.

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4 B. All collection bins shall be serviced in accordance with the service information provided on
5 the permit application and within this article. In the event that property is placed outside of the
6 bin, or the permittee is found to have committed any of the violations as listed in the previous
7 section, the operator and owner, excluding the City, shall be given notice by the City building
8 official. The operator and/or owner shall within forty-eight (48) hours of the notice from the
9 building official clean the area. Upon failure to comply with the removal within forty-eight (48)
10 hours, a notice of violation from the building official shall be delivered to the operator and
11 owner, excluding the City, and the matter shall be referred to the Warwick Municipal Court.

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13 (1) A fine in the amount of twenty-five dollars (\$25.00) per day shall be imposed for
14 each day succeeding the initial forty-eight (48) hours for which the violation remains.

15 (2) In the event that a second violation of the failure to clean the area within forty-eight
16 (48) hours of notification occurs the fine shall be in the amount of fifty dollars
17 (\$50.00) per day for each day succeeding the initial forty-eight (48) hours for which
18 the violation remains.

19 (3) In the event that a third violation of the failure to clean the area within forty-eight
20 (48) hours of notification occurs, the bin permit shall be revoked and the operator and
21 owner, excluding the City, shall be given notice that the bin must be removed from
22 the property within seventy-two (72) hours. The building official shall remove the
23 permit from the bin, shall seal the opening of the bin to prevent further deposits and
24 shall place a notice on the bin that the permit has been revoked and no further
25 deposits are to be made in the bin.

26 (4) Upon failure to comply with the removal of the collection bin within seventy-two
27 (72) hours a notice of violation shall be delivered to the operator and owner,
28 excluding the City, and the matter shall be referred to the Warwick Municipal Court.
29 A fine in the amount of one hundred dollars (\$100.00) per day shall be imposed for
30 each day succeeding the initial 72 hours for which the violation remains.

31 (5) The operator and the owner, excluding the City, shall be jointly and severally liable
32 for any costs incurred by the City of Warwick as a result of the failure to properly
33 maintain and service a bin, including but not limited to costs incurred relative to
34 cleanup of goods or rubbish in close proximity to such bin.

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36 C. If a permittee is found to have willfully violated or ignored the provisions of this article, or is
37 found to have perpetrated fraud regarding the operation and use of the collection bin, the
38 permittee shall be fined and will be deemed ineligible to place, use or employ a collection bin
39 pursuant to this article, and may have any or all bins removed by the City.

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41 § 32-14. Enforcement. The Municipal Court of the City of Warwick shall have jurisdiction to
42 enforce this article and to decree such relief, inclusive of fines and penalties and injunctive relief,
43 such as to fulfill the terms of this article.

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45 § 32-15. Additional violations; penalties.

1 A. In addition to any other penalties or remedies authorized by the laws of this state or City, any
2 person who violates any provision of this article shall be subject to a penalty of one hundred
3 dollars (\$100.00) for each violation, which includes:

- 4
5 (1) Unpermitted placement of a collection bin.
6 (2) Failure to respond to maintenance requests pursuant to this article.
7 (3) Failure to maintain collection bins pursuant to this article.
8 (4) Failure to adhere to placement and removal provisions pursuant to this article.
9 (5) Failure to adhere to all permit requirements pursuant to this article.

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11 B. If a permittee is found to have willfully violated or ignored the provisions of this article, or is
12 found to have perpetrated fraud regarding the operation and use of the collection bin, the
13 permittee shall be fined and will be deemed ineligible to place, use or employ a collection bin
14 pursuant to this article, and may have any or all bins removed by the City.

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16 § 32-16. Abandonment; notice of determination.

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18 A. The City shall have the authority to determine if a collection bin has been abandoned by its
19 owner. Abandonment of a collection bin may be determined when contents are not regularly
20 emptied, when contents litter the ground surrounding the bin, maintenance of the bin has not
21 been performed, the owner fails to renew permits or renewal applications and/or other violations
22 as described in § 32-13 of this article.

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24 B. Upon a determination by the City that a collection bin is abandoned, the City shall mail a
25 notice of the determination to the owner of the collection bin by certified and regular mail to the
26 address set forth in § 32-12 of this article, or to a registered agent of the owner as filed with the
27 Rhode Island Secretary of State. The notice shall be mailed to the address last provided to the
28 City by the owner. If no response or action is taken by the owner within ten (10) business days of
29 the mailing of the notice, the City may seek an order from the Municipal Court to relocate, reuse,
30 recycle, or discard the collection bin.

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32 Section II: This Ordinance shall take effect immediately upon its passage.

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34 SPONSORED BY: COUNCILMAN RIX

35 COMMITTEE: ORDINANCES
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