

ORDINANCE #2018-2133

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA, AMENDING CHAPTER 12, ACCESSORY USES; CREATING A NEW SUBSECTION 12.16.00 OF THE LAND DEVELOPMENT CODE, ENTITLED DONATION BINS; PROVIDING DEVELOPMENT STANDARDS FOR DONATION BINS; PROVIDING ZONING DISTRICTS IN WHICH DONATION BINS MAY BE LOCATED; PROVIDING MAINTENANCE REQUIREMENTS; AMENDING SECTION 2.01.00, DEFINITIONS, TO ADD A DEFINITION FOR "DONATION BIN"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, many areas of the City have had a proliferation of donations bins, often without property owners' permission, including those located on public property;

WHEREAS, current Land Development Code does not have specific standards relating to unattended donation bins;

WHEREAS, current Land Development Code contains no standards or permitting procedures for site location, number of bins, signage, maintenance, or security of donation bins;

WHEREAS, donation bins have become a nuisance in many locations within the City; and

WHEREAS, the New Port Richey City Council finds it necessary to implement these regulations to promote the health, safety, and welfare of the citizens of New Port Richey.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW PORT RICHEY, FLORIDA:

SECTION I. Chapter 12 of the Land Development Code, pertaining to accessory uses, is hereby amended to add Section 12.16.00, pertaining to donation bins, as follows:

12.16.00. Donation Bins

1. Applicability. The requirements of this Section apply to donation bins, as defined herein. This Section shall not apply to primary principal use recycling operations and donation facilities in permanent structures. Nothing herein shall guarantee that a donation bin may be sited on a parcel that does not meet requirements or provisions below.
2. Zoning Districts. Unless otherwise stated in this Code, donation bins may be permitted in accordance with this Code on commercial properties zoned C-1, Light General Commercial District, C-2, General Commercial District and Highway Commercial District, and industrial properties zoned LI, Light Industrial District and commercial or industrial portions of PDD, Planned Development Districts.
3. Permit Required. No donation bin shall be placed, relocated or allowed on any property unless and until the applicant has obtained a Donation Bin Permit, subject to annual renewal, as provided in this Section.
 - A. Application. In order to obtain a Donation Bin Permit, the applicant shall file with the Development Department, in writing, the following information:

- (1) A completed Donation Bin Permit application on a form provided by the City in accordance with this Section;
- (2) A site plan showing the location of the proposed donation bin, all required on-site parking and all existing or proposed improvements on the building site;
- (3) Documentation of ownership of the property or written consent of the property owner or legal designee to establish the donation bin if the property owner is not the applicant; and
- (4) Information as to the manner and schedule for which each donation bin will be emptied and maintained.

B. Renewal. A Donation Bin Permit renewal is required, annually, for each donation bin, and the application for the same shall include the following:

- (1) An affidavit that all information and the statements in the original application continue to be true and correct unless identified therein; and
 - (2) Any information required by Subparagraph A of this Subsection that has changed in any way.
4. Location Requirements. All donation bins shall be located only upon improved, level, paved surfaces which constitute part of a larger developed and occupied non-residential site in a zoning district designated in Subsection 2 of this Section. No donation bin shall be allowed on any site that is developed but unoccupied. No donation bin shall be placed in the right-of-way or in an easement. Each donation bin must be affixed to the paved surface upon which it is located in such a manner that in the event of severe weather, the bin is not overturned or moved. All donation bin sites shall have adequate driveway access and maneuverability to accommodate service vehicles and loading vehicles in accordance with Chapter 11 of this Code. If more than one donation bin is located on a property, each donation bin shall be arranged side-by-side and may not be separated by more than 12 inches.
 5. Maximum Number. Only one (1) donation bin shall be allowed per parcel, except that one (1) additional donation bin may be permitted if the parcel or lot has more than 300 feet of road frontage.
 6. Construction Standards. The receiving door on each donation bin must be oriented toward the interior of the site and away from the public right-of-way. Each donation bin must be enclosed by use of a receiving door or safety chute to prevent vandalism and locked so that the contents of the bin cannot be accessed by anyone other than those responsible for the retrieval of the contents. No donation bin shall exceed 25 square feet in area or seven (7) feet in height, unless the same is a semi-tractor trailer.
 7. Setbacks. All donation bins shall be placed so as to be at least thirty (30) feet from any residential use or residential district boundary, twenty-five (25) feet from any right-of-way, and five (5) feet from any other property line.
 8. Landscaping. Donation bins shall not encroach on any required landscape buffer, and no required landscaping shall be removed to install a donation bin.

9. Signs. Signs shall be permitted on two sides of the donation bin, provided that one of the two sides must be the front or depositing side. Signs shall be limited to (five) 5 square feet per side and shall only advertise the donation bin's permittee, and if applicable, benefitting organization. Each donation bin shall be clearly marked to identify the name and telephone number of its responsible operator. The permit number shall be displayed on the donation bin as provided in the Donation Bin Permit. Each donation bin shall include the following warning, on the depositing side of the bin, in conspicuous and clear all capital lettering at least six inches (6") high:
- "WARNING. ANY PERSON LEAVING ANY ITEM AT THIS SITE THAT IS NOT FULLY CONTAINED WITHIN THIS DONATION BIN SHALL BE SUBJECT TO PENALTIES AND PROSECUTION FOR ILLEGAL DUMPING".
10. Non-charitable bins. Any donation bin operated by a person or entity other than a non-profit charitable permittee shall include the following statement on the depositing side of the bin, below the bin chute, in conspicuous and clear lettering at least two inches (2") high:
- "[Permittee name] is not a charitable organization. The materials deposited in the bin are not re-used by any charitable organization but are instead recycled and re-sold for profit, and are not tax deductible contributions."
11. Parking and Travel Lane Design. No donation bin shall be located so as to occupy or block access to any parking space that is needed to meet the minimum number of parking spaces for the principal use on the site, as required by Section 11.05.00 of this Code. For attended semi-tractor trailers or other temporary structures, a loading and unloading drive through area shall be provided with a minimum of three (3) waiting spaces (including the car being served). One employee parking space shall be provided.
12. Indoor Donation Bins. Notwithstanding any other requirement of this Section, donation bins may be located within a principal building or structure without further review or regulation. Donation bins also may be located within a parking garage provided that all parking and travel lane design requirements of this Section are met.
13. Outdoor Display or Storage. No outdoor display or storage of materials, or donated or deposited items, associated with any donation bin shall be allowed. All activities associated with the donation bin shall be conducted within the same. No processing of donated or deposited items shall take place on site where any donation bin is located. All donated items shall be located entirely within the donation bin.
14. Nuisance Prohibited. All donation bins shall be maintained in a manner so as not to constitute a nuisance with regard to odor, noise, rust, or other environmental effects. Donation bins shall be regularly emptied of their contents so that materials and donations do not overflow. The appearance of donation bins shall at all times be maintained to be rust-free, properly painted, have legible signage, and clean. The area surrounding the donation bin shall be free of any junk, garbage, trash, debris, donations, or refuse of any kind. The permittee and property owner where the donation bin is located shall be individually and jointly responsible for abating and removing all garbage, trash, debris and other refuse material in the area surrounding any donation bin.
15. Responsibility and Liability. The owner of the donation bin, the permittee, and the owner of any private property upon which a violation of these regulations occur may be held individually and severally responsible and liable for such violation. Violations of these regulations may result in the denial of a donation bin renewal permit or revocation of an existing donation bin permit. Any violation of this Section shall be subject to the imposition of a fine in accordance with the City's applicable fine ordinance.

SECTION II. Section 2.01.00, Definitions, of the New Port Richey Land Development Code is amended to add the following definition thereto:

Donation Bin: Any stationary, mobile or free-standing container, receptacle, trailer or similar device located on property and used for the solicitation and collection of recyclable or donated items, including without limitation clothing, books, shoes or other non-perishable personal property. This term does not include bins used for the solicitation and collection of donated items associated with a special event, provided the bin is removed when the special event ends.

SECTION III. If any phrase or portion of this Ordinance, or the particular application thereof, shall be held invalid or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases and their application shall not be affected thereby.

SECTION IV. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall be codified and made a part of the New Port Richey City Code, and that the sections of this Ordinance may be renumbered to accomplish such codification, and that the word Ordinance may be changed to "section" to accomplish such codification.

SECTION V. This Ordinance shall become effective 180 days from its adoption.

The above and foregoing Ordinance was read and approved on first reading at duly convened meeting of the City Council of the City of New Port Richey, Florida this _____ day of _____, 2018.

The above and foregoing Ordinance was read and approved on second reading at duly convened meeting of the City Council of the City of New Port Richey, Florida this _____ day of _____, 2018.

ATTEST:

Judy Meyers, City Clerk

Rob Marlowe, Mayor-Council Member

APPROVED AS TO FORM

By: _____
Timothy P. Driscoll, City Attorney