

ORDINANCE

AN ORDINANCE AMENDING CHAPTER 8 ("BUSINESS LICENSING") OF THE OAK PARK VILLAGE CODE TO ADD A NEW ARTICLE 36 ("DONATION BOXES") TO PROVIDE FOR THE LICENSING AND REGULATION OF DONATION BOXES WITHIN THE VILLAGE OF OAK PARK

WHEREAS, the Village of Oak Park ("Village") is a home rule unit of government as provided by the provisions of Article VII, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit of government, the Village is expressly empowered to perform any function pertaining to its government and affairs, including, but not limited to, the power to regulate and license businesses within the Village pursuant to Division 42 ("Powers Over Certain Businesses") of the Illinois Municipal Code, 65 ILCS 5/11-42-1 *et seq.*; and

WHEREAS, the corporate authorities of the Village of Oak Park ("Village") find that it is in the best interest of the public to license and regulate Donation Boxes within the Village of Oak Park pursuant to the Village's home rule authority and its authority pursuant to the Illinois Municipal Code, 65 ILCS 5/11-42-1 *et seq.*, as set forth in this Ordinance.

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Oak Park, Cook County, Illinois, in the exercise of their home rule powers, as follows:

Section 1. Recitals Incorporated. The above recitals are incorporated herein by reference as though fully set forth.

Section 2. Village Code Amended. Chapter 8 ("Business Licensing") of the Village Code of the Village of Oak Park is hereby amended by adding a new Article 36 ("Donation Boxes") to read as follows:

Article 36

DONATION BOXES

8-36-1:	DEFINITIONS
8-36-2:	PERMIT REQUIRED; EXPIRATION
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8-36-11: VIOLATIONS AND PENALTIES

8-36-1: DEFINITIONS:

For purposes of this Article, the following words and combinations of words are defined as follows:

- A. DONATION BOX: An outdoor container made of metal or similar material for permanent or temporary outdoor use, designed and intended for the collection of clothing, shoes, textiles, books, electronics or other household items, for the purpose of recycling or donation.
- B. DAYS: Any reference to the term "days" set forth in this Article shall mean calendar days.
- C. DONATION BOX OWNER: Any organization, firm or other entity that owns and receives a permit to locate and operate a donation box in the Village pursuant to this Article.
- D. PERMITTEE: the donation box owner and the site host who shall each be jointly and severally responsible for compliance with this Article.
- E. SITE HOST: The lawful occupant, either by leasehold or ownership, of the property on which a donation box is located. The site host must also operate a business or other lawful activity at the site.
- F. VILLAGE MANAGER: The Village Manager or the Village Manager's designee.

8-36-2: PERMIT REQUIRED; EXPIRATION:

- A. It shall be unlawful to erect, place, maintain, operate or host a donation box without first applying for and obtaining a permit issued by the Village.
- B. The Village shall approve an application for a donation box and issue a permit therefor if such application complies with the requirements of Section 8-36-3 and Section 8-36-4 of this Article.
- C. The permit shall be issued to the donation box owner and the site host who shall be jointly and severally liable for complying with this Article.
- D. The fee for a donation box permit shall be seventy-five (\$75.00) dollars. If the donation box owner is a not-for-profit corporation, as evidenced by the proof required pursuant to Section 8-36-4(C) below, there shall be no permit fee.

- E. A permit issued for the operation of a donation box shall be valid for one year except as provided in Section 8-36-8 below.

8-36-3: QUALIFICATIONS OF PERMITTEES:

- A. In order to qualify for a permit pursuant to this Article, the donation box owner must be either:
 - 1. A public charity and/or not for-profit organization exempt from taxes under Section 501(c)(3) of the United States Internal Revenue Code, and in good standing with the State of Illinois; or
 - 2. A business in good standing with the State of Illinois, which includes a for-profit business.

- B. In order to qualify for a permit pursuant to this Article, the site host must be the owner or lawful occupant of the property where the box is proposed to be located, and must operate a business, school, church, or not for profit organization on the property. No permit shall be issued if there is no lawful business or other activity on the property.

8-36-4: APPLICATION:

An applicant for a donation box permit shall provide the following information on forms provided by the Village:

- A. The name, address, telephone number, email address and web site, if any, of the donation box owner;

- B. The name, address, telephone number and email address of a contact person who shall be responsible to respond to maintenance requests or complaints regarding the donation box and who shall accept service of any citations for a violation of this Article. The permittee shall provide the Village with updated information if the contact person's information changes;

- C. If the donation box owner claims to be a qualified not-for-profit organization:
 - 1. A copy of the determination letter issued by the Internal Revenue Service stating that the applicant is a public charity exempt under Internal Revenue Code Section 501(c)(3);
 - 2. Evidence of registration and the filing of an annual financial report with the Illinois Attorney General's Office; and
 - 3. A certificate of good standing issued by the Illinois Secretary of State.

- D. If the donation box owner is a corporation or limited liability company, the owner shall provide a certificate of good standing issued by the Illinois Secretary of State. A certificate of good standing must not be older than three (3) months at the time of application for a permit;
- E. The name, address and telephone number of the site host and a description of the business or other lawful activity conducted by the host on the property;
- F. The number of permits the donation box owner maintained in the Village, as well as the number of donation boxes hosted by the site host;
- G. The permit application must be signed by both the donation box owner and the site host who shall be jointly and severally liable for complying with this Article; and
- H. The applicant must provide proof to the Village of a certificate of general liability insurance of at least five hundred thousand (\$500,000) dollars covering the operation of the donation box. Such insurance must remain in full force and effect during the term of any applicable permit.

8-36-5: PERMIT ISSUANCE AND PLACEMENT:

The Village Manager shall be responsible for the issuance of permits pursuant to this Article and the administration of this Article. A permit sticker shall be issued for each approved permit. The sticker shall contain the information set forth in Section 8-36-4(A) above. The sticker shall be affixed to the donation box and shall be clearly visible on the box at all times. Should the sticker become damaged or removed, the Village shall issue a replacement sticker for a fee of twenty dollars (\$20.00).

8-36-6: DONATION BOX PLACEMENT RESTRICTIONS:

- A. Donation boxes shall not be placed in the public right-of-way.
- B. Donation boxes must be placed on a parking lot or paved surface on the private property of a business, church, school or not for-profit organization.
- C. Donation boxes must be placed in a location and manner that does not impede vehicular or pedestrian traffic flow.
- D. No more than two (2) donation boxes shall be permitted on any property.
- E. A donation box shall adhere to the set-back standards set forth in the Zoning Code for the site where it is placed, and shall not be placed between any principal structure and its front lot line.

- F. Donation boxes shall not be placed in a required parking space or reduce the number of parking spaces below the minimum number required by the Zoning Ordinance.
- G. Donation boxes placed on private sidewalks must allow for five (5) feet of pedestrian walkway in front of the donation box.
- H. Donation boxes shall not be placed within the clear sight area of an intersection. The clear sight area of an intersection is the area within a diamond, the corners of which are points in the centerline of each of the intersecting streets, with the sidelines being one hundred feet (100') between the centerline point, as illustrated in the diagram in Section 25-1-8(B) of this Code, as amended.
- I. Donation boxes shall not be located within ten feet (10') of a fire hydrant.
- J. Donation boxes shall not exceed seven feet (7') in height or cover a ground area of more than thirty-two square feet (32').
- K. If the donation box is owned by a not-for-profit organization, a statement must be conspicuously displayed on the front of the donation box with a minimum typeface of two inches (2") that indicates that the donation box is owned and operated by a not-for-profit organization, the name of the organization and a description of the charitable causes that the donations will benefit.
- L. If the donation box is owned by a for-profit company, the front of the donation box shall conspicuously display a statement with a minimum typeface of two inches (2") that indicates the name of company, that it is a for-profit company and that deposits are not tax deductible.

8-36-7: MANAGEMENT AND MAINTENANCE:

- A. A permittee must maintain the donation box in good working order free of rust, rot, crumbling or decay and functioning properly.
- B. A permittee must maintain the aesthetic appearance of the donation box, including fresh paint, readable signage with lettering not greater than six inches (6") in height.
- C. A permittee must collect the contents of the donation box on a regular basis.
- D. A permittee shall not allow items to remain placed around, beside, or on top of the donation box.

- E. A permittee must maintain the donation box in a watertight and animal proof condition and secured so as to prevent wind from disbursing its contents.
- F. No hazardous materials or items may be deposited or collected in a donation box.

8-36-8: VACANT SITES:

If the primary business or activity of the site host has ceased, the donation box permit shall automatically expire. In such event, the Village shall provide notice to the permittee that the permit has expired. The permittee shall have seven (7) days after service of said notice to remove the donation box from the property.

8-36-9: REMEDIES:

- A. If a permittee does not maintain a donation box in accordance with this Article, the Village may serve a notice of noncompliance to the permittee to remedy the condition of noncompliance within five (5) days of service of the notice.
- B. If a permittee fails to remedy any condition of noncompliance within five (5) days after notice, the Village is authorized to remove the donation box to a secure location. The Village shall notify the donation box owner that it must collect the donation box from the secure location within ten (10) days following service of the notice. If the donation box owner does not collect the donation box from its secure location within ten (10) days following notice, the Village is authorized to dispose of the donation box and its contents in any lawful manner. The donation box owner shall be liable for the reasonable costs of removal and disposal incurred by the Village.

8-36-10: NOTICES:

Notices provided pursuant to this Article shall be in writing and shall be sent by regular mail and email with a read receipt to the contact person provided pursuant to Section 8-36-4(B) above.

8-36-11: VIOLATIONS AND PENALTIES:

- A. Violations of this Article are punishable by a minimum fine of twenty-five (\$25.00) dollars and a maximum fine of seven hundred fifty (\$750.00) dollars. Each day a violation shall continue shall be a separate and distinct offense.
- B. In addition, if a donation box owner or site host is found to have violated the provisions of this Article on more than three (3) occasions in a calendar year, the applicable permit shall be revoked and the permittee shall be deemed ineligible to obtain a donation box permit for a period of five (5) years.

Section 2. Grace Period. The owner of any donation box located in the Village of Oak Park on the date this ordinance is adopted shall have thirty (30) days to come into compliance with the provisions of this Ordinance.

Section 3. Severability and Repeal of Inconsistent Ordinances. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Effective Date. This Ordinance shall be in full force and effect after its approval, passage and publication as provided by law.

ADOPTED this 16th day of March, 2015, pursuant to a roll call vote as follows:

Voting	Aye	Nay	Abstain	Absent
President Abu-Taleb				
Trustee Barber				
Trustee Brewer				
Trustee Lueck				
Trustee Ott				
Trustee Salzman				
Trustee Tucker				

APPROVED by this 16th day of March, 2015.

Anan Abu-Taleb, Village President

ATTEST:

Teresa Powell, Village Clerk

Published in pamphlet form this 16th day of March, 2015.

Teresa Powell, Village Clerk