

AN ORDINANCE TO AMEND CHAPTER 13 OF THE CITY CODE REGARDING CLOTHING DONATION BINS.

#4146

Sponsors:

**Council
President
Gregory**

**Council
Member
Chukwuocha**

WHEREAS, a variety of organizations have, over time, expressed interest in placing clothing donation bins throughout the City of Wilmington ; and

WHEREAS, in establishing Sec. 13-9 of the City Code pursuant to Ordinance No. 14-021, the Wilmington City Council on June 19, 2014 affirmed the need for the City to regulate the placement of such clothing bins; and

WHEREAS, more than a year following the City’s initial regulation of clothing donation bins, legislative improvements have been identified, and the City Council seeks to make such amendments to enhance the capacity of the City to carry out this task.

THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Chapter 13 of the City Code is hereby amended by deleting the stricken language and by adding the underlined language as follows:

Sec. 13-9 – Clothing Donation Bins

- (a) It shall be unlawful for any individual, business or other organization to place a clothing donation bin out to the public for people to drop off clothing, unless a permit to use such bin is first obtained from the city's department of licenses and inspections.
- (b) The annual permit fee is ~~\$25.00~~100.00 per bin. An expiring permit may be renewed upon application and payment of a renewal fee of \$25.00 per bin.
- (c) In order to obtain a permit, the applicant must submit an application with fee to the department of licensing and inspection that contains the following information:
 - (1) The applicant's name, business name, and business address (no P.O. box addresses).
 - (2) Whether the applicant is an individual, a partnership, a corporation, or another entity, and, if another entity, a full explanation and description thereof.
 - (3) If the applicant is an individual, the applicant's residence address. If the applicant is a partnership, the full name and residence of each partner. If the applicant is corporation, the full name and residence of each major officer and director, and the name and address of the registered agent.
 - (4) A description of the bin to be covered by the permit, accompanied by a still color photograph of such bin.
 - (5) The address, parcel number and any other identifying information of the property on which the bin is to be located.

- (6) If the applicant is not the legal owner of the property upon which the bin is to be located, documentation evidencing the consent of the legal owner, in the form of a signed letter from the property owner to the City of Wilmington affirming consent.
 - (7) ~~If applicable,~~ A copy of the applicant's city business license, which must be obtained by the entity seeking to obtain a clothing bin permit prior to making such an application, and must remain in good standing upon each renewal application for a clothing bin permit.
- (d) Clothing donation bins located within the city shall comply with the following requirements:
- (1) The bin shall be placed on a concrete or other paved surface and appropriately located so as not to constitute a safety hazard and not interfere with required setbacks, landscaping, and parking, and any other requirements that may have been imposed as part of a site plan approval.
 - (2) The bin shall be completely enclosed and properly secured by locked door or other security mechanism so that the clothing and other materials temporarily stored within the bin can only be accessed by the individual or entity owning and maintaining the bin.
 - (3) Each bin shall not cover a ground surface area in excess of five feet by five feet, nor be more than six feet in height.
 - (4) Each bin must be regularly emptied of its contents so that it does not overflow, resulting in used clothing being strewn about the surrounding area.
 - (5) The name and contact information of the owner/operator of the bin shall be clearly and conspicuously affixed to each bin. The permit obtained in subsection above shall also be clearly affixed to the bin for inspection.
 - (6) Each bin shall clearly and conspicuously display a notice advising of a regular collection schedule and shall be updated as necessary.
- (e) If any clothing donation bin is found to have violated any of the requirements of this section, the owner/operator of that bin and the legal owner of the property on which that bin is located (even if such owner has not granted consent to the owner/operator of the bin) shall be jointly and severally liable for any citation issued by the department of licenses and inspections as follows:
- (1) Except as otherwise specifically provided by this chapter, any person violating any order of the commissioner of licenses and inspections based on the provisions of this chapter or any provision of any rule or regulation adopted by the department of licenses and inspections and approved by the city council for the enforcement or implementation of this chapter, or violating any provision of this chapter, or any provision of any such rule or regulation, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$250.00 for each period of one to seven days of each offense of violating such order, or provision of this chapter, or provision of such rule or regulation up to a maximum fine of \$1,000.00 for each such offense, together with the costs and disbursements of prosecution. For any conviction of a violation that is the second conviction for the same violation as a previous violation which has not been corrected, the minimum fine for any person or corporation shall be not less than \$500.00 nor more than \$2,500.00; for the third

conviction not less than \$1,000.00 nor more than \$5,000.00, which shall not be suspended; for the fourth conviction \$1,500.00; for the fifth and subsequent conviction of the same violation that still has not been corrected, the minimum fine for each conviction shall be not less than \$5,000.00, which shall not be suspended. Upon conviction of a violation of this chapter, the court may order the defendant to correct the violation by a date certain. If the defendant fails to correct the violation by the court ordered date, the court may impose a fine of \$50.00 per day to be calculated from the date of conviction to the date by which the court had ordered the violation to be corrected. Furthermore, if the violation is not corrected by the court ordered date, the city may seize the bin, remove it, or have it removed at the expense of the applicant and/or applicable property owner. The city is authorized to enter the property on which the bin is located for the sole purpose of removing the bin and is further authorized to sell at public auction or otherwise dispose of the bin, any clothing or other donations collected via the bin. Any proceeds obtained from the disposition of the bin or its contents may be applied towards satisfying any outstanding fines associated with the bin and/or may be donated to charitable organizations, as determined by the city.

- (2) After conviction and punishment for violation of such order of the commissioner of licenses and inspections based upon the provisions of this chapter or any provision of any rule or regulation adopted by the department of licenses and inspections and approved by city council for the enforcement or implementation of this chapter, if such person shall continue in violation of such order, such person shall be liable for further prosecution, conviction and punishment upon such same order, without any necessity of the commissioner of licenses and inspections issuing a new order until such order has been complied with. Any notice herein required shall, if mailed, be deemed to be effective upon mailing. When done in conjunction with certified or registered mail service, a copy of the notice may be posted in a conspicuous place on the premises and such a procedure shall be deemed the equivalent of personal service.
- (3) Each day's failure to comply with any order of the commissioner of licenses and inspections based upon the provisions of this chapter or the provisions of any rule or regulation adopted by the department of licenses and inspections and approved by city council for the enforcement and implementation of this chapter, and each day's failure to comply with any provision of this chapter or any such rule or regulation shall constitute a distinct and separate offense and be punishable as such.

SECTION 2. This Ordinance shall become effective immediately upon its date of passage by the City Council and approval by the Mayor.

First Reading..... January 21, 2016

Second Reading.... January 21, 2016

Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved as to form this _____
day of January, 2016.

Assistant City Solicitor

Approved this ____ day _____, 2016

Mayor

SYNOPSIS: This Ordinance amends Chapter 13 of the City Code related to clothing donation bins placed throughout the City. This ordinance increases from \$25 to \$100 the fee for an initial permit and clarifies the requirement for an entity placing a bin to hold a valid City business license. It also requires a written letter from a property owner to be submitted to the City in order for a bin permit to be issued, and adds a requirement for bin owners to post notice on each bin with a regular collection schedule. These changes are being sought to increase oversight over these bins and to ensure that they are properly placed.