

City of Houston, Texas, Ordinance No. 2023-151

AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, AND THE HOUSTON BUILDING CODE (CHAPTER 1 OF THAT VOLUME OF THE CITY OF HOUSTON CONSTRUCTION CODE KNOWN AS THE CITY OF HOUSTON BUILDING CODE) RELATING TO THE REGULATION OF DONATION STATIONS; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, the City Council passed an ordinance regulating donation boxes on May 5th, 2021; and

WHEREAS, both a donation station and a donation box are donation receptacles intended as drop collection points for accepting donated textiles, clothing, shoes, books, toys, dishes, and other salvageable items of personal property; and

WHEREAS, a donation station is greater in volume than a donation box and includes additional features not required of a donation box, including video monitoring and a connection to power production equipment; and

WHEREAS, donation stations that exceed the size limits for obtaining a donation box permit from the Department of Administration and Regulatory Affairs have proliferated in various places throughout the City of Houston (“the City”); and

WHEREAS, unpermitted donation stations attract dumping and the disposal of household items that exceed the capacity allowed for donation boxes, which can pose an immediate adverse effect upon the public health and safety without further regulatory requirements; and

WHEREAS, the City Council finds it necessary to enact regulations addressing the placement, maintenance, operation, and use of donation stations in the City to prevent nuisance, blight, and unsanitary and dangerous conditions resulting from the use of donation stations; and

WHEREAS, it is necessary to amend the City of Houston Building Code to allow for the efficient construction and maintenance of donation stations without the necessity of obtaining a work permit; and

WHEREAS, the City Council finds it necessary to adopt this ordinance for the health, safety and welfare of the general public and for the protection of landowners and residents of the City; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. That Article XIX of Chapter 28 of the Code of Ordinances, Houston, Texas, is hereby retitled to read as follows:

"ARTICLE XIX. DONATION BOXES AND DONATION STATIONS"

Section 3. That Section 28-631 of the Code of Ordinances, Houston, Texas, is hereby amended by adding new definitions placed in alphabetical order that read as follows:

"Donation station means any unattended, video-monitored donation receptacle connected to power production equipment and intended for use as a drop and collection point for accepting donated textiles, clothing, shoes, books, toys, dishes, and other salvageable items of personal property.

Power production equipment means electrical generating equipment, including, without limitation, a solar photovoltaic stem or fuel cell system, supplied by any source other than a utility service, generator, or building electrical source.

Section 4. That Section 28-632 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 28-632. Unlawful placement or maintenance of donation box or donation station.

It shall be unlawful for any person to place or maintain a donation box or donation station at any location within the city unless done in accordance with a valid permit as provided in this article."

Section 5. That Section 28-633 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 28-633. Unlawful to allow unpermitted donation box or donation station on real property.

It shall be unlawful for any person who owns, leases, is in control of, or possesses real property within the city to authorize or allow any donation box or donation station to be placed on, or remain on, that real property unless done in accordance with a valid permit as provided in this article."

Section 6. That Chapter 28 of the Code of Ordinances, Houston, Texas, is hereby amended by renumbering Section 28-634 as Section 28-635.

Section 7. That Chapter 28 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Section 28-634 to read as follows:

"Sec. 28-634. Unlawful occupancy of a donation station.

It shall be unlawful for any person to occupy a donation station as living quarters."

Section 8. That Section 28-641 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(a) To obtain a permit to operate a donation box or donation station, an applicant must file an application with the administrator. A single application may cover multiple donation boxes or donation stations that are owned and operated by the applicant. The administrator may promulgate such application provided that an application must include the following information:

- (1) The applicant's name, telephone number, mailing address, electronic mail address, and street address, if different from the mailing address, and the same information for each landowner and operator, if different from the applicant. For applicants who are individuals, a government-issued identification document or similar proof of legal right to work in the state of Texas shall be required. Applicants transacting business in Texas must provide proof of such right to transact business in Texas;
- (2) Proof that the applicant owns the real property upon which the operator will place the donation box or donation station. Or, if the applicant does not own the real property upon which the donation box or donation station will be placed, written permission by the landowner or an authorized agent

of the landowner to place the donation box or donation station as proposed in the application;

- (3) A site plan or map drawn to scale showing the exact placement of the donation box or donation station on the proposed site;
 - (4) A service plan for each donation box or donation station. The service plan shall include information regarding which days and the time of day the items will be collected, and other requirements described under section 28-651(16) of this Code;
 - (5) A description of the size, color, and design of the donation box or donation station, and the type of material from which the box or donation station is constructed;
 - (6) A list of any other donation boxes located on the same property as the donation box or donation station that is the subject of the application;
 - (7) Proof of required insurance;
 - (8) A declaration of compliance with other laws; and
 - (9) Any other information that may be reasonably requested by the administrator.
- (b) To obtain a permit to operate a donation station, an applicant must file additional information with the administrator. An application for a permit to operate a donation station must include the following information:
- (1) A description of the video monitoring system attached to the station, including the number and location of security cameras attached to the station;
 - (2) A description of the lighting units used to illuminate the area surrounding the station, including the candlepower of the lighting units and the location of the lighting units attached to the station;
 - (3) A description of possible points of access to the station for persons with disabilities; and
 - (4) A description of the power production equipment attached to the station.

- (c) Any change in the information listed in subsection (a) of this section shall require a supplement to the application, and must be reported by the permit holder to the administrator within ten days after the change. Failure to supplement the permit application as required by the administrator invalidates the permit issued under the original application. The administrator may require a permit holder to reapply for a permit if information provided in the original application changes. The administrator may promulgate procedures and regulations regarding the requirement to supplement any change in the information listed under subsection (a) of this section.
- (d) A separate permit shall be required for each donation box or donation station regardless of the ownership thereof. Permits issued under the provisions of this article shall be valid only at the address stated on the permit.
- (e) A nonrefundable annual permit fee for each donation box or donation station, as stated in the city fee schedule, shall be required. Each permit shall expire on the one-year anniversary of the date of issuance unless revoked under this article. The annual donation box or donation station permit fee shall not be subject to the administrative fee requirement in section 1-14 of this Code.”

Section 9. That Section 28-642 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

- “(a) The administrator shall issue a permit after receipt of a completed application if all requirements have been met. If not all requirements for issuance of a permit have been met, the administrator shall deny the permit application. The administrator shall issue notice of the denial to the applicant within a reasonable time.
- (b) After issuance of a permit, the administrator shall issue a decal to the applicant to place on the donation box or donation station. This decal shall remain affixed to the donation box or donation station and visible on the outside of the donation box or donation station for the entire duration of the permit. Failure to maintain a visible decal on a donation box or donation station may constitute a violation and invalidation of a permit issued under this section. It shall be unlawful for a person, other than an employee of the city authorized to administer this article, to remove a decal from a donation box or donation station.

- (c) An applicant may appeal a decision to deny a permit application in the same manner as for revocation of a permit under section 28-643 of this Code.”

Section 10. That Section 28-643 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

- “(a) Permits and decals are nontransferable.
- (b) The administrator may revoke a permit for any of the following reasons without refund of any portion of the required fee:
 - (1) The information provided in the application is materially false, incorrect, or incomplete;
 - (2) The permit was issued through error;
 - (3) The permit holder has failed to comply with any applicable provision of this article; or
 - (4) The use of the donation box, donation station, or permit has been discontinued for a continuous period of 180 days.
- (c) Revocation of a permit for a single donation box or donation station does not affect the validity of permits granted for other donation boxes or donation stations with the same landowner or operator.
- (d) In the event that the administrator determines pursuant to this article that a permit holder is no longer eligible for a permit, or the administrator otherwise revokes the same, the permit holder shall be given notice in writing of the reasons for the revocation by the administrator. A permit holder may appeal the decision of the administrator regarding the revocation by filing a written request for a hearing with the administrator within 20 calendar days after he is given notice of the revocation. The permit holder's written request for a hearing shall set out the grounds on which the revocation is challenged. The administrator's decision on the revocation shall be final unless the permit holder has timely filed such an appeal. An appeal shall not stay the administrator's decision on the revocation. The hearing shall be conducted by a hearing officer appointed by the administrator within 30 calendar days after receipt of a request. At the hearing, the permit holder may present any evidence relevant to the proceedings, in accordance with reasonable rules adopted by the administrator and approved by the city attorney. The hearing officer shall give written notice to the permit holder of

his findings as to whether or not the permit should be revoked and the reasons therefor. The notice shall be sent by certified mail, return receipt requested, as soon after the conclusion of the hearing as practicable but in no event more than 30 calendar days thereafter. The decision of the hearing officer shall be final.

- (e) If a permit is revoked by the administrator for violation of this article, it shall not be reissued within the one-year period following the date that the permit was revoked.”

Section 11. That Section 28-644 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“The applicant must agree, as a condition of his permit, to indemnify and hold harmless the city, its officers, agents, contractors, and employees against any loss, liability or damage, including expenses and costs for bodily injury and for property damage sustained by any person, organization or entity resulting from the applicant's operation of a donation box or donation station, or resulting from the city's abatement of a violation or emergency nuisance under this article.”

Section 12. That Division 3 of Article XIX of Chapter 28 of the Code of Ordinances, Houston, Texas, is hereby retitled to read as follows:

“DIVISION 3. DONATION BOX AND DONATION STATION REQUIREMENTS”

Section 13. That Section 28-651 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Each donation box and donation station in the city shall comply with the following requirements:

- (1) Current contact information for the operator of the donation box or donation station shall always be displayed on the donation box or donation station.
- (2) A valid decal shall be posted on the donation box or donation station and shall be visible from the right-of-way at all times.
- (3) Each donation box or donation station shall indicate, in clearly legible writing, the types of items accepted for donation, and that all

donations must fit into and be placed within the donation box or donation station.

- (4) No donation box or donation station shall be placed in the city's right-of-way.
- (5) At least one parking space shall be provided for use of persons accessing the proposed donation box or donation station. The donation box or donation station shall not block any parking space required under this Code or any other law.
- (6) A donation box or donation station shall only be located on a paved surface.
- (7) A donation box or donation station shall not be placed less than 25 feet from the adjacent right-of-way.
- (8) No donation box or donation station shall be permitted in a required landscape buffer or building setback, drainage easement, floodplain, driveway, utility easement or fire lane.
- (9) No donation box or donation station shall be permitted in a visibility triangle described in section 42-161 of this Code.
- (10) No donation box shall exceed 120 cubic feet in volume or have a footprint that exceeds 50 square feet, about the size of an average business waste receptacle. A donation station shall be 1,360 cubic feet in volume and have a footprint of 160 square feet.
- (11) No more than one donation box or donation station shall be placed on a single property except that two donation boxes may be permitted on a property with more than 300 feet of road frontage. Where two donation boxes are placed on the same property, they shall be arranged side-by-side with no more than 12 inches of separation. For the purposes of this paragraph a shopping center, strip center, office park, or other similar commercial property operated with common access and shared parking or interconnected parking areas is considered a single property. No more than one donation station shall be placed on a single property.
- (12) No donation box or donation station shall constitute a hazard for drivers on nearby roadways.
- (13) A donation box or donation station shall not impede traffic or pedestrian travel, nor materially impair any motor vehicle operation within a parking lot, driveway, or street.

- (14) A donation box shall be made of metal or other material that will reduce the possibility of arson, degradation resulting from exposure to the elements, and vandalism. A donation station shall be made of steel.
- (15) All donated materials shall fit into and be placed inside the donation box or donation station. The collection or storage of any materials outside the container is strictly prohibited.
- (16) Each landowner and operator of a donation box or donation station shall be responsible for collecting the contents of the donation box to prevent overflow and littering as part of the service plan required under section 28-641(a)(4) of this Code. Each landowner and operator shall keep the real property within 25 feet of the donation box or donation station free of trash, debris, donations, clothes, furniture, and any other materials related to or resulting from operation of the donation box or donation station.
- (17) Each operator shall at all times maintain commercial general liability insurance with coverage of not less than \$1,000,000.00. The City shall be listed as an additional insured on any such policy.
- (18) Each donation box or donation station shall comply with all applicable state and federal laws, including but not limited to section 17.922 of the Texas Business and Commerce Code.”

Section 14. That Section 28-652 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

- “(a) The structural and visual integrity of a donation box or donation station must be maintained at all times.
- (b) The permit conditions must be met at all times during the term of the permit.
- (c) A donation box or donation station shall not be used for solicitation or collection of anything other than clothing and household items.
- (d) Compliance with the requirements of this division must be continuously maintained.”

Section 15. That Chapter 28 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Section 28-653 to read as follows:

“Sec. 28-653. Additional requirements for donation stations.

Any donation station must:

- (a) be monitored 24 hours per day by a security camera system attached to the station;
- (b) be equipped with exterior lighting fixtures of sufficient intensity to illuminate the surrounding area of the station, at an illumination of not less than six foot-candles (65 lux) as measured at five feet above ground level; and
- (c) only be operated with power production equipment that is a storage battery, charged primarily with a solar panel; provided, however, in case of inclement weather or other conditions that inhibit the ability of the solar panel to fully recharge the battery, a charging device may be utilized for such purpose.”

Section 16. That Section 28-656 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

- “(a) Whenever the administrator is made aware of the existence of a donation box or donation station that is in violation of this article, the administrator shall issue a notice of the violation and a written order to remove or abate the violation within five business days of the mailing or personal delivery or publication or posting. The notice shall be sent to the landowner and operator of the donation box or donation station in the manner provided for notice under section 10-452 of this Code, provided that notice shall not be required prior to an abatement of an emergency nuisance described in section 28-657 of this Code. Any required notice under this subsection shall also be given in compliance with the applicable provisions of section 342.006 of the Texas Health and Safety Code, as amended.
- (b) If a landowner or operator fails to remove or abate a violation of this article within five business days of the administrator's mailing or personal delivery or publication or posting of notice of the violation, then the city shall be authorized to carry out any and all abatement, which includes, but is not limited to, the following actions:
 - (1) Taking reasonable measure to remedy the violation;
 - (2) Revoking any permit issued for that donation box or donation station as prescribed under section 28-643 of this Code; or

- (3) Ordering the removal and impoundment of the donation box or donation station.
- (c) Any donation box or donation station placed or maintained on real property without consent of the landowner or any donation box or donation station that blocks the right of way shall be subject to removal and impoundment by the city, provided that notice under subsection (a) of this section shall not be required prior to removal or impoundment.
- (d) For any abatement that is carried out by the city under this section, the city may assess its expenses related to such abatement, including applicable overhead expenses, and place a lien on any real property on which the donation box was placed. After determining the amount of expenses and charging the same against the applicable landowner or operator, the administrator shall certify a statement of such expenses and shall file the same with the county clerk of the county in which the premises or real property is located. Upon filing such lien with the county clerk, the city shall have a privileged lien, inferior only to tax liens and liens for street improvements, to secure the expenditure so made.
- (e) If the city has removed a donation box or donation station under this section, and the landowner or operator or their designee has not retrieved the donation box or donation station and paid the city's expenses described in subsection (d) of this section within 30 days after removal, the city may dispose of the donation box or donation station without providing further notice."

Section 17. That Section 28-657 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

- "(a) If an administrator determines that a donation box or donation station is maintained in a manner or condition prescribed in this section, the administrator may, without providing the notice required under section 28-656(a) of this Code, take immediate action to abate the nuisance, including removal of the donation box or donation station.

Each of the following is an emergency requiring immediate action to protect the public health or safety, is declared a nuisance subject to abatement, and is hereby prohibited and made unlawful under this section:

- (1) A donation box, donation station, or any area within 25 feet of a donation box or donation station that is a breeding place for flies because of the unsafe/unsanitary condition of the donation box, donation station, or its contents;
 - (2) The presence of ectoparasites, including bedbugs, lice, and mites, suspected to be disease carriers in a donation box or within 25 feet of a donation box or donation station because of the unsafe/unsanitary condition of the donation box, donation station, or its contents;
 - (3) The accumulation or collection of any water, stagnant, flowing, or otherwise, in a donation box, donation station, or within 25 feet of a donation box or donation station, in which the mosquito breeds or which may become a breeding place for mosquitoes;
 - (4) The presence of well grown mosquito larvae, or of pupae, in a donation box, donation station, or within 25 feet of a donation box or donation station, because of the donation box or donation station;
 - (5) A donation box or donation station that is defective and allows leakage or spilling of contents;
 - (6) A condition of a donation box or donation station, including any structural defect of the donation box or donation station, that may injuriously affect the public health;
 - (7) The deposit or accumulation of any foul, decaying, or putrescent substance or other offensive matter in a donation box or within 25 feet of a donation box or donation station;
 - (8) A donation box or donation station, harboring rats or other vermin; and
 - (9) The detectible presence of urine or the presence of feces, vomit or other bodily fluids in a donation box, donation station, or within 25 feet of a donation box or donation station.
- (b) Not later than the tenth business day after the date of abatement under this section, the administrator shall give notice thereof to the landowner and operator in the manner provided for notice under section 10-452 of this Code. The landowner or operator may request a hearing within 20 calendar days after he is given notice of the abatement under this section by filing a written request for a

hearing with the administrator. The hearing shall be scheduled not later than 30 calendar days after receipt of the request for a hearing and shall be conducted by a hearing officer appointed by the administrator for the purpose of determining whether the conditions qualified for abatement under the terms of this section. The hearing officer's decision shall be final.

- (c) A landowner or operator who violates this section is guilty of a misdemeanor punishable by a fine up to \$2,000.00. Each day any violation continues shall constitute and be punishable as a separate violation of this article.
- (d) For any abatement that is carried out by the city under this section, the city may assess its expenses for such abatement and place a lien on any real property on which the donation box or donation station was placed in the same manner as under section 28-656(d) of this Code.
- (e) If the city has removed a donation box or donation station under this section, and the landowner or operator or their designee has not retrieved the donation box or donation station and paid the city's expenses described in subsection (d) of this section within 30 days after removal, the city may dispose of the donation box or donation station without further notice."

Section 18. That Section 105.2 of the Volume of the *City of Houston Construction Code* known as the *City of Houston Building Code*, consisting of the *2015 International Building Code*, as published by the International Code Council, as modified by the document entitled *Houston Amendments to the 2015 International Building Code*, is hereby amended by adding a new Subsection 19 to read as follows:

"19. Donation stations not greater than 160 square feet (14.86 m²) and donation boxes not greater than 50 square feet (4.65 m²) as defined in Chapter 28 of the City Code."

Section 19. That the City Council of the City of Houston, Texas, hereby approves the following fee pursuant to Section 24-641 of the Code of Ordinance, Houston, Texas:

Name	Description	Statutory Authority	Amount
Donation Box Permit Fee	Donation Box Permit - means any unattended donation receptacle intended for the drop off and collection point accepting donated textiles, clothing, shoes, books, toys, dishes, and other salvageable items of person property.	Chapter 28, Article XIX, Section 28-641(e)	\$55.00
Donation Station Permit Fee	Donation Station Permit - means any unattended, video-monitored donation receptacle that is connected to power production equipment intended for use as a drop and collection point for accepting donated textiles, clothing, shoes, books, toys, dishes, and other salvageable items of personal property.	Chapter 28, Article XIX, Section 28-641(e)	\$55.00

The Director of Finance shall incorporate this fee into the City Fee Schedule.

Section 20. That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, (the "Code") to make such nonsubstantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance, and also to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

Section 21. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 22. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 1st day of March, 2023.

APPROVED this 1st day of March, 2023.



Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is _____.

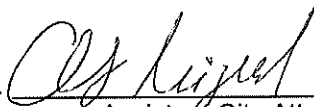
City Secretary

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Prepared by Legal Dept.

AS:kro 02/23/2023

Requested by Director Tina Paez, Department of Administration and Regulatory Affairs

L.D. File No. 0000000099



Assistant City Attorney

Meeting 3/01/2023

Aye	No	
✓		Mayor Turner
....	Council Members
✓		Peck
✓		Jackson
✓		Kamin
Absent out of City on City Business		Evans-Shabazz
✓		Martin
Absent due to being ill		Thomas
✓		Huffman
✓		Cisneros
✓		Gallegos
✓		Pollard
✓		Castex-Tatum
✓		Knox
Absent on personal business		Robinson
✓		Kubosh
Absent out of City on City Business		Plummer
✓		Alcorn
Caption	Adopted	

Captions Published in DAILY COURT REVIEW
 Date: 8/7/2022