

Town of Framingham Special Town Meeting October 15, 2013

ARTICLE 21



To see if the Town will vote to amend its General Bylaws by inserting a new bylaw as follows:

ARTICLE VIII, §7 REGULATION OF DONATION COLLECTION BINS

The purpose of this Bylaw is to protect the public health, safety and welfare, to address the proliferation of donation collection bins within the Town of Framingham, and provide regulations to ensure that donation collection bins are located and maintained so as to promote public safety, health and welfare, in a clean and safe condition.

7.0 Definitions

As used in this section, the following terms shall have the meaning indicated:

Donation Collection Bin – Any enclosed receptacle or container made of metal, steel, fiberglass, wood, or similar product designed or intended for the donation and the temporary storage of clothing, books or other goods and materials, which is accessible to and allows the public to deposit goods without assistance, and which is owned, operated or controlled by an entity other than the owner or lessee of the lot on which it is located.

Operator – Any person or legal entity that owns, operates or is otherwise in control of a donation collection bin in the Town of Framingham.

7.1 Prohibitions and Standards

A. It shall be unlawful for any person to place a donation collection bin within the Town of Framingham without first obtaining an annual license from the Building Commissioner as hereinafter provided. Each operator who seeks to place a donation collection bin in the Town shall complete a written application on a yearly basis on a form provided by the Building Commissioner.

A donation collection bin subject to the provisions of this chapter must have clearly identified, in writing on its face the name, address, and telephone number of the entity or organization that is maintaining the donation collection bin. No further advertising shall be permitted on the donation collection bin.

B. A license for a donation collection bin may be granted only in accordance with and subject to the following provisions, conditions and restrictions:

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ARTICLE 21 (CONTINUED)

- (1) Donation collection bin licenses may be granted only for properties owned or leased by a non-profit entity and used for non-profit purposes in Business or manufacturing Zoning Districts, but excluding the Central Business District, and churches and other houses of worship in any Zoning District. Only one donation collection bin is allowed per property, which includes all contiguous land in common ownership.
- (2) The donation collection bin shall be appropriately located so as to not interfere with sight triangles, on site circulation, required setbacks, landscaping, parking or any other zoning requirements and shall be placed on a concrete or other paved surface. The donation collection bin shall not be placed at any location directly abutting a residential property and shall comply with all setbacks for accessory structures under the Zoning Bylaws. All donation collection bins shall be properly screened from view as approved by the Building Commissioner or his designee and shall not consume any available parking spaces required for the permitting or zoning requirements of the premises where sited. The donation collection bin shall be placed such that there is safe and convenient pedestrian and vehicular access to it.
- (3) The donation collection bin shall be of the type that is enclosed by use of a receiving door and locked so that the contents of the bin may not be accessed by anyone other than those responsible for the retrieval of the contents.
- (4) Each donation collection bin shall not cover a ground surface area in excess of five feet by five feet, nor be more than six feet in height.
- (5) Each donation collection bin must be regularly emptied of its contents so that it does not overflow. Used clothing or other donated goods and materials may not be placed about the surrounding area. All donation collection bins must be maintained in a state of good repair and in a neat and clean condition, and free of trash, debris, refuse or like material.

7.2 Application for License

- A. Any person or entity desiring a license under this chapter shall file with the Building Commissioner an original and one copy of an application, submitted under oath, in writing on a form furnished by the Building Commissioner.

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ARTICLE 21 (CONTINUED)

B. The application shall set forth the following information:

- (1) The applicant's name, business name, business address and telephone number as well as the name, address and telephone number of the person or persons responsible for maintaining each donation collection bin which shall be posted on each bin as required by Section 7.1.
- (2) Whether the applicant is an individual, a partnership, a corporation or another entity, and if another entity, a full description thereof and whether the entity is a non-profit organization.
- (3) If the applicant is an individual, the applicant's residential address.
- (4) If the applicant is a partnership, the full name and address of each partner.
- (5) If the applicant is a corporation or other entity, in the case of a corporation, the full name and residential address of each major officer, the name and address of the registered agent and the address of the principle office.
- (6) A description of the donation collection bin to be covered by the license as well as the address where the donation collection bin will be located, including a site plan showing the proposed location of the donation collection bin on the property as well as existing conditions on the property.
- (7) If the applicant is not the owner of the property upon which the donation collection bin is to be located, the written notarized consent of the property owner must be attached to the application. The consent shall include the name, address, and telephone number of the owner, lessee or other person or legal entity in control of the property where each such donation collection bin shall be placed.
- (8) The regular interval schedule at which the operator or person identified in the license collects the items donated and performs regular maintenance. Said interval shall not exceed thirty days.

The Building Commissioner or his designee shall deny a license application which does not comply with the requirements of this Bylaw.

7.3 Fees

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ARTICLE 21 (CONTINUED)

- A. The application fee for a license for a donation collection bin shall be \$150.00 for each donation collection bin. The license period for each donation collection bin shall be January 1 through December 31 of each year.
- B. Upon the granting of a license, a permit issued to the applicant shall be affixed to the donation collection bins used by the license holder prior to placement of the bin. The permit shall be clearly placed on the same side of the bin as the chute used to deposit donated items. Next to the permit there shall be placed in clear lettering the name and telephone number of the operator. Upon the sale or transfer of a bin, a new license and permit shall be sought and if granted to a subsequent owner, the permit must be affixed to the bin prior to placement in service.

7.4 Applicability

- A. The provisions of this Bylaw shall apply to both existing and future donation collection bins located within the Town of Framingham. Property owners with existing donation collection bins prior to the effective date of this Bylaw shall come into compliance as follows:

(1) Within sixty days of the effective date of this Bylaw, the operator shall file an application for a license as required under Section 7.2 for each existing donation collection bin. The application shall demonstrate how the existing donation collection bin complies with this Bylaw or show the proposed changes that shall be completed to achieve compliance. Within ninety days after the effective date of this Bylaw, each existing donation bin shall be brought into compliance with this Bylaw or removed from the Town, except as provided below.

(2) For those existing donation collection bins that are located on properties in Business or Manufacturing Zoning Districts, but excluding the Central Business District, but which are not devoted to non-profit purposes as required by Section 7.1.B(1), one existing donation collection bin may continue to be located and operated on the property, provided that it can be brought into compliance with all other requirements of this Bylaw. The operator of each such prior nonconforming donation collection bin must apply for and receive an annual license as provided in this Bylaw. Upon sale of the property or the business located on the property on which such prior nonconforming donation collection bin is located, the prior nonconforming donation collection bin must be removed within ten days.

7.4 Violation, penalties and enforcement

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ARTICLE 21 (CONTINUED)

A. Any person, entity, partnership, firm or corporation violating any of the provisions of this Bylaw shall be punished by a fine of not less than \$50.00, but not exceeding \$100.00 for each individual violation.

B. Each violation of any of the provisions of this chapter and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

C. The owner, lessee, or other person or legal entity in control of the property where the donation collection bin is being maintained and the operator of said bin in violation of this Section shall be jointly and severally liable for each violation thereof.

D. The Building Commissioner or his designee may issue an enforcement order for any failure to comply with the provisions of this Bylaw.

E. The Building Commissioner or his designee shall enforce this Bylaw.

F. In the discretion of the enforcing officer, a noncriminal penalty of \$50.00 for each violation may be imposed as provided in G.L. c. 40 §21D and Article X, Section 1 of the General Bylaws.

7.5 Severability

In the event that any provision of this Bylaw shall be deemed illegal or otherwise unenforceable by a court of competent jurisdiction, then only that specific provision shall not be enforced, and all other sections shall remain in full force and effect.

Pass any vote or take any action relative thereto.

Sponsor: Board of Selectmen

October 22, 2013 Voted: That the Town amend its General Bylaws by inserting a new Bylaw, Article VIII, §7 Regulation of Donation Collection Bins, attached hereto and distributed as a handout at this Town Meeting

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ARTICLE 21 ATTACHMENT

ARTICLE VIII, §7 REGULATION OF DONATION COLLECTION BINS

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Operator – Any person or legal entity that owns, operates or is otherwise in control of a donation collection bin in the Town of Framingham.

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- (2) Whether the applicant is an individual, a partnership, a corporation or another entity, and if another entity, a full description thereof and whether the entity is a non-profit organization.
- (3) If the applicant is an individual, the applicant's residential address.
- (4) If the applicant is a partnership, the full name and address of each partner.
- (5) If the applicant is a corporation or other entity, in the case of a corporation, the full name and residential address of each major officer, the name and address of the registered agent and the address of the principle office.
- (6) A description of the donation collection bin to be covered by the license as well as the address where the donation collection bin will be located, including a site plan showing the proposed location of the donation collection bin on the property as well as existing conditions on the property.
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7.5 Violation, penalties and enforcement

A. Any person, entity, partnership, firm or corporation violating any of the provisions of this Bylaw shall be punished by a fine of not less than \$50.00, but not exceeding \$100.00 for each individual violation.

B. Each violation of any of the provisions of this chapter and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

C. The owner, lessee, or other person or legal entity in control of the property where the donation collection bin is being maintained and the operator of said bin in violation of this Section shall be jointly and severally liable for each violation thereof.

D. The Building Commissioner or his designee may issue an enforcement order for any failure to comply with the provisions of this Bylaw.

E. The Building Commissioner or his designee shall enforce this Bylaw.

F. In the discretion of the enforcing officer, a noncriminal penalty of \$50.00 for each violation may be imposed as provided in G.L. c. 40 §21D and Article X, Section 1 of the General Bylaws.

7.5 Severability

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ARTICLE 21 ADDITIONAL MOTIONS/AMENDMENTS

October 22, 2013 Failed: Public Safety Standing Committee moved: Amend Article 21 to change stated licensing fee to \$50.

**Kathleen McCarthy, Precinct 10 Chair
Standing Committee on Public Safety Chair**