

Unattended Donation Box Regulation

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Section 1

Purpose and intent.

The purpose is to regulate the placement of unattended donation boxes within the city. The procedures and requirements of this regulation are enacted to:

- A. Promote the community's health, safety, and welfare by regulating unattended donation boxes for clothing or other salvageable personal property within the city;
- B. Ensure that unattended donation boxes do not pose a hazard to public health, safety or have the potential to cause a nuisance.
- C. 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
- D. Establish criteria that avoid attracting vermin, unsightliness, and a public health hazard.

Section 2

Definitions.

- A. “Director” means the Director of Public Health as designated by the Board of Health and his/her designee of the city of Fitchburg.
- B. “Operator” means a person, entity, association or organization who places, maintains or operates unattended donation box (es) to solicit donations of salvageable personal property.
- C. “Permittee” means the property owner who is issued a permit authorizing placement of unattended donation box (es).
- D. “Property owner” 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.
- E. This Regulation encompasses the entire City of Fitchburg.
- F. “Unattended donation box” means any unattended container, receptacle, or similar device that is located on any property within the city used for soliciting and collecting donations of clothing or other salvageable personal property.

Section 3

Permit and Fees

- A. Unless otherwise exempt, it shall be unlawful and a public nuisance for any property owner or operator to place, operate, maintain or allow unattended donation boxes on real property unless the property owner first obtains a permit pursuant to this regulation and the donation box is placed, operated and maintained in accordance with all provisions in this regulation.
- B. The permit application shall be made on a form provided by the director and shall include the following information:
 - 1. The name, address, email, website (if available) and telephone number of the permittee;
 - 2. The name, address, email (if available) and telephone number of the operator of the unattended donation box.

3. A drawing sufficient to indicate the proposed location of the unattended donation box on the owner's real property, as well as the size of the proposed unattended donation box.
- C. Each application shall be accompanied by a nonrefundable processing fee in the amount of \$35.00.
 - D. Applications shall be filed with the director.
 - E. Within thirty days of receiving a completed application, the director shall issue a permit or deny the issuance of a permit.
 - F. The director shall not issue a permit unless:
 1. The applicant has submitted a complete and accurate application accompanied by the applicable fee;
 2. The proposed location and placement of the unattended donation box on the owner's real property is in compliance with all applicable laws and regulations as established in Section 5 and does not have the potential to cause an issue to endanger Public Health or have the potential to create a Public Health Nuisance.
 - G. If the director denies an application, the director shall state, in writing, the specific reasons for denial.
 - H. Permit issued hereunder shall be valid for one unattended donation box. Multiple unattended donation boxes shall have their own individual permits.
 - I. The term of the permit shall be valid from January 1 to December 31 of the following year and renewable for one year periods thereafter.
 - J. No person or operator to whom a permit has been issued shall transfer, assign, or convey such permit to another person or operator.
 - K. Prior to expiration of the permit, the permittee may voluntarily cancel the permit by notifying the director in writing of the intent to cancel the permit. The permit shall become void upon the director's receipt of a written notice of intent to cancel the permit. The applicant shall not be entitled to a refund of any of the processing fee.
 - L. Unattended Donation boxes shall not be place on any public property including sidewalks, streets or open space.

Section 4

Renewal of permits.

- A. A permittee may apply for permit renewal by submitting to the director, before the expiration of the permit, a renewal application and a nonrefundable renewal fee in an amount set by director.
- B. The director shall either approve or deny the renewal of a permit within thirty days of receipt of the complete renewal application and payment of the renewal fee.
- C. The director shall approve the renewal of a permit if he or she finds that no circumstances existed during the term of the permit, existed at the time of submission of an application for renewal, or existed at any time during the review of the application for renewal that are inconsistent with any finding required for approval of a new permit as specified in Section 3 of this regulation or that would justify the revocation of the permit as specified in Sections 5 and 6 of this regulation.

Section 5

Requirements and maintenance.

- A. A permittee shall operate and maintain or cause to be operated and maintained all unattended donation boxes located in the city as follows:
1. 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;
 2. Unattended donation boxes shall be locked or otherwise secured;
 3. Unattended donation boxes shall contain the following contact information in two-inch type visible from the front of each unattended donation box: the name, address, email, and phone number of both the permittee and operator;
 4. Unattended donation boxes approved by the director shall be issued a permit and permit number before placement on real property.
 5. Unattended donation boxes shall be serviced and emptied as needed, or within three business days of a request by the director or his or her designee.

B. The permittee shall maintain or cause to be maintained the area surrounding the unattended donation boxes free of any junk, garbage, trash, debris or other refuse material.

C. The permittee and operator shall be individually and severally responsible for abating and removing all rubbish, trash, garbage, junk, debris and any other refuse material in the area surrounding the unattended donation boxes within twenty-four hours of written or verbal notice from the director or his/her designee.

D. The permittee and operator shall be individually and severally responsible for all costs for abating and removing any junk, garbage, trash, debris and other refuse material from the area surrounding the unattended donation boxes. If after notification, the permittee fails to clean items outside the box and the City is required to clean and dispose of the items, the cost will be assessed to the permittee.

E. No unattended donation box shall be placed on required parking spaces according to Chapter 181 of the Zoning Regulations or as required by the Planning Board or any other applicable regulations of the City of Fitchburg.

Section 6

Revocation of permit, removal of unattended donation boxes and liability.

The director shall have the right to revoke any permit issued hereunder if any of the grounds upon which he or she may refuse to issue an initial permit exists. In addition, the failure of the operator or permittee to comply with the provisions of this regulation or other provisions of this regulation or other law shall also constitute grounds for revocation of the permit. The director shall provide a written notification to the permittee stating the specific grounds for revocation. Upon revocation, the unattended donation box shall be removed from the permittee's real property within thirty calendar days and, if not removed within this time period, the city may remove, store and dispose of the unattended donation box at the permittee's sole cost and expense. Upon revocation, a permittee shall be prohibited from applying for a permit for a period of one year. Any violation of the provisions of this regulation is considered a public nuisance according to M.G.L chapter 111 section 122 and subject to abatement permitted by law.

Section 7

Violation/Penalty/Enforcement

- A. Any violation in addition to remedies identifies in Section 6, which creates or as a result of which there is created and accumulations of garbage, offal, solid waste, trash, refuse, filth, waste ban material or junk on any real property is hereby declared a nuisance.
- B. Noncriminal Disposition-
- Notwithstanding the provision of Section 7A, if the permittee or operator violates any provision of this regulation any agent duly appointed and employed appointed by the Board of Health, may in their discretion penalized the operator by a noncriminal complaint filed in the District of the Housing Court pursuant to the provisions of MGL c. 40 section 21D. For purposed of such noncriminal enforcement, the penalty to apply, in the event of a violation, shall be as follow:
- a. For the first offense: \$50;
 - b. For the second offense: \$100;
 - c. For the third offense; \$200; and
 - d. For the fourth offense and each subsequent offense: \$250.

For the purposes of this subsection, an offense shall not be considered a repeat or subsequent offense unless it occurs on or affects the same property as the first offense. Each day on which a violation exists shall be deemed a separate offense.

Section 8

Appeal to Board of Health.

Any person aggrieved by the decision rendered by the director in granting or denying an application for a permit under this chapter or in revoking or refusing to renew a permit issued hereunder may appeal the decision to the board of health. The appeal shall be made by filing a written notice requesting a hearing thereof not later than ten calendar days after receiving notice of the decision of the director. The board of health shall hold a hearing on the appeal within thirty calendar days and, notwithstanding other provisions, the decision of the board of health shall be final.

Section 9

Exemptions.

- A. Unattended donation boxes located entirely within the interior of a building are exempt from the requirements of this chapter.
- B. This regulation shall not apply to any unattended donation boxes that are located on premises that are owned or leased by any religious or charitable organizations.
- C. Exemptions shall only apply to properties that are exempted by the City of Fitchburg for the purposes of local taxation.

VOTED UNANIMOUSLY TO ADOPT THE FOREGOING ON DECEMBER 4, 2014 AND ORDERS SAME PUBLISHED AND TO BE EFFECTIVE FEBRUARY 1, 2015

FITCHBURG BOARD OF HEALTH