

AN ORDINANCE AMENDING CHAPTER 8 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; PROVIDING FOR AMENDMENTS TO THE CITY'S BUILDING AND CONSTRUCTION REGULATIONS; ADOPTING DONATION CONTAINER STANDARDS; 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;

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 City Council desires to establish regulations that will help ensure that future development is safe, orderly, and visually appealing; and,

WHEREAS, the City Council desires to amend the building and construction 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 of the City of Killeen Code of Ordinances is hereby amended to add the following:

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 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.

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 to locate a donation container within the City without first obtaining a permit from the City.
- (b) To obtain a permit, a person must:
 - 1. Provide a site plan indicating the location where the donation container will be placed and the dimensions of the container;
 - 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
 - 3. Affirm that the donation container will comply with all requirements of this article.
- (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 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 closer than three hundred (300) feet from another 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, 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.

Sec. 8-536. – Construction.

(a) Donation containers must:

- 1. Be constructed of metal, fiberglass, or wood;
- 2. Be labeled “no dumping” and also indicate the name, address and telephone number of organization and party responsible for collection;
- 3. Be secured at all times, except when they are being emptied;
- 4. Have a lid or a top to protect the contents from the weather;
- 5. Be no larger than one hundred and fifty (150) cubic feet.

Sec. 8-537. – Maintenance.

- (a) The area around the donation container shall be kept free of any junk, debris or other materials and shall be emptied often enough so that donations do not overflow.
- (b) 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.
- (c) The City shall give the permit holder seventy-two (72) hours written notice to clear any debris. If the debris is not cleared, the City may clear the debris 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 of the property on which the container is located shall be given written notice that they have thirty (30) days to obtain a permit. If the operators or owners do not apply for a permit, the operators or owners have thirty

- (30) days to remove the donation containers or the property owners may give the City permission to remove the donation containers.
- (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) If the City removed the donation container, the property owner or the operator shall be billed the removal and storage costs.~~
 - ~~(e)~~(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).
 - ~~(f)~~(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(c).

Sec. 8-539. – Permit revocation.

- (a) 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.
- (b) The donation container must be removed within seven (7) days of the permit revocation or appeal hearing, as applicable. ~~If not removed within seven (7) days, the City may have it removed and the operator or property owner shall be billed the removal and storage costs.~~
- ~~(c) Any impounded donation container not claimed within thirty (30) days after impoundment may be destroyed without further notice from the City.~~

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.

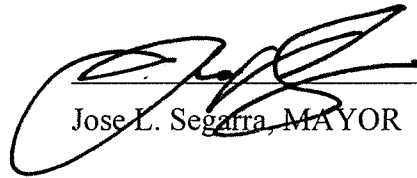
SECTION III. That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

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 27th day of April, 2021, 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



Jose L. Segarra, MAYOR

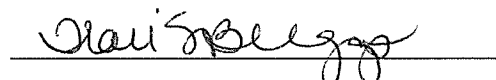


ATTEST:



Lucy C. Aldrich, CITY SECRETARY

APPROVED AS TO FORM:



Traci S. Briggs, CITY ATTORNEY

CITY COUNCIL MEMORANDUM FOR ORDINANCE

DATE: April 20, 2021
TO: Kent Cagle, City Manager
FROM: Tony McIlwain, Exec. Dir. Of Planning and Development Services
SUBJECT: Donation Container Standards

BACKGROUND AND FINDINGS:

The purpose of the proposed ordinance is to establish standards and regulations for new and existing donation containers within the City limits with the goal of preventing the unsightly accumulation of debris surrounding donation container boxes. If approved, the proposed ordinance will require the owner or operator of a donation container box to obtain a permit prior to location of a donation container within city limits. In order to obtain a permit for a donation container box, the owner or operator must be a nonprofit 501(c)(3) organization located within the City of Killeen. In addition to requiring a permit, the proposed ordinance places limitations on the placement, construction, and maintenance of donation container boxes.

Per the Council's motion of direction on April 6th, staff has made the following changes to the ordinance:

- The language regarding the area around the donation container has been changed to permit the donation of "large bulky donation items that do not fit inside the container."
- The language regarding emptying the containers has been changed to require them to be emptied at least once every 2 weeks, and large items to be picked up within 24 hours.
- The language about the City billing property owners for the cost of removing donation containers has been removed.

THE ALTERNATIVES CONSIDERED:

The City Council has three (3) alternatives: The Council may:

- Do not adopt the ordinance;
- Adopt the ordinance with amendments; or
- Adopt the ordinance as presented.

Which alternative is recommended? Staff recommends adoption of the ordinance as it was presented to the Council on April 6th.

Why? Staff finds that removing the language about keeping the area around the containers free of junk and debris is counter to the intent of the proposed ordinance.

CONFORMITY TO CITY POLICY:

The proposed ordinance conforms to all City policy.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

None.

Is this a one-time or recurring expenditure?

This is not applicable.

Is this expenditure budgeted?

This is not applicable.

If not, where will the money come from?

This is not applicable.

Is there a sufficient amount in the budgeted line-item for this expenditure?

This is not applicable.

RECOMMENDATION:

The Planning & Zoning Commission recommended approval of the proposed ordinance by a vote of 4 to 2 with Commissioners Gukeisen and Sabree in opposition.

DEPARTMENTAL CLEARANCES:

This item has been reviewed by the Planning and Legal staff.