

ORDINANCE No. 4, 2020

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA
AMENDING ORDINANCE 31-2019 CONCERNING COLLECTION BOXES**

Whereas, on November 25, 2019, the Valparaiso City Council approved Ordinance 31-2019 concerning the regulation of Collection Boxes with the geographical boundaries of the City of Valparaiso, Indiana (“City”);

Whereas, subsequent to its adoption and prior to formal implementation, the City Council desires to make certain technical changes to Ordinance 31-2019 to allow for better administration of the regulation of Collection Boxes;

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, AS FOLLOWS:

Section 1. That ordinance 31-2019 and Chapter 102 of the Municipal Code of the City of Valparaiso, Indiana, shall be amended read as follows:

Section 1. Definitions:

COLLECTION BOX means any container, receptacle, or similar device that is located on any parcel or lot of record within the City and is used for soliciting and/or collecting of clothing, household items, books or other salvageable personal property. This term does not include recycle bins for the collection of recyclable material, any rubbish or garbage receptacle or any Collection Box located within an enclosed building.

OPERATOR means a person who owns, operates or otherwise is in control of a Collection Box to solicit collection of salvageable personal property.

PROPERTY means a parcel or lot of record within the City of Valparaiso.

Section 2. Process, Requirements, Prohibitions:

- (A) No person or legal entity shall place or maintain a Collection Box within the City of Valparaiso unless the items collected are utilized for charitable purposes. Should a question of whether items collected are being used for a charitable purpose, the City’s Board of Public Works and Safety shall have jurisdiction to make such determination;
- (B) No person or legal entity shall place or maintain a Collection Box on any Property open to the public except when issued a permit by the Building Department;
- (C) No person or legal entity shall place or maintain a Collection Box on Property of which they are not the legal owner or tenant, unless a notarized Affidavit signed by the Property owner granting permission for the placement of the Collection Box is submitted with the Collection Box Permit Application (“Application”). For purposes of this subsection, the Affidavit may be executed by an individual who is an authorized officer, director, member or manager of the Property owner;
- (D) The Building Commissioner is authorized to prepare and promulgate forms concerning Collection Boxes including the Application and Affidavit;
- (E) A Collection Box shall not be permitted on any Property zoned or used for residential purposes;
- (F) A Collection Box shall not be permitted on any Property that has been closed or unoccupied for more than (30) days;
- (G) A Collection Box shall not exceed 6 feet in height, 6 feet in width and 6 feet in depth;
- (H) A Collection Box shall not create a visual obstruction to vehicular and pedestrian traffic;

- (I) A Collection Box shall not be placed closer than (10) feet to a paved street, a driveway, a sidewalk, the nearest easement line, the nearest property line, or the nearest right-of-way line as established by the City’s Official Thoroughfare Plan;
- (J) A Collection Box shall be located on the side or rear of the primary structure on the Property;
- (K) A Collection Box shall not be placed in required parking spaces;
- (L) A Collection Box shall not be placed on a vacant parcel of Property.
- (M) A Collection Box shall not obstruct pedestrian or vehicular circulation, nor be located in public rights-of-way, landscaped areas, drive aisles, fire lanes, loading zones, or any other location that may cause hazardous conditions, constitute a threat to the public safety, or create a condition detrimental to surrounding land uses and developments; and,
- (N) A Collection Box must be located on a hard, level surface and not within 600 feet from any other Collection Box.

Section 3. Collection Box Permit

Before the placement of a Collection Box on any Property, the Operator shall be required to apply for and obtain a Collection Box Permit (“Permit”) from the Building Department. A Permit is required for each Collection Box. For any Collection Box placed within the City prior to adoption of this Ordinance, an Application shall be filed on or before April 1, 2020. The Building Commissioner shall take steps to notify the Operators of all existing Collection Boxes concerning the adoption of this Ordinance.

Section 4. Application for a Permit

Applications shall be signed by an individual who is an officer, director, or member of the entity seeking a Permit. An Application shall contain the following:

- 1) The Operator’s name, address, email, phone number and a brief description of how the collected items are used for a charitable purpose.
- 2) Whether or not the Applicant has previously received a permit for a Collection Box in the City or currently operates a Collection Box.
- 3) The name, address, email address and phone number of a contact person accepting responsibility for all matters relating to a Collection Box.
- 4) The physical address of the Property where the Collection Box is proposed to be located.
- 5) A site plan showing the proposed location of the Collection Box, dimensions of the Collection Box and all other requirements listed in Section 5 of this Ordinance.
- 6) Elevations showing appearance, materials, and dimensions of the Collection Box.
- 7) A notarized Affidavit signed by the Property owner (or its legal designee) granting permission for the placement of the Collection Box on the Property owner’s Property;
- 8) A nonrefundable application fee of \$50.00 for each Collection Box.
- 9) Any other requested information reasonably necessary for the Building Commissioner to review the Application and determine that the Application is consistent with this Ordinance.
- 10) No permit fee shall be required for a Collection Box that is placed on Property owned by the Operator, if the items collected are used for the Operator’s specific benefit.

Section 5. Requirements for Permit

A. Maintenance Standards. An Operator shall operate and maintain all Collection Boxes located in the City, as follows:

- 1) A Collection Box shall be metal or other appropriate material as approved by the Building Department, and shall further be maintained in good condition and appearance with no structural damage, holes or visible rust and shall be free of graffiti;
- 2) A Collection Box shall be locked or otherwise secured in such a manner that the contents cannot be accessed by anyone other than those responsible for the retrieval of the contents;
- 3) A Collection Box shall have, at minimum, 2-inch type visible from the front of each Collection Box the name, address, website and phone number of the Operator. The Collection Box shall not have information, advertising or logos other than those relating to the Operator.
- 4) A Collection Box shall be serviced and emptied at least every fourteen (14) days.
- 5) No donated items or materials shall be left outside of the Collection Box.
- 6) The Operator and/or Property owner shall maintain the area surrounding the Collection Box, free from any junk, debris, overflow or other material.

B. Annual Renewal. The Operator must reapply for the Collection Box Permit on an annual basis. The renewal fee for each Collection Box shall be \$25.

C. Size. Each Collection Box shall have a firmly closing lid and shall have a capacity no greater than six cubic yards.

Section 6. Term of Permit and Renewal of Permit

- A. Each permit issued pursuant to this Ordinance shall expire on April 30 of each year regardless of when the Permit was issued; however, Permits issued after March 1 of a given year shall be effective until April 30 of the following year.
- B. A Collection Box Permits shall be renewed annually. The Application for renewal must be filed not later than April 1 of the year the Permit expires.
- C. A Permit renewal fee shall be submitted with the Application for renewal.
- D. If the Permit expires and is not renewed, the Collection Box must be removed from the Property within ten (10) days after expiration of the Permit.
- E. No Permit shall be transferred, assigned or conveyed to another person or legal entity.

Section 7. Penalties and Enforcement

Violations of the provisions of this ordinance or failure to obtain the appropriate Permit can lead to suspension or revocation of a Collection Box Permit. The Property owner and Operator shall be jointly and severally liable for each violation and for payment of any penalty.

All Collection Boxes existing within the City at the effective date of this ordinance shall apply for a Permit on or before April 1, 2020. Any Collection Box within the City that a Permit has not been requested, shall be subject to all remedies for violation as provided herein.

In the event that a Collection Box is in violation of this Ordinance; a \$50 fine shall be applied – each day of noncompliance being considered a separate violation of this Ordinance. Violation Notices shall be sent to the Operator, at the address provided on the Application, and the Property owner at the address that appears on the Application and (if different) the address listed

by the Porter County Treasurer, as to where property tax bills are sent. Absent the Collection Box being brought into conformity with this Ordinance within 30 days of Notice being sent, the City shall have the right to enter the Property for the limited purpose of removing the Collection Box. Any salvageable items from the Collection Box shall be donated to a charity. Any costs incurred by the City in the removing of the Collection Box shall become a lien against the Property and the City may avail itself of any legal remedy to collect such costs – including any court costs and legal fees incurred.

Section 2 Conflicting Ordinances. Any ordinance or provision of any ordinance of the City of Valparaiso, Indiana, in conflict with the provisions of this Ordinance is hereby repealed.

Section 3. Severability. The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

Section 4. Effective Date. This Ordinance shall be in full force and effect after its passage, approval by the Mayor of the City of Valparaiso and publication as required by law.

PASSED AND ADOPTED by the Common Council of the City of Valparaiso, Porter County, Indiana, by a _____ vote of all members present and voting, on the _____ day of March, 2020.

ATTEST:

Matthew R. Murphy, Mayor

Holly Taylor, Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana this _____ day of March 2020.

Holly Taylor, Clerk-Treasurer

This Ordinance approved and signed by me this _____ day of March, 2020 at _____ o'clock PM.

Matthew R. Murphy, Mayor