Donation Container
Application and Requirements

Online Permitting using MyPermitNow (MPN) for Donation Containers Effective July 26, 2016.

Permit Application Requirements

- It shall be unlawful to locate a donation container within the City or within 5,000 feet outside of the City limits without first obtaining a permit from the City.
- A sketch is required when applying for a permit indicating the location where the donation container will be placed and the dimensions of the container.
- A letter from the property owner, property manager, or person who has a right to possess the property, indicating that the donation container may be placed on the property and acknowledging that they will be held responsible for maintenance of the area around the donation container is required when applying.
- Only nonprofit charitable organizations that serve the local community and have obtained a determination letter pursuant to 26 USC 501 (c)(3) may obtain a permit once compliant with all requirements. A copy of determination letter is required when applying.

Apply

Customer Portal

For additional information on donation containers, the ordinance is attached below.

ORDINANCE NO. 16-062-00

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF LEANDER BY ADDING ARTICLE 6.08, DONATION CONTAINERS, TO CHAPTER 6, HEALTH AND SANITATION, REGARDING THE PERMITTING, LOCATION AND CONDITION OF DONATION CONTAINERS; PROVIDING FOR ABATEMENT; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS ($2,000.00); PROVIDING FOR SEVERABILITY, SAVINGS, OPEN MEETINGS AND EFFECTIVE DATE CLAUSES; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, combating illegal dumping and refuse is a rightful concern of the City of Leander, Texas ("City");

WHEREAS, the City has experienced a growing problem with illegal dumping occurring at or around "donation containers" located within the City's jurisdiction;

WHEREAS, many donation containers are not regularly collected, causing unsightly overflow; and

WHEREAS, "donation containers" continue to proliferate within the City's jurisdiction;

WHEREAS, people leaving used items at donation containers often leave items outside of said containers resulting in unsightly and sometimes unhealthy conditions;

WHEREAS, used items left at donation containers are frequently broken, torn or soiled items that otherwise constitute trash, rubbish or junk;

WHEREAS, Section 217.042 of the Texas Local Government Code authorizes a home rule municipality to define and abate nuisances within the corporate limits of the municipality and in the extraterritorial jurisdiction within 5,000 feet outside the city limits;

WHEREAS, the City Council of the City finds that the unregulated location and operation of donation containers negatively impacts property values and the health, safety and welfare of the community; and

WHEREAS, the City Council of the City further finds it to be in the public interest to amend the Code of Ordinances of the City by adopting regulations regarding the permitting, location, operation and condition of donation containers within the City and surrounding areas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEANDER, TEXAS THAT:

Section 1. <u>Findings of Fact.</u> The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. <u>Amending Chapter 6, Health and Sanitation, Leander Code of Ordinances by adding Article 6.08, Donation Containers.</u> Article 6.08, Leander Code of Ordinances, is hereby added to read as follows:

ARTICLE 6.08 DONATION CONTAINERS

Sec. 6.08.001 Definitions

1. Donation container means any box, structure, container, trailer or other receptacle, whether permanently or temporarily affixed or placed on real property, that is intended for use as a collection point for clothing, other household materials or other new and/or used personal property to be donated to a charitable organization; the term does not include recycle bins or any donation container located within a building.

2. *Building* means a commercial building lawfully occupied by a business or charitable organization pursuant to a valid certificate of occupancy.

3. *Person* includes an individual, sole proprietorship, corporation, association, nonprofit corporation, partnership, joint venture, limited liability company, estate, trust, public or private organization that is not a state agency, business trust, public corporation, or any other legal or commercial entity.

4. *Recycle Bin* means a receptacle used for the collection of recyclable materials governed or regulated by the City's zoning code.

Sec. 6.08.002 Permit Required

(a) It shall be unlawful to locate a donation container within the City or within 5,000 feet outside of the City limits without first obtaining a permit from the City.

(b) To obtain a permit, a person must show:

1. A sketch indicating the location where the donation container will be placed and the dimensions of the container;

2. Be the property owner, property manager, or person who has a right to possess the property, indicating that the donation container may be placed on the property and acknowledging that they will be held responsible for maintenance of the area around the donation container; and

3. That the donation container will comply with all requirements of this Article.

(c) Only nonprofit charitable organizations that serve the local community and have obtained a determination letter pursuant to 26 USC 501 (c)(3) may obtain a permit to locate donation containers within the City or within 5,000 feet outside of the City limits.

(d) Permits are non-transferable.

Sec. 6.08.003 Placement

(a) Donation containers shall not be located within any residential zoning district.
(b) No more than one donation container may be located on a single platted lot or unplatted tract of land.

(c) A donation container shall not be located closer than 300 feet from another donation container even if located on different tracts of land or lots.

(d) A donation container shall not be located within ten (10) feet of the travelled portion of any street, road or highway or placed in a manner that blocks driveways, interferes with traffic flow or visibility.

(e) A donation container shall not be located within any right-of-way or easement dedicated to and/or owned by any governmental entity.

(f) A donation container shall not be located at any location the City determines:

1. May pose a safety hazard to the public;

2. Constitutes an obstruction to traffic entering, exiting or circulating within the property on which the donation container is located;

3. Constitutes an obstruction to pedestrian traffic using any public sidewalk; or

4. Constitutes an obstruction to the flow of surface water on the property such that surface water will be diverted to other properties or otherwise inhibits or prevents surface water from draining to an existing drainage facility.

Sec. 6.08.004 Construction

Donation containers must:

1. Be constructed of metal, fiber glass or wood;

2. Labeled "No Dumping" and also indicate the name, address and telephone number of the organization and party responsible for collection;

3. Be secured at all times, except when they are being emptied;

4. Have a lid or a top to protect the contents from the weather;

5. Be no larger than 120 cubic feet.

Sec. 6.08.005 Maintenance

(a) The area around the donation container shall be kept free of any junk, debris or other materials and shall be emptied often enough so that the donations do not overflow.

(b) Donation containers shall be maintained in good condition and appearance with no structural damage, holes, or visible rust. Containers shall be kept free of graffiti.

(c) The City shall give the permit holder seventy-two (72) hours written notice to clear any debris. If the debris is not cleared, the City may clear the debris and bill the property owner for the cost to abate any violation.

Sec. 6.08.006 Existing Donation Containers

(a) Operators of existing donation containers or the owner of the property on which the container is located shall be given oral notice that they have thirty (30) days to obtain a permit. If the operators or owners do not apply for a permit, the operators and the property owners have thirty (30) days to remove the donation containers or the property owners may give the City permission to remove the donation containers.

(b) If an operator or property owner cannot be reached, a letter will be mailed to either the address of the property owner listed on the appraisal district records or the address on the donation container, if available, or both. Notice shall also be posted on the donation container itself. The operator or property owner shall have thirty (30) days from the day a letter is mailed or posted on the container to obtain a permit.

(c) If the city removes the donation container, the property owner or the operator shall be billed the removal and storage costs.

(d) Donation containers located closer than three hundred (300) feet shall not be required to be moved to comply with Sec. 6.08.003(c).

(e) Notwithstanding paragraph (d) of this section, a donation container that was located less than 300 feet from another donation container that is removed from such location for more than three (3) days must be relocated to a location that complies with Sec. 6.08.003(c).

Sec. 6.08.007 Permit Revocation

(a) The City may revoke a permit for failure of the operator or property owner to comply with the requirements in this Article. The operator or owner may appeal the revocation to the City Manager or their designee within 72 hours of the revocation notice. The City Manager's or their designee's decision shall be final.

(b) The donation container must be removed within seven (7) days of the permit revocation or appeal hearing, as applicable. If not removed within seven (7) days, the City may have it removed and the operator or property owner shall be billed the removal and storage costs.

(c) A donation container impounded by the City shall be released to the owner upon the payment of an impound fee of $200.00, and a daily storage fee of $20.00 for each day in City

possession after impound. Any impounded donation container not claimed within thirty (30) days after impoundment may be destroyed without further notice from the City.

Section 3. Enforcement. The Leander Police Department, Fire Department, Code Enforcement Department or authorized designee are authorized to enforce the provisions of this Article.

Section 4. Penalty Clause. Any person convicted of violating any provision of this Ordinance shall be guilty of a misdemeanor and shall be subject to a fine in an amount not to exceed Two Thousand Dollars ($2000.00). Each and every day such violation shall continue shall be deemed to constitute a separate offense.

Section 5. Savings Clause. All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any ordinances affecting donation containers within the City which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 6. Conflicting Ordinances. All prior ordinances of the City dealing with or applicable to donation containers are hereby amended only to the extent of any conflict with the amendments set forth herein, and all ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance as adopted and amended herein are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this Ordinance and any other code or ordinance of the City, the terms and provisions of this Ordinance shall govern.

Section 7. Severability. Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

Section 8. Effective Date. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the *Tex. Loc. Gov't. Code.*

Section 9. Open Meetings. It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code.*

PASSED AND APPROVED this the 7th day of July, 2016.

ATTEST: **City of Leander, Texas**

Debbie Haile, City Secretary

Christopher Fielder, Mayor