

Key Elements of an Effective Clothing Collection Bin Ordinance

SMART Association Recommendations

As a growing number of local governments propose measures that aim to regulate organizations operating clothing collection bins (herein referred to as bins) that collect unwanted clothing, shoes, textiles and other household items, the leading organization of the textile recycling industry, **Secondary Materials and Recycled Textiles Association (SMART)**, offers recommendations to local governments for the drafting of effective ordinances.

SMART is frequently approached by officials seeking language for clothing collection bin regulations. While every city has different methods for regulating local businesses, which makes it difficult to craft a one-size-fits-all approach, **SMART** has identified a number of key recommendations to achieve effective and community sensitive ordinances.

While some local governments look to simply clarify existing policies, others are discussing a limit or outright ban on the presence of bins provided to the community by for-profit entities. Unfortunately, those measures in the latter category have unintended consequences for the communities they serve. Banning or limiting the ability of for-profit textile recyclers to operate clothing collection bins severely limits contributions that private sector businesses are making to meet national economic, philanthropic and environmental objectives.

For-profit textile recyclers create tens of thousands of jobs throughout local and international communities and create a vital stream of revenue for numerous well-respected charities. For-profit textile recyclers routinely partner with local charities to collect unwanted items through the use of convenient collection bins bearing the charity's name and logo. This partnership allows the charities to share in the profit from the proceeds of collecting unwanted clothing, shoes, textiles and other household items in communities. As a number of charities have stated on the record, these arrangements provide essential, risk-free funding that is difficult to secure through other sources. Therefore, policy measures that limit for-profit textile recyclers from operating these bins would devastate many charities' bottom line.

Clothing collection bin operators and other for-profit textile recyclers also play a vital role in national recycling activities by diverting nearly 4 billion pounds of used clothing and other textiles from landfills each year. Unfortunately, as Environmental Protection Agency data show, the average household only recycles approximately 15% - a fraction of the total textile waste generated annually. This reality has prompted public officials in Massachusetts, New York City, Arizona and elsewhere to work with for-profit organizations to institute textile recycling programs. These officials understand that the unique efficiencies and infrastructure that the private sector offers are absolutely necessary to successful waste reduction efforts.

Below are recommendations provided by **SMART**:

RECOMMENDATIONS

➤ ***An effective clothing collection bin ordinance SHOULD NOT ban bins operated by for-profit recyclers.***

Broadly held misconceptions about the textile recycling industry have led some communities to consider banning bins provided by for-profits, with critics charging that some companies aren't as transparent in their charitable affiliation arrangements as they should be, that some fail to properly maintain their bins, and that donations create debris and clutter in public places. It is a reality that there are non-**SMART** member companies that do in fact merit the critiques of detractors. **SMART** member organizations have approved a robust Code of Conduct that is designed specifically to prevent these outcomes and believe that these non-compliant companies are the "bad actors" that should be weeded out by local government regulation. However, imposing outright bans on all for-profit recyclers actually threatens the public good. For example:

- Banning clothing collection bins operated by all for-profits will significantly increase the stream of textile waste in disposal sites and increase the cost to local governments to operate local landfills.
- For-profit textile recyclers create positive tax bases across the United States by creating thousands of jobs, and by creating much needed revenue streams for worthy charities nationwide. Banning bins operated by for-profit textile recyclers will eliminate these meaningful contributions.

We believe that communities should work with local industry representatives to craft measures that simultaneously address concerns and enable textile recycling to thrive.

➤ ***Ordinances SHOULD NOT impose artificial limits on the number of clothing collection bins per organization.***

While some local governments have moved to impose outright bans on bins, others have called for limits on the number of bins allowed per organization. Although bin operators *must* ensure that bins meet all applicable public zoning, health and safety standards, strict limits on the number of bins per organization means reducing the number of convenient locations for the public to donate and recycle their used clothing and household items.

➤ ***Ordinances SHOULD impose disclosure and transparency requirements on clothing collection bin operators.***

Ordinances should require bins to display helpful information for the public, local government, property owners and bin operators, including:

- Contact information (name/address/telephone/email; url) for person, business entity, or organization responsible for placing and maintaining the bin;
- A statement making clear that those dropping off goods may contact the appropriate local operator for additional information regarding the manner in which the items will be used, sold, or dispersed;
- A copy of the bin permit, if one is required, should be made available to local government officials, as requested.

- ***Ordinances SHOULD discourage the use of deceptive or ambiguous labels/logos on clothing collection bins that falsely imply an underlying affiliation with a charitable organization when one does not exist.***
- ***Ordinances SHOULD require clothing collection bin operators to obtain written consent from a property owner or owner’s agent prior to placing clothing collection bins.***

Though it is imperative that a bin operator should be required to obtain consent in order to preserve the respectability of the textile recycling industry and to uphold property rights, an “owner’s agent” should be broadly defined to include the authorized local agent at a chosen bin location. Many times large multinational corporations anchor sites where bin operators will choose to locate. It is nearly impossible to obtain a signed document from the CEO of these companies or their fiscal agent located at company headquarters. An owner’s agent should include a local property manager/agent or authorized general store manager, so that bin operators are realistically able to obtain the consent necessary, and to avoid undo and unwieldy consent thresholds.

- ***Ordinances SHOULD specify appropriate management/maintenance requirements to prevent clothing collection bins from becoming a threat to public health and safety.***

Maintenance requirements should be reasonable and realistic and should provide clothing collection bin operators the opportunity to respond to any potential issues. Requirements may be general, e.g. “Bins shall be serviced and emptied as needed or within 48 hours of a request by owner or owner’s agent.”

- Ordinances SHOULD require organizations to provide a Certificate of Liability Insurance of at least \$1 million.
- Ordinance should require bin operators to secure each clothing collection bin with a tamper proof lock.
- Ordinances should require bin operators to maintain the aesthetic presentation of the bins including fresh paint, readable signage, and general upkeep to maintain community standards.
- ***In addition it should be clearly posted on the bin that nothing should be left outside of the bin, and provide a clear and visible phone number to follow up on maintenance issues.***

- ***Ordinances SHOULD require clothing collection bin operators to provide property owners or owner’s agents with an attended, working phone number and be required to respond to any bin maintenance complaints within 24 hours of receiving notification during regular business hours.***

- ***Ordinances SHOULD provide both property owners and clothing collection bin operators important civil liability protections by:***

- Giving property owners or owner’s agent the right to rescind consent for a bin to be placed on their property, provided written notice of the rescission is given to the bin operator within a specified period of time prior to the bin being removed.

- Shielding property owners or owner’s agents from civil liability from a clothing collection bin operator for the removal of an unauthorized bin or where removal is necessary to comply with local zoning ordinances.
- Ensuring that a property owner, owner’s agent or other entity that causes the unauthorized removal of a collection bin, despite valid written consent from the property owner at the time of removal, is civilly liable to the owner/ operator of the bin.

➤ **Ordinances mandating the acquisition of permits SHOULD mandate the requirements be reasonable, affordable and manageable.**

Many communities require bin operators to obtain a permit before placing a bin. **SMART** supports the right of a community to require permits, yet the following recommendations to assure a reasonable, affordable and manageable process.

- **Information requested on a permit application SHOULD be straightforward and necessary. Examples include:**

- Contact information (name/address/telephone/email) for person, business entity, or organization applying for the permit
- Proposed location/address where the bin is to be placed
- Contact information (name/address/telephone/email) for owner or owner’s agent of location where bin will be placed
- Written consent from the property owner or owner’s agent to place the bin on his or her property
- Contact information (name/address/telephone/email) for individual placing the bin
- Information as to the manner/ schedule for which the bin is to be emptied/maintained.

- **Permitting fees SHOULD NOT be cost-prohibitive.**

- A \$25-\$50 initial processing/application fee and \$10 for each additional bin is a standard adopted by many local governments and are fees that **SMART** supports. Keeping permitting fees at a reasonable and non-cost prohibitive level will assure the availability of donation bins and increase textile recycling.

- **Permits SHOULD remain in effect for at least one year.**
- **Permitting agencies SHOULD be required to respond to applicants within a specific amount of time and provide adequate justification if a permit is denied.**
- **Organizations applying for a permit should be required to be registered with the appropriate state corporation regulatory agency.**

➤ **Local governments SHOULD provide for enforcement and abatement when certain key obligations are not met.**

Many local governments have opted to codify clothing collection bin ordinances within jurisdictional zoning provisions. **SMART** respects the ability of local government to determine the best statutory

method for regulation, yet recommends that ordinances specifically provide for tangible enforcement and penalty provision for failure to meet ordinance provisions.

Ordinances should have enforcement provisions for:

- unlawful placement of bins
- infringement on another permittee's location
- failure to remove debris, graffiti or bulk items in allotted time
- failure to respond to maintenance requests in allotted time
- violation by property owners or bin operators to adhere to permit provisions for initial location and removal of bins
- to provide for legal protections for both property owners and bin operators

SECONDARY RECOMMENDATIONS

SMART also has the following suggestions for other less critical provisions that communities may wish to include in clothing collection bin ordinances:

➤ ***Local governments may wish to include language establishing that the purpose/intent of the measure is to establish procedures and requirements that:***

- Encourage the use of clothing collection bins to provide free, easy and convenient public solutions for community textile recycling.
- Adopt textile recycling programs to reduce the amount of textile and household waste going to landfills and reduce landfill dumping fees.
- Implement these no cost private sector recycling solutions to meet local and statewide waste reduction mandates.
- Support textile collection and recycling programs that provide funding to charitable organizations and stimulate local economies.
- Ensure transparency about how these contributions will be used.
- Promote the community's health, safety and welfare.

➤ ***Local governments may wish to specify appropriate dimensions/bin specifications.***

Officials may wish to work with local industry representatives to recommend specifications that are consistent with industry standards.

- ***Local governments may wish to include a definitions section identifying key stakeholders, terminology, etc.***
- ***Local governments should endeavor to harmonize ordinance terminology with that used by other local governments when at all possible.***
 - There are many cases where it is difficult to determine the applicability of an existing clothing bin ordinance because of differences in the terminology used by various local governments to describe/define these bins (e.g. some refer to bins as “temporary structures,” while others deems them “dumpsters” or “accessory units,” etc.). This ambiguity, in many cases, makes it difficult for the bin operator and often times even for local officials to identify the appropriate requirements and may result in inadvertent ordinance violations. To address this concern, local governments when at all possible should aim to harmonize terminology with that which is being most commonly used by other local governments.

Questions? Please contact the Secondary Materials Recycled Textiles Association at 443-640-1050 or via e-mail: smartinfo@kingmgmt.org or visit our website at www.smartasn.org.

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY/VILLAGE OF
[INSERT HERE]

RECYCLING COLLECTION BINS

SUMMARY

An Ordinance amending the Municipal Code of the City/Village of [INSERT HERE] establishing rules, regulations and registrations of Recycling Collection Bins.

LEGISLATIVE INTENT

The City Council/Village Board notes that the citizens of the United States disposes of more than 242.96 million tons of solid waste each year, 55%-65% of which comes from single family residences. With a national recycling rate of just 33.8% such disposal unnecessarily burdens the state's landfills and contributes to pollution and climate change by emitting greenhouse gases such as CO₂ and methane.

It is the intent of this ordinance to support and encourage, in a responsible manner, the placement and use of attended and unattended recycling collection bins. These bins are most commonly used to collect for recycling, re-sale or re-use general household goods such as clothing, shoes, books and small appliances. When enacted, this ordinance will protect the environment by increasing community recycling and reducing the burden on local landfills, and will improve the economy by creating more jobs and provide goods for reuse and recycling.

Definitions.

Recycling Collection Bin

An attended or unattended receptacle, trailer or container made of metal, wood, steel or similar material for permanent or temporary use, designed or intended for the collection of unwanted clothing, shoes, textiles, books and other household items.

Site Host

The owner or lawful occupant (or their respective representatives) of the site of a Recycling Collection Bin within the City.

Permittee

Any organization, firm or other entity that owns and receives a permit to operate a Recycling Collection Bin in the City pursuant to this Chapter.

§xxx. Permit required; dates of issuance, expiration, response

- A. It shall be unlawful to erect, place, maintain or operate any Recycling Collection Bin without first obtaining a permit issued by the City.
- B. The City shall approve permittee's application if such application fulfills the application requirements under **§xxx. Qualifications of Permittee and Form of Application.**
- C. A permit issued under this Chapter shall be valid for one year and renewable for one-year periods thereafter.
- D. Recycling collection bins owned and/or operated by one entity for the benefit of another entity require the contact information for both entities on the permit application.

§xxx. Fee required.

- A. Initial Application (one-year period) e.g. \$25.00.
- B. Renewal Applications (one-year period) e.g. \$25.00.
- C. Sticker fee (one year period) e.g. \$10.00.

§xxx. Qualifications of Permittee and Form of Application.

In order to qualify as a permittee under this Chapter, an applicant must either be (1) a public charity exempt from taxes under Section 501(c)(3) of the United States Internal Revenue Code, and in good standing with the State of xxx, or (2) a business in good standing with the State of xxx. The application for a Recycling Collection Bin permit shall require the following information from the applicant:

- A. If the applicant claims to be a qualified nonprofit entity, (1) a copy of the determination letter issued by the Internal Revenue Service stating that the applicant is a public charity exempt under Internal Revenue Code Section 501(c)(3), and (2) a certificate of good standing issued by the state office that regulates corporations.. If the applicant is a business, a certificate of good standing issued by the Office of the Secretary of State of xxx. A certificate of good standing must not be older than 3 months at the time of application for a permit.
- B. Name, address and telephone number of contact person of the applicant.
- C. Written consent from the Site Host to place the Recycling Collection Bin on the property, including name, address and telephone number of the Site Host.
- D. Permittee must provide proof to the City of a Certificate of Liability Insurance of at least \$1million covering permittee's Recycling Collection Bins.

§xxx. Proof of Permit

The City shall provide the permittee with one permit sticker for each approved permit. The permit sticker shall be placed in a conspicuous place in front of the recycling collection bin that is installed on the permitted property. The City will provide replacement stickers for (insert value) should the original sticker become damaged, fall off or disappear.

§xxx. Management, Maintenance; Requirements

- A. Permittee must maintain the aesthetic presentation of each recycling collection bin including fresh paint, readable signage and general upkeep.
- B. Permittee must provide to the Site Host a telephone number for requests to respond to recycling collection bin maintenance complaints.
- C. Permittee must respond to recycling collection bin maintenance complaints within 24 hours of receiving notification during regular business hours.
- D. Permittee must remove graffiti within 72 hours following receipt of notice of its existence.
- E. If a recycling collection bin becomes damaged or vandalized, it shall be repaired, replaced or removed within five days of receipt of notice of such condition.

§xxx. Placement of Recycling Collection Bins

- A. Recycling Collection Bins shall be placed on the site in a manner that does not impede vehicular or pedestrian traffic flow.
- B. Recycling Collection Bins shall not be placed in the right-of-way and shall adhere to the set-back standards for the site where they are placed.
- C. Recycling Collection Bins shall not be placed in a required parking space (designated for handicap/disabled parking) or reduce the number of parking spaces below the minimum number required by local zoning codes.
- D. Recycling Collection Bins placed on sidewalks must allow for five (5) feet of pedestrian walkway in front of the Recycling Collection Bin.
- E. Recycling Collection Bins shall not be placed within the sight triangle of any intersection.

§xxx. Information and Label Requirement for all Bins

The front of every Recycling Collection Bin shall conspicuously display the following:

- (a) The name, address, telephone number and the Internet Web address of the Owner and Operator the recycling collection bin;
- (b) A statement, in at least two-inch typeface, that either reads, or “this collection bin is owned and operated by a nonprofit organization” or “this collection bin is owned and operated by a for-profit organization”;
- (c) If the recycling collection bin is owned by a non-profit organization, the front of the collection bin shall also conspicuously display a statement describing the charitable causes that will benefit from the donations;
- (d) If the recycling collection bin is owned by a for-profit company, the front of the collection bin shall conspicuously display a statement that reads “[name of company] is a for-profit company, deposits are not tax deductible”;

Recycling collection bins operated by a for profit entity on behalf of or in conjunction with a non-profit organization shall have the name ,address, telephone number and web address of both entities on the front of the bin.

(e) Recycling collection bins operated by corporate fundraisers or any entity placing and operating collection bin(s) for the benefit of another for-profit entity or non-profit entity shall abide by the requirements of (d) above and any additional guidelines and labeling requirements required under state law.

§xxx. Reporting of Recycled Goods.

The Permittee must report the total number of tons of goods diverted from the municipal waste stream in the city. Such reporting should be done on a quarterly basis to the City Clerk by letter or e-mail.

§xxx. Violations and Penalties.

- A. In addition to any other penalties or remedies authorized by law, any permittee which violates any provision of this Chapter shall be subject to a penalty of \$250 for each violation, which includes:
 - 1. Unpermitted placement of a Recycling Collection Bin;
 - 2. failure to adequately respond to maintenance request pursuant to this Chapter;
 - 3. failure to maintain Recycling Collection Bins pursuant to this Chapter;
 - 4. failure to adhere to Recycling Collection Bin placement and removal provisions pursuant to this Chapter; and
 - 5. Failures to adhere to all permit requirements pursuant to this Chapter.

- B. If a permittee is found to have willfully violated the provisions of this Chapter and ignores mitigation, on more than 3 occasions in a calendar year, the permittee shall, in addition, be deemed ineligible to place, use or employ a recycling collection bin within the City pursuant to this Chapter for a period of five years, and the City may remove any or all of such permittee's recycling collection bins upon 30 days advance notice.

§ xxx Liability; protections

- A. A Site Host shall have the right to rescind consent for a recycling collection bin to be placed on the property, provided written notice of the rescission is provided to the permittee, as provided in their agreement but in no event less than 10 business days prior, to the recycling collection bin being removed.

- B. The Site Host will be held harmless by the permittee for the removal of an unauthorized recycling collection bin or where removal is necessary to comply with local zoning ordinances.

- C. A Site Host that causes the unauthorized removal of a permitted recycling collection bin pursuant to this chapter is civilly liable to the permittee of that recycling collection bin.

- D. Permittees shall maintain general liability insurance that covers any claims or losses due to the placement, operation or maintenance of the recycling collection recycling collection bin.