



Legislation Text

File #: 070329, **Version:** 3

070329
SUBSTITUTE 3

ALD. BOHL, BAUMAN, DONOVAN, MURPHY AND WITKOWIAK

A substitute ordinance relating to regulation of publicly accessible collection bins.

200-33-44.5 cr

239-13 cr

This ordinance creates a permit requirement and regulations for publicly accessible collection bins. A publicly accessible collection bin is defined as any container, except any container placed by any government or government agency, that allows for any member of the public to deposit items into the container for the purpose of collection by the provider of the container.

No publicly accessible collection bin may be placed on private property unless the provider of the bin has first obtained a permit. In addition to the permit for the provider, a separate permit shall be required for each bin. The initial fee for a bin provider shall be \$500, and the fee for a bin shall be \$50. Permits shall be issued by the commissioner of neighborhood services. Bin provider and bin permits shall be renewed annually. Application for renewal of bin provider and bin permits shall be at least 60 days before the expiration date; the renewal fee for bin providers shall be \$250 and the renewal fee for bin permits shall be \$25. The fee for filing a renewal application late shall be \$25.

Upon receipt of a publicly accessible collection bin permit application and the required fee, the commissioner of neighborhood services shall inspect the bin for compliance with regulations. The commissioner of neighborhood services shall issue a bin permit upon receipt of a complete application form, required permit fees and satisfactory inspection. Permits issued by the department shall be affixed to the front of each bin.

All publicly accessible collection bins shall comply with the following provisions:

1. A bin shall be no larger than 6 feet in height by 6 feet in width by 5 feet in depth. The storage compartment of each bin shall be securely locked at all times so as to limit access by the public to the material placed inside the bin.
2. A bin shall prominently display on the front and on at least one other side of the bin, the name, address and phone number of the provider of the bin and whether the provider is a for-profit or nonprofit organization or entity. This information shall be printed in characters at least 3 inches in height.
3. A bin shall be emptied no less than once per week.
4. The provider of the bin shall maintain a general liability policy on each bin. The minimum amount of the insurance coverage shall be \$150,000 combined single limit for bodily injury, including death and property damage.
5. A bin shall be maintained in a clean condition and kept in good repair. The provider of the bin shall monitor each bin so that it is kept clean and free of graffiti and other unauthorized writing, painting, drawing, or other markings or inscriptions, and is in good repair. The provider shall

also ensure that each bin under his or her ownership or control is not used as a depository for refuse.

6. No bin shall be placed in any public place or on any street.
7. No bin shall be used for advertising or promotional purposes.
8. No bin shall be placed on any private property without written permission of the owner of the property. A copy of this agreement shall be filed with the commissioner at the time a permit application is submitted for a publicly accessible collection bin.
9. No publicly accessible collection bin shall be placed on any private property within 3 feet of any sidewalk, sidewalk area or street, or within 3 feet of a front, rear or side setback line.

Whenever a publicly accessible collection bin has been allowed to remain standing on a public place, sidewalk, sidewalk area, street, or when a publicly accessible collection bin for which no permit has been issued has been allowed to remain standing on any private property for more than 72 hours after the commissioner of neighborhood services has placarded the publicly accessible collection bin and 48 hours after mailing a notice to the provider of the bin, the bin shall be deemed to have been abandoned and the commissioner shall arrange to remove and dispose of the publicly accessible collection bin. The notice shall inform the bin provider of the manner of avoiding a declaration of abandonment and of the means of reclaiming the publicly accessible collection bin.

A bin provider may retrieve a bin by appearing during normal business hours at the designated bin holding location and paying the bin retrieval fee for the removal of the bin. The fee for retrieval of a publicly accessible collection bin from a designated holding location shall be \$250 for each bin. The commissioner may dispose of bins that have been held for 30 days or more at the designated holding facility.

A bin provider or property owner may appeal the determination of the commissioner of neighborhood services imposing charges pursuant to this code to the administrative review appeals board. Appeals filed pursuant to this section shall be filed no later than 30 days after the charges are imposed.

All publicly accessible collection bin providers as created by this ordinance in operation as of the effective date of this ordinance [city clerk to insert date] shall apply for provider and bin permits no later than March 1, 2008, and shall comply with the provisions of this ordinance no later than May 1, 2008.

Whereas, In many instances publicly accessible collections bins are placed on public and private property without permission of the City or private property owners; and

Whereas, Publicly accessible collection bins tend to become graffiti covered, trash laden or cause other public nuisances; and

Whereas, Often times these bins create problems because they obstruct sidewalks and the public way; and

Whereas, Both s. 62.11(5) Wis. Stats., and s. 4-10, Milwaukee city charter, provide that the Common Council may enact legislation for the health, safety and welfare of the citizens of the City of Milwaukee; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 200-33-44.5 of the code is created to read:

200-33. Fees.

44.5. Publicly Accessible Collection Bin Provider and Bin Permits.

a. Permits shall be issued for a period of one year beginning on May 1, and ending on the following April 30.

b-1. The permit fee for a publicly accessible collection bin provider shall be \$500.

b-2. The permit renewal fee for a publicly accessible collection bin provider shall be \$250.

c-1. The permit fee for each publicly accessible collection bin shall be \$50.

c-2. The permit renewal fee for each publicly accessible collection bin shall be \$25.

d. There shall be an additional fee of \$25 for filing a late renewal application for either permit.

e. The fee for retrieval of a publicly accessible collection bin from a designated holding location shall be \$250 for each bin.

(See s. 239-13.)

Part 2. Section 239-13 of the code is created to read:

239-13. Publicly Accessible Collection Bins.

1. DEFINITION. In this section:

a. "Publicly accessible collection bin" means any container, except any container placed by any government or governmental agency, that allows for any member of the public to deposit items into the container for the purpose of collection by the provider of the container.

b. "Publicly accessible collection bin provider" means any person, company or entity that places publicly accessible collection bins on private property to collect clothes and shoes either to give away, sell to raise money for charities or to sell for profit.

c. "Nonprofit organization" means an organization as defined in s. 101-23.7-1-c.

2. PERMIT REQUIRED. No publicly accessible collection bin shall be placed on a property unless the provider of the bin has first obtained a permit. In addition to the permit for the provider, a separate permit shall be required for each publicly accessible collection bin.

3. APPLICATION. a. An application for a new or renewal publicly accessible collection bin provider and bin permit shall be filed with the commissioner of neighborhood services on a form provided therefor. An application for renewal of a provider permit and a bin permit shall be filed at least 60 days before the expiration date.

b. The application for a publicly accessible collection bin provider permit shall require the name, address and phone number of the provider and whether the provider is a for-profit or nonprofit organization.

c. The application for a publicly accessible collection bin permit shall require:

- c-1. The name, address and phone number of the provider.
 - c-2. The name, address and phone number of an employe of the provider in charge of the bin.
 - c-3. The name, address and phone number of the owner of the property where the bin is located.
 - c-4. The name, address and phone number of the business where the bin is located, if the owner of the property is different from the owner of the business.
 - c-5. Proof of general liability insurance pursuant to sub. 7-d.
 - c-6. A copy of the written permission of the owner of the property pursuant to sub. 7-i.
4. FEES. All applications for permits issued pursuant to this section shall be accompanied by the fee specified in s. 200-33-44.5.
5. INSPECTION. Upon receipt of an application for a publicly accessible collection bin permit, the commissioner of neighborhood services shall inspect the bin for compliance with the regulations set forth in sub. 7.
6. PERMIT ISSUANCE. The commissioner of neighborhood services shall issue a publicly accessible collection bin provider permit and separate bin permits upon receipt of complete application forms, permit fees and satisfactory inspection pursuant to sub. 5. Permits issued by the department shall be affixed to the front of each bin.
7. REGULATIONS. All publicly accessible collection bins shall comply with the following:
- a. A bin shall be no larger than 6 feet in height by 6 feet in width by 5 feet in depth. The storage compartment of a bin shall be able to be securely locked at all times so as to limit access by the public to the material placed inside the bin.
 - b. A bin shall prominently display on the front and on at least one other side of the bin, the name, address and phone number of the provider of the bin and whether that provider is a for-profit or nonprofit organization or entity. This information shall be printed in characters that are at least 3 inches in height.
 - c. A bin shall be emptied no less than once per week. Whenever the commissioner of neighborhood services notifies the provider of the bin, the owner of the property or the business where the bin is located of the fact that material of the type intended to be collected in the bin has been left outside the bin, the provider, owner or business shall have 72 hours to remove the material.
 - d. The provider of the bin shall maintain a general liability policy on each bin. The minimum limit of such insurance coverage shall be \$150,000 combined single limit for bodily injury, including death and property damage. The certificate of shall be conditioned: that the provider will indemnify and save harmless the city of Milwaukee, its officers and agents against any and all injuries or property damage resulting or arising from any negligence on the part of the provider, agents, employes and subcontractors.

e. A bin shall be maintained in a clean condition and kept in good repair. The provider of the bin shall monitor each bin so that it is kept clean and free of graffiti and other unauthorized writing, painting, drawing, or other markings or inscriptions, and is kept in good repair. The provider shall also ensure that each bin under his or her ownership or control is not used as a depository for the placement of refuse. Whenever the commissioner of neighborhood services notifies the provider of the bin where the bin is located of the fact that the bin contains graffiti or refuse, the provider, owner or business shall have 72 hours to have the graffiti or refuse removed.

f. Whenever the commissioner of neighborhood services notifies the provider of the bin that the bin has been damaged or vandalized the provider of the bin shall repair, replace or remove the bin within 5 days of receipt of notice of the damage or vandalism. If the bin has been damaged or vandalized so as to constitute a danger to persons or property, it shall be made safe within 24 hours following notice of the condition.

g. No publicly accessible collection bin shall be placed on any public place as defined in s. 115-1-10, or on any sidewalk, sidewalk area or street as defined in s. 115-1-14 to 16.

h. No publicly accessible collection bin shall be used for advertising or promotional purposes, other than for the name, address and phone number of the provider and information regarding the purpose for which the bin is intended.

i. No publicly accessible collection bin shall be placed on any private property without written permission of the property owner. A copy of this agreement shall be filed with the commissioner of neighborhood services at the time a permit application is submitted for a publicly accessible collection bin.

j. No publicly accessible collection bin shall be placed on any private property within 3 feet of any sidewalk, sidewalk area or street as defined in s. 115-1-14 to 16, or within 3 feet of a front, rear or side setback line.

8. ENFORCEMENT. The commissioner of neighborhood services shall be responsible for enforcing this section.

9. REMOVAL. a. Whenever a publicly accessible collection bin has been allowed to remain standing on a public place, sidewalk, sidewalk area or street, for more than 72 hours after the commissioner of neighborhood services has placarded the publicly accessible collection bin and 48 hours after mailing a notice to the provider of the bin, the bin shall be deemed to have been abandoned and the commissioner shall arrange to remove and dispose of the publicly accessible collection bin. The notice shall inform the bin provider of the manner of avoiding a declaration of abandonment and of the means of reclaiming the publicly accessible collection bin.

b. When a publicly accessible collection bin for which no permit has been issued has been allowed to remain standing on any private property for longer than 72 hours, the commissioner of neighborhood services shall placard the bin pursuant to the procedures set forth in par. a.

c. A bin provider may retrieve a bin removed pursuant to par. a and b, by appearing during normal business hours at the designated bin holding location and paying the bin retrieval fee for the removal of the bin established in s. 200-33-44.5-e.

d. The commissioner may dispose of bins that have been held for 30 days or more at the designated holding facility.

10. APPEAL. a. Appeal of the determination of the commissioner of neighborhood services imposing charges pursuant to this code may be submitted to the administrative review appeals board as provided by s. 320-11. Appeals filed pursuant to this section shall be filed no later than 30 days after the charges are imposed.

Part 3. All publicly accessible collection bin providers as defined in s. 239-13-1-b as created by this ordinance in operation as of the effective date of this ordinance, November 9, 2007, shall apply for provider and bin permits no later than March 1, 2008, and shall comply with the provisions of this ordinance no later than May 1, 2008.

..LRB
APPROVED AS TO FORM

Legislative Reference Bureau
Date:_____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney
Date:_____

LRB07253-4
AEH
10/22/2007