

# REGULATION CONTROLLING DONATION BOXES

## AS A PUBLIC HEALTH NUISANCE

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BELLINGHAM TOWN CLERK

### Section 1: Statement of Purpose

Whereas Donation Boxes contribute to blight and common nuisance in that they commonly attract illegal dumping and disposal that remains unchecked for extended periods of time; and whereas, these unkempt areas contribute to harborage areas for insect and rodent infestation.

The Town of Bellingham Board of Health acting under authority granted by Massachusetts General Laws, chapter 111, section 122: Authority for Boards of Health to Regulate Nuisances hereby determines Donation Boxes to be a "Nuisance Industry" and hereby enacts the following regulations as a strict and enforceable system to curtail blight, public nuisance, and causes of potential sickness and harm.

### Section 2: Authority

This regulation is promulgated by authority granted to local Boards of Health under:

Massachusetts General Laws, chapter 111, section 31: Authority for Boards of Health to enact reasonable laws, and

Massachusetts General Laws, chapter 111 section 122: Regulations Relative to Nuisances

### Section 3: Adoption of Regulation

§3.1: These regulations are hereby adopted by vote of the Board of Health of the Town of Bellingham, Massachusetts on February 8, 2022.

### Section 4: Definitions

Controller - Any person, corporation, management agent/ agency, or other entity having or representing themselves as having authority of management of a Donation Box.

Donation Box - Any structure, container or location held out to the public as a place to drop off tangible goods and to store such goods until carted away.

Owner - Any individual, business entity, voluntary association, or nonprofit organization, which alone or jointly or severally with others:

1. Has legal title to any building, structure, and property, or
2. Has care, charge, or control of any such building, structure, or property in any capacity, including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title, or
3. Is a lessee under a written agreement where said agreement gives the lessee authority or control over the property, or

4. Is an agent, trustee, or other person appointed by the courts and vested with possession or control of such building, structure, or property.

Premises - The structure, any outbuildings or storage containers and the property specifically associated with an establishment where a Donation Box is located or proposed to be located.

Receiving Portal - That opening in the Donation Box intended as the opening for depositing donated items.

Unattended Premise Property - Any property, developed or otherwise, that does not have human attendance.

## **Section 5: Locating of Donation Boxes**

### §5.1: Restricted Zones and areas within the Town Limits:

§5.1.1: Donation Boxes shall not be permitted within any residential zoning districts.

§5.1.2: Restriction of unattended premises: A Donation Box shall not be located on an unattended premise or property.

### §5.2: Restriction as a use

§5.2.1: Primary Use: Donation Boxes shall not exist as the primary use for a property or premise.

§5.2.2: Sole Use: A Donation Box shall not be located on an otherwise vacant piece of property.

§5.2.2: Prohibition as a Continuation of Use: A Donation Box shall be removed from a property if the primary use of the property becomes vacant or if the property becomes an unattended premise.

§5.2.3: Maximum of 6 bins per establishment.

§5.2.4: Minimum lot size to be 20,000 S.F.

§5.2.5: Maximum number of permits issued in Town 50.

Anyone at this point will be grandfathered from section 5.2.4 regarding size of the lot, but in the future permits that are not up to the standard can't be transferred to a new owner at the time of a sale.

## **Section 6: Donation Boxes**

### §6.1: Materials of Construction

§6.1.1: Any Donation Box placed in the Town of Bellingham shall be constructed of metal or other durable, rodent-proof material not susceptible to degradation due to weather. Any openings for deposit, removal or other intentional access shall be designed and fitted with attached covers or door panels that close tightly enough to exclude weather, rodents, and illegal/ unauthorized access.

### §6.2: Labeling

#### §6.2.1: Controller Information:

§6.2.1.1: Contact Information: Each Donation Box placed in the Town of Bellingham shall be labeled with the name, and phone number of the Controller of the Box.

§6.2.1.2: Location: The Controller Contact Information required in this section shall be located conspicuously on the front of the donation box.

§6.2.1.3: Graphics: The Controller Contact Information required in this section shall be printed as to fill a rectangle no less than 8 1/2 inches by 11 inches and in a contrasting color to the dominant color of the container.

§6.2.2: Litter Alert:

§6.2.2.1 Litter Alert: Each Donation Box placed in the Town of Bellingham shall be labeled with the following notice:  
Depositing or Placing of Items outside this Container is Littering/ Illegal Dumping and is punishable by Fines of up to \$500.

§6.2.2.2 Graphics: The Litter Alert required in this section shall be printed near the Receiving Portal intended for depositing donated goods and shall be printed as to fill a rectangle no less than 8 inches by 11 inches.

**Section 7: Maintenance**

§7.1: Container

§7.1.1: Proper Repair: Drop Box Containers shall be maintained in proper repair with no broken handles or doors, no compromised structural elements resulting in excessive rust, holes or damaged components, no significant dents, or any other damage that may cause the Donation Box to be a contributor to blight or that makes the box difficult to access or operate.

§7.1.2: Graffiti: Donation boxes shall be maintained in proper repair and free from graffiti or other defacing marks that alter the design intended by the Controller as submitted to the Board of Health.

§7.1.3 Frequency of collections: Donation Boxes in the Town of Bellingham shall be emptied at a frequency to prevent the contents from filling the box to a condition affecting the operation of the Receiving Portal or promoting placement of donated goods outside the Donation Box.

§7.2: Maintenance of Property:

§7.2.1: Maintenance of Property: The owner of a piece of land shall be responsible for maintaining that piece of land in a clean and sanitary manner. The responsibility to correct or clean any litter, refuse or other detrimental condition created by a Donation Box or attributable to that Donation Box in the Town of Bellingham **shall fall to the owner of the property** on which that box is located.

**Section 8: Permitting**

§8.1: Permit for Locating Donation Boxes

§8.1.1: Application for permit:

§8.1.1.1- Application Form: An application for Location of a Donation Box in the Town of Bellingham shall be supplied by the Office of Inspection Services/ Division of the Board of Health.

§8.1.1.2 - Requirement for application: Any person or entity wishing to place a Donation Box in the Town of Bellingham shall complete, in its entirety, and submit an application for location of a Donation Box to the Office of the Board

of Health. All information requested on the Application shall be considered "Required".

§8.1.1.3 - Additional submissions: Additional to the completed Application for Location of a Donation Box an applicant shall submit the following.

- a) An agreement between the Controller and the property owner acknowledging the agreement listing the rules and regulations of the Town of Bellingham to place the box on the property.
- b) A plot plan showing the proposed location of the Donation Box on the property.
- c) A photo or accurate drafting of the box showing all authorized graphics on the box.
- d) An application fee as determined by the Board of Health, periodically reviewed, and adjusted by the Board and recorded and maintained in the Town of Bellingham Board of Health.
- e) Any other information deemed necessary and approved by the Board of Health and requested by the Director of Public Health.

§8.1.2: Issuance of a Permit: After the effective date of this regulation, the Board of Health of the Town of Bellingham, upon acceptance and approval of an application, will issue a "Permit for Location of a Donation Box" that will specify the name, address and approved location per the Board of Health of the Town of Bellingham or their designated agent(s).

§8.1.3: Display of a permit: Permits shall be assigned with a sticker that shall be permanently affixed to the upper right corner of the face of the registered donation box.

§8.1.4: Conditions of Permits:

§8.1.4.1 Timeliness of permitting:

§8.1.4.1.1 Proposed New Location: A "Permit for Location of a Donation Box," for a new location must be obtained prior to placing the Donation Box at a site.

§8.1.4.1.1 Existing Location: If a Donation Box exists on a site in the Town of Bellingham prior to promulgation of these regulations the Controller shall have 30 days from date of adoption of these regulations to obtain a Permit for Location of a Donation Box for that location and bring the box into compliance with these regulations.

§8.1.4.2: Term of Validity: A "Permit for Location of a Donation Box," shall be issued for a calendar year or any part thereof and shall expire on December 31 of any year. Controllers shall submit applications for renewal at least two weeks prior to expiration.

§8.1.4.3: A "Permit for Location of a Donation Box" shall be non-transferable as to applicant or location.

## **Section 9: Violations**

### **§9.1: What's considered a violation**

§9.1.1: Any items left outside the bins will be considered a violation.

§9.1.2: Items must be removed within 24 – 48 hours or a penalty will be assessed based on Section 10.

## **Section 10: Enforcement**

### **§10.1: Authority to Enforce**

The Bellingham Department of Inspection Services, the Board of Health , the Bellingham Police Department, and their designated agents are hereby authorized to enforce this code.

§10.2: Orders - Upon a finding of a violation of the provisions of this section the enforcement officer shall serve notice of the violation as an "Order to Correct." Such notice shall be served by Mail, Email or in person to:

4. The Owner or Controller at address as provided on the Application for Permit to Locate a Donation Box, or,
5. To the Address as depicted on the Donation Box, or,
6. To the owner as listed with the Town of Bellingham Office of the Assessor's; or,
7. If no contact can be confirmed, Notice of Violation shall be satisfied by posting of the "Order to Correct" on the Donation Box for not less than seven (7) consecutive days.

§10.3: Penalties: In addition to other enforcement available to Boards of Health, any person who violates any provision of Chapter 3 of the Town of Bellingham Board of Health Code of Regulations shall be fined according to the following schedule:

#### **§10.3.1: 1st offense**

In the case of a first violation, the violating person, or permit holder and his/ her agent(s) or other person not in compliance with all the provisions of this regulation shall receive a fine of one hundred dollars (\$100.00).

#### **§10.3.2: 2nd offense:**

In the case of a second violation within 2 calendar years of the first violation, the violating person, or permit holder and his/ her agent(s) or other person not in compliance with all the provisions of this regulation shall receive a fine of two hundred dollars (\$250.00).

#### **§10.3.3: 3<sup>rd</sup> offense:**

In the case of a third violation within 2 calendar years of the first violation, the violating person, or permit holder and his/ her agent(s) or other person not in compliance with all the provisions of this regulation shall receive a fine of three hundred dollars (\$500.00).

§10.3.4: 4th offense:

In the case of a fourth offense within 2 calendar years of the first violation the violating person or permit holder and his/ her agent(s) or other person not in compliance with all the provisions of this regulation shall have their permit immediately revoked and the controller ordered to remove the Donation Box from the Town of Bellingham within 5 business days.

§10.3.5: Periods of Suspension: During any periods of suspension the Controller of any Donation Box shall remove the Box from its permitted location and store it in a location not accessible to public access.

§10.4 Right of the Town to Effect Repairs

§9.4.1: Failure to correct a Violation: Whenever a property owner or Controller fails, neglects, or refuses to make repairs or take other corrective actions specified in the order, the Town of Bellingham Board of Health officials may undertake such corrections or actions; or may remove the nuisance; or take other action the Town Official or enforcement officer determines is necessary to prevent public nuisance, prevent causes of blight, preserve the public comfort of life, and curtail potential causes of public harm or potential causes of sickness.

§10.4.2: Removal of the Donation Box:

§10.4.2.1: Petition to Remove: Whenever a property owner or Controller fails, neglects, abandons, or refuses to make repairs or take other corrective actions specified in the order, the Town of Bellingham Agent authorized to enforce this code may petition the Board of Health acting under authority of MGL ch. 111 §125, to remove the Donation Box from the site, hold the Donation Box for no less than 30 days and thereafter dispose of the Donation Box; or take any other action the Board deems appropriate.

§10.4.2.2: Hearing: Upon petition to the Board of Health to remove a Donation Box the Board shall set a time and location to hear the matter. -

§10.4.2.3: Notification: The owner, Controller and, if applicable, the person who filed the complaint will be notified at least 5 days prior to the hearing (consecutive days). The notification will include:

- The location of the Hearing.
- Date of the Hearing.
- Time of the Hearing, and
- The purpose of the Hearing.

§10.4.2.4: Board of Health Determination: Following a hearing, the Board of Health will issue a finding. A written record of this determination will be served upon the defendant.

§10.4.3: Recovery of Costs - When the repairs are made or other corrective actions are taken by the Town of Bellingham, the cost of such repairs (which "costs" are understood to include all technical, administrative, and/or professional fees to accomplish these repairs and/or corrective actions) plus any and all court costs and attorney fees for administration, processing, and/or

prosecution of the collection of these costs shall constitute a debt in favor of the Town against the owner(s) of the repaired property. In the event that the owner(s) fails, neglects, or refuses to pay the Town the amount of the debt within thirty (30) days of the receipt of the notice of the debt, the Town may place a lien on the property for such debt and/or may initiate a civil action against the owner in a court of competent jurisdiction to recover the debt.

§10.5: Right to Appeal:

§10.5.1: Appeal of actions of the Enforcement Officer: Any person aggrieved by an order or other action of any agent in enforcing this regulation may appeal in writing within seven days (consecutive days) to the Board of Health.

§10.5.2: Appeal of a decision of the Board of Health: Upon issuance of a determination of the Board of Health, any person aggrieved by such determination may seek relief there from in any court of competent jurisdiction, as provided by the laws of this Commonwealth.

**Section 11: Severability**

If any provisions of these regulations are declared invalid or unenforceable, the remaining provisions shall not be affected thereby but shall continue in full force and effect.

As voted and approved

By the Bellingham Board of Health on

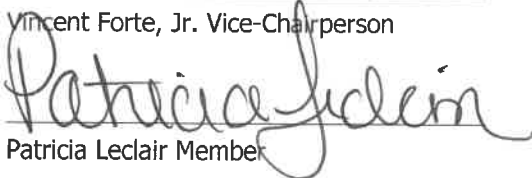
This day of 8th February 2022



Kelly McGovern Chairperson



Vincent Forte, Jr. Vice-Chairperson



Patricia Leclair Member

The provisions of this section are effective immediately upon passage and all provisions shall be enforced immediately.