

ORDINANCE NO. 2013/003

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, CREATING A NEW SECTION 46-31, REGULATING DONATION BINS AND PROVIDING FOR CERTAIN CLOTHING DONATION BINS TO BE PERMITTED UPON CERTAIN CONDITIONS; PROVIDING FOR REGULATIONS, A PERMITTING PROCESS AND IMPLEMENTATION; CONTAINING A PROVISION FOR INCLUSION IN THE CITY CODE; CONTAINING A SEVERABILITY CLAUSE; CONTAINING AN EFFECTIVE DATE

WHEREAS, the City Commission has observed a proliferation of donation bins appearing within the City; and

WHEREAS, such bins are not permitted, create an eyesore and can pose safety hazards; and

WHEREAS, the City Commission wishes to support charitable institutions which seek to raise funds through donation bins, provided the City maintains strict controls and limits the type of items which can be placed in said bins to protect the public health, and safety ;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. A new Section 46-31 is hereby created as follows:

Sec. 46-31 - Limitation on Donation Bins; Regulations

(A) Purpose.

The purpose of this chapter shall be to provide rules, regulations and standards for the limited placement and use of donation clothing bins in the City of Deerfield Beach in order to promote the public health, safety, convenience and welfare of the city. City owned recycling bins are not subject to the limitations set forth herein.

(B) Definitions.

Donation clothing bin. A receptacle or container made of metal, or other fire-resistant material designed or intended for the collection and temporary storage of donated clothing only .

Donation bin. A receptacle or container material designed or intended for the collection and temporary storage items other than clothing.

Charitable organization. Any person determined by the federal Internal Revenue Service to be a tax-exempt organization pursuant to Section 501(c)(3) which is established for any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary purpose, or for the benefit of law enforcement personnel, firefighters or other persons who protect the public safety.

Shopping center means five or more commercial establishments, planned, developed, owned and managed as an integral unit, with off-street parking provided on the property, and related in its location, size and type of shops to the trade area which the unit serves.

(C) Requirements for use of clothing bins.

Donation clothing bins shall be permitted on a limited basis and only in compliance with all of the provisions of this section, including the following requirements:

(1) The person/entity operating the donation clothing bin has obtained a valid permit from the City; and

(2) A donation clothing bin shall only be owned and operated by a charitable organization for its charitable purpose.

(3) The information as required in subsection I is clearly and conspicuously displayed on the exterior of the donation clothing bin.

(4) The clothing donated shall be provided to others as part of a bona fide charitable endeavor and no consideration shall be received in return by the person/entity collecting the clothing.

(5) The contents of the bin shall be clothing only and shall be regularly emptied at least every two weeks and not permitted to overflow to the point where the contents are visible from the outside; the ground area immediately adjacent to the bin (within three feet of the bin on all sides) shall be kept free of donated clothing or other debris..

(6) The bin shall be kept free of signs, advertising (except as specifically permitted herein), graffiti and other markings and shall be maintained in a structurally sound, clean, and sanitary condition.

(7) All other conditions of this ordinance are satisfied and there is continuing compliance with the provisions of this ordinance.

(D) Donation Bins

Donation bins are prohibited.

(E) Permit application requirements.

An application shall be filed with the City for each proposed donation clothing bin and location. The application for a permit shall include:

1. an affidavit stating the following::

(a) The precise location where the bin would be situated including a description of the business or enterprise being conducted on the property;

(b) The manner in which the applicant anticipates any clothing or other donations collected via the bin would be used, sold or dispersed, and the method by which the proceeds of collected donations would be allocated or spent;

(c) The name and telephone number of the bona fide office of the organization which has custody of the donation clothing bin and the name of the person authorized by said organization to assure compliance with this ordinance and the phone number, physical address and email address where such person can be reached during normal business hours. For the purposes of this chapter, an answering machine or service unrelated to the person or entity does not constitute a bona fide office;

(d) The name(s) and phone number(s) of the person(s) responsible for placing, emptying, and removing the bin.

(e) A statement indicating the manner in which the applicant anticipates any clothing or other donations collected via the bin would be used, sold, or dispersed, and the method by which the proceeds of collected donations would be allocated or spent.

(2) Written consent from the property owner to place the bin on their property and whether any other bins on the property. The written consent shall acknowledge that the City shall hold both the property owner and the charitable organization liable for violation of this ordinance, and

(3) The articles of incorporation of the Not For Profit Corporation, and the names of the officers of the corporation and the name, phone number, email address and physical address of the responsible person to be contacted with respect to compliance with this ordinance. There shall also be a statement that that person agrees to accept service, on behalf of the corporation, for any violations of this ordinance by certified mail at the physical address listed.

(4) The annual permit fee (new or renewal permit) is \$ 100 per bin shall be paid at time of application. Revised fees shall be established by Resolution of the City Commission. This fee shall be paid annually for each donation clothing bin established under the provisions of this ordinance.

(F) Permit renewal application requirements.

Renewal applications shall include the following:

An affidavit that all information and statements in the original application continues to be true and a description of any facts which would make any information or statement in the original application no longer true.

(G) Placement of donation clothing bins-Restrictions

The following criteria shall be applied in granting a permit and in determining if a donation clothing bin is placed in conformity with this ordinance:

(1)The City must determine that the placement of the bin would not constitute a safety hazard. Such hazards include, but are not limited to, the placement of a clothing donation bin within 100 yards of any place which stores or sells large amounts of fuel or other inflammable liquids or gases; or the placement of a bin where it interferes with vehicular or pedestrian circulation.

(2) Bins shall be secured or removed in such a manner so as to minimize the danger of such units causing damage to persons or property from high winds or severe weather conditions.

(3) It shall be the responsibility of the owner of the property upon which the bin is located and the entity which obtains the permit, to remove or properly secure the bin in the event of any hurricane warning in effect for the City of Deerfield Beach. If such action is not taken, the City of Deerfield Beach reserves the right to remove the bin.

(4) Bins shall not be located in rights of way or parking lots.

(5) No bin shall be permitted in a residentially zoned district or within 150 feet of a residential zoning district unless the building is devoted solely to a non for profit organization or club and is located on Hillsboro Blvd..

(6) No bin shall be located on a vacant lot.

(7) Donation clothing bins shall only be permitted in the following commercial settings:

- (a) it is located on the property of a retail or professional building of at least 30,000 square feet in interior space and which is not part of a shopping center, in such case only one bin shall be permitted, or
- (b) it is located on the property of a shopping center of at least 100,000 square feet in interior building size. One bin shall be allowed for each 100,000 square feet of building size, or

- (c) it is located on the premises of a not for profit entity; provided that only one bin shall be permitted on said property.

(H) Bin Structure

(1)The bin(s) shall be of the type that are enclosed by use of a one-way receiving door so that the contents of the bin(s) may not be accessed by anyone other than those responsible for the retrieval of the contents.

(2)Each bin shall not cover a ground surface area in excess of five (5) feet by five (5) feet, nor be more than six (6) feet in height. The primary color of the bin(s) shall be white.

(3) There shall be no advertisement of any kind on the bin except for the identity of the charitable organization and the purpose of the donation effort.

(I) Display of permits.

The following information shall be clearly and conspicuously displayed on the exterior of the donation clothing bin:

(1) The permit number and its date of expiration, along with a statement that a copy of the permit application is on file with the city clerk;

(2) The name and address of a.) the registered person who owns the bin; and b.) any other entity which may share or profit from any clothing or other donations collected via the bin;

(3) The telephone number of the owner's bona fide office, and, if applicable, the telephone number of any other entity which shared or profited from any clothing or other donations collected via the bin. For the purposes of this subsection, an answering machine or service unrelated to the person does not constitute a bona fide office;

(4) A statement which includes all information stated herein for a new permit and subsection 47-6(2) (for renewal permits); and

(5) The registered person who owns the bin shall report to the city clerk any change of entity or entities which may share or profit from any clothing or other donations collected via the bin no later than 30 days from the changes. Failure to provide the city clerk with said report within the 30-day period shall result in revocation of the permit.

(J) Property Owner Responsibility

The owner of the property upon which the bin is located shall share joint and several responsibility for compliance with all conditions set forth in this ordinance with the entity which owns or is in custody of the bin. The failure of the person in custody to comply with the provisions of this ordinance shall not be a defense by the property owner should there be a violation.

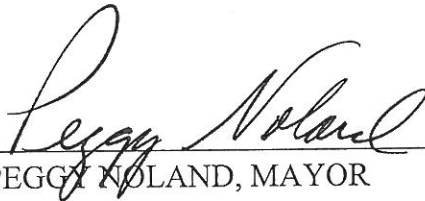
SECTION 2. It is the intention of the City Commission and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the City Code of the City of Deerfield Beach, and that the sections of this ordinance may be renumbered to accomplish such intent.

SECTION 3. Should any section or provision of this ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

SECTION 4. This ordinance shall be in full force and effect immediately upon its passage and adoption.

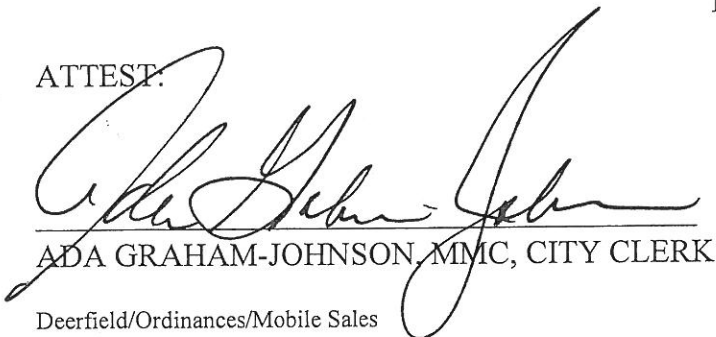
PASSED 1ST READING ON THIS 15TH DAY OF JANUARY, 2013

PASSED 2ND READING ON THIS 12TH DAY OF FEBRUARY, 2013



PEGGY NOLAND, MAYOR

ATTEST:



ADA GRAHAM-JOHNSON, MMC, CITY CLERK
Deerfield/Ordinances/Mobile Sales