

ORDINANCE STAFF REPORT



Donation Box Regulations

PC Date: 11/2/2021

Reviewer: Shelli Kerr, AICP, Comprehensive Planning Mngr

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|---------------|---|
| Type | New Regulations |
| Code Impacted | Zoning Code |
| Section(s) | Sec. 401.05 Table of Uses, Art. 601 Use Regulations |

<http://www.bentonvillear.com/198/Code-Amendments>

Proposal History

Staff presented the proposed ordinance to Planning Commission on Tuesday, Oct. 5, 2021. Planning Commission tabled the item and requested staff to consider a permit and ensure that items must fit inside the donation box. Staff prefers not to establish an entire permitting/registration process for the limited number of properties it would impact and recommends adopting the regulations so they can be enforced through code enforcement. Staff is recommending to add language to the proposed ordinance that the donation box include a sign stating that all donated items must fit completely inside the box.

Issue

Staff has received several complaints regarding the appearance and upkeep of donation boxes that have recently appeared on vacant properties near the public right-of-way. The donation boxes often become full and persons making donations set items outside of the box. The area surrounding the donation box creates unsightly conditions and becomes a nuisance.

Code enforcement has been working to identify the owners of the donations boxes to bring them into compliance with property maintenance codes. This has been a challenge since often the property owners are not aware the donation boxes have been placed on their property and the donation boxes themselves do provide contact information.



Research Findings

Staff used MuniPro to identify regulations for donation boxes. This included 14 municipalities primarily in the midwest and south, including Texas and Oklahoma. We did not find such regulations for any cities in Arkansas. This is a summary of those findings.

Purpose and Intent: Municipalities regulate donation boxes to maintain cleanliness and visual aesthetics.

Applicability/Exemptions: A few communities prohibit donation boxes outright. Some allow them only for 501(c)(3) nonprofits, and only on the same property as a 501(c)(3) nonprofit. Regulations are retroactive and apply to existing boxes.

Permit/Fees: Most regulations required a permit or registration with fees ranging from \$10-\$150.

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Zoning Districts: Allowed in nonresidential districts only. Some go further and restrict to one specific commercial district, only.

Number Limitations: Some regulations established a limit of one per lot. Others limit the number within the community per operator, anywhere between three and five. Some require spacing from other boxes.

Location Requirements: many regulations established location requirements, including: not on public property; not on vacant property; not in a required parking space; not in a setback; not in an easement; not in a front yard; not within sight distance requirements; and not within 150'/200' of one or two family residential structure.

Box Design: A few regulations included details on design, including size, material, and signage. Maximum height allowed is between 6' and 8' with a footprint no larger than 6' x 6'.

Maintenance: Boxes must be painted, remain clean and emptied frequently. Items cannot be placed outside and around the box.

Proposal

Donation boxes are beneficial to people wishing to donate unwanted items. They also provide items and services to persons in need. However, they can pose an unsightly nuisance if not properly maintained. Adopting regulations will help ensure that the donation boxes are used as intended and are properly maintained.

The regulations recommended include location, box dimensions and maintenance:

- Donation boxes allowed as an accessory use in all zoning districts upon compliance with the use regulations.
- Donation boxes be allowed only on properties that are 501(c)(3) non-profit organizations.
- The operator of donation boxes must be a 501(c)(3) non-profit organization.
- Maximum height of 6'.
- Ground footprint of 25 square feet.
- No more than two donation boxes per parcel.
- Front setback is the same as the zoning district. Side and rear setbacks are 7' (the same as the setbacks for accessory buildings). Must be at least 200 ft. from a residential structure.
- Donation boxes cannot impede traffic flow or sight visibility, cannot be placed within a required parking space, and must be on a concrete or asphalt surface.
- Donation box must include contact information and any additional signage cannot exceed two square feet.
- Donation boxes must be maintained, serviced and emptied regularly.
- **Donation boxes must contain a message that all donated items must fit completely within the donation box.**

The regulations do not require a permit at this time and will be enforced through code enforcement.

Recommendation

Staff recommends approval of the proposed ordinance.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING BENTONVILLE MUNICIPAL CODE
APPENDIX A ZONING CODE TO REGULATE DONATION BOXES.**

WHEREAS, Bentonville City Council wishes to promote the community's health, safety, and welfare; and,

WHEREAS, unattended donation boxes often become unsightly and create a nuisance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENTONVILLE, ARKANSAS:

Section 1. That the Bentonville Municipal Code, *Appendix A Zoning Code* should be and the same is hereby amended with the following *Attachment A: Donation Boxes*, an electronic copy and paper copy of which is on file with the City Clerk, is hereby referred to, adopted and made a part hereof as though it were copied herein fully.

Section 2. That this ordinance shall be in full force and effect 30 days from the date of its passage and approval.

PASSED and APPROVED this ____ day of _____, 2021.

APPROVED:

Mayor Stephanie Orman

ATTEST:

City Clerk

Attachment A
Donation Boxes
Underlined red text to be added.

Sec. 201.02 Definitions of Terms and Uses

Operator (Unattended Donation Box): Means a person, entity, association or organization who places, maintains or operates unattended donation box(es) to solicit donations of salvageable personal property.

Property owner (Unattended Donation Box): Means the person, entity, association or organization who owns the real property where the unattended donation box(es) are or are proposed to be located.

Unattended donation box: Means any unattended container, receptacle, or similar device that is located on any property, outside of a fully enclosed building, within the city used for soliciting and collecting donations including, but not limited to, clothing, books, shoes furniture, or other salvageable personal property.

Sec. 401.05 Table of uses for zoning districts.

| OTHER | Use Regs | A 1 | RE | R1 | R2 | R3 | R4 | R-C2 | R-C3 | R-MH | R-ZL | RO | DN-1 | DN-2 | DN-3 | DN-4 | C1 | C2 | C3 | DC | DE | I1 | I2 |
|---------------------|---------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| <u>Donation Box</u> | <u>601.34</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> | <u>Δ</u> |

Sec. 601.34 Unattended Donation Box. No person or other legal entity shall cause or permit the installation or placement of a donation box upon any property within the city, whether public or private, except in accordance with this section.

(a) Purpose and Intent. The purpose of this section is to regulate the placement of unattended donation boxes within the city. These procedures and requirements are enacted to:

- (1) Promote the community's health, safety, and welfare by regulating unattended donation boxes for clothing or other salvageable personal property within the city;
- (2) Ensure that unattended donation boxes do not pose a hazard to pedestrian and vehicular traffic;
- (3) Ensure that material is not allowed to accumulate outside of the unattended donation boxes where it can be scattered by adverse weather conditions, animal contacts and human activities; and
- (4) Establish criteria that avoid attracting vermin, unsightliness, and a public health hazard.

(b) Applicability. The requirements of this section shall apply to all donation boxes regardless of whether said boxes were placed prior to the effective date of these regulations. No previously placed donation boxes shall be granted any inherent legal or nonconforming status. All existing donation boxes shall be removed or brought into compliance with these regulations within 30 days of the effective date of these regulations.

- (c) **Exemptions.** These regulations do not apply to recycling bins operated by the city or a waste management company or donation boxes contained wholly within an enclosed building.
- (d) **Requirements.** Donation boxes are allowed as an accessory use in all zoning districts within the city only upon compliance with the following:
- (1) 501(c)(3) required.
 - a. All proceeds are dedicated to the use of an entity which is qualified by the Internal Revenue Service as a 501(c)(3) charitable institution, or is a governmental entity.
 - b. The donation box is located upon the premises of an entity which is qualified by the Internal Revenue Service as a 501(c)(3) charitable institution, or is a governmental entity.
 - (2) Number. A maximum of two (2) donation boxes may be located on any parcel.
 - (3) Dimensions. The donation box shall be no more than six (6) feet high, with a ground footprint of not more than twenty five (25) square feet.
 - (4) Setbacks.
 - a. Front: As required by the zoning district.
 - b. Side & Rear: The donation box shall be located at least 7' from the side and rear property lines.
 - c. Buildings: The donation box shall be located at least 10' from any building.
 - d. Residential Structures: The donation box shall be located at least 200' from any residential structure.
 - (5) Surface. The donation box shall be placed upon a concrete or asphalt surface.
 - (6) Visibility. The donation box shall be located so as not to interfere with any sight triangles or block the view of any business signage.
 - (7) Parking spaces and circulation. No unattended donation box shall be placed on or within any parking space required under Appendix A Zoning, Article 501 Parking and Loading or in any way that interferes with on-site circulation
 - (8) Signage. The total signage on each donation box shall not exceed two square feet. No advertising shall be allowed on the donation box. The donation box must include a message stating "All donated items must fit completely inside the donation box." An additional sign shall include the contact information: the name, address, e-mail and phone number of both the property owner/manager and operator. It too shall not exceed two square feet.
 - (9) Locked. Unattended donation boxes shall be locked or otherwise secured.
 - (10) Maintenance.
 - a. Unattended donation boxes shall be serviced and emptied as needed, or within 24 hours of a request by the director or his or her designee.
 - b. Unattended donation boxes shall be maintained in good condition and appearance with no structural damage or defects, holes, or visible rust, and shall be free of graffiti.
 - c. The area surrounding the unattended donation boxes shall be free of any junk, garbage, trash, debris or other refuse material.