

1/31/2014  
4/16/2014  
5/13/2014

**23-O-14**

**AN ORDINANCE**

**Adding Chapter 31 to Title 3 of the Evanston City Code  
Regulating Collection Boxes**

**NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
EVANSTON, COOK COUNTY, ILLINOIS, THAT:**

**SECTION 1: Legislative Statement.**

At the time of passage of this ordinance, the City of Evanston determined that the location of collection boxes may cause an inconvenience or danger to persons on public property. The City determined that unsightly collection boxes located on public or private property are a public nuisance, and that by regulating the placement of collection boxes the City will provide proper maintenance of public streets and sidewalks and safe rights of way. In recognition of the need to regulate collection boxes, this ordinance hereby creates a process to regulate collection boxes.

Article VII, Section (6)a of the Illinois Constitution of 1970 states that, "a home rule unit may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power... to license." As a home rule unit, the City of Evanston's powers shall be construed liberally. *Scadron v. City of Des Plaines*, 153 Ill.2d 164 (1992). This ordinance is presumed constitutional and the burden of rebutting that strong presumption is on the party challenging the validity of the statute to clearly demonstrate a constitutional violation. *Napleton v. Village of Hinsdale*, 229 Ill.2d 296, 306 (2008). It is well-settled law in Illinois that the legislative judgment of

the City Council must be considered presumptively valid. *Glenview State Bank v. Village of Deerfield*, 213 Ill.App.3d 747, (2nd Dist. 1991). A court has a duty to uphold the constitutionality of a statute/ordinance when reasonably possible, and if a statute's/ordinance's construction is doubtful, the court will resolve the doubt in favor the statute's/ordinance's validity. *Id.* citing to *People ex rel. Sherman v. Cryns*, 203 Ill.2d 264, 291 (2003).

The City Council finds that that there is a compelling governmental interest in implementing reasonable regulations on the location and appearance of collection boxes on public and private property and that such regulations are essential in the promotion of commerce to maintain the desirable appearance of public and private property. Regulations will also promote the health, safety, and welfare of City residents.

**SECTION 2:** Ordinance 23-O-14 shall be in full force and effect as of 12:00 a.m. July 1, 2014. The annual registration fee for the period between July 1, 2014 through December 31, 2014 shall be seventy-five dollars (\$75.00).

**SECTION 3:** Title 3 of the Evanston City Code of 2012, is hereby amended to add Chapter 31 as follows:

**CHAPTER 31 – COLLECTION BOXES**

**3-31-1: DEFINITIONS:**

Collection Box	An unattended container, receptacle, or similar device that is used for soliciting and collecting donations of clothing or other salvageable personal property. This term does not include any unattended collection box located within a building.
Retail Center	Any concentration of two (2) or more retail stores and/or service establishments in

	<p>one or more buildings, or on one or more adjacent lots, under single ownership or management or multiple ownership on contiguous or adjacent lots with one or more of the following:</p> <ul style="list-style-type: none"> <li>(A) Common parking facilities,</li> <li>(B) Common stormwater detention, drainage or storm sewer facilities,</li> <li>(C) Common water distribution facilities,</li> <li>(D) Common sanitary sewer facilities,</li> <li>(E) Nonexclusive ingress or egress from public streets.</li> </ul>
Site Host	The property owner, local agent, or local occupant of the site where the collection box is placed or is intended to be placed.

**3-31-2: LICENSE REQUIRED:**

It shall be unlawful for any person, firm or corporation to place a collection box or to allow to be placed or permit the placement of a collection box on its own property without first having obtained a license as herein provided.

**3-31-3: APPLICATION FOR LICENSE; FEE:**

Any person desiring to place a collection box within the City, shall make application for a license to the City Collector, setting forth in such application the name of the applicant requesting the license for the collection boxes, the number and locations of the collection boxes, and the type of merchandise being collected at the collection box. Such license shall be issued upon payment to the City Collector of the following fees:

Annual Registration Fee Per Applicant	\$150 per applicant
Additional Fee Per Additional Box	\$75 per box

The license fees provided for herein shall be payable in full at the time of issuance of said license, and any such license shall expire on December 31 next after issuance. Not-for-profit organizations located in Evanston operating a collection box shall be exempt from paying the license fee.

**3-31-4: REQUIREMENTS AND RESTRICTIONS:**

- (A) Placement of a collection box is permitted only in retail centers, schools, churches, and buildings owned and operated by not for profit organizations.
- (B) The collection box owner shall submit written authorization from the site host consenting to the placement of a collection box on the subject property.
- (C) Collection boxes must display the license sticker on the front of the collection box.
- (D) Collection box owners must respond to any and all complaints regarding collection box maintenance within twenty four (24) hours of receiving notification Monday through Friday and forty eight (48) hours of receiving notification Saturday and Sunday.
- (E) Collection boxes shall not be on any permeable surface.
- (F) Collection boxes shall not be located in a parking space.
- (G) Collection boxes shall not be placed within a required front or corner side yard, or major arterial setback. To the extent feasible, collection boxes shall be placed in the rear or side of a property so as to be inconspicuous as viewed from public rights of way.
- (H) Collection boxes shall not be placed in such a manner as to cause a sight obstruction for pedestrians or motorists.
- (I) Only one collection box shall be permitted per lot or per retail center, school, church, or not for profit organization property, whichever is more restrictive.
- (J) Collection boxes shall not exceed six and one-half feet (6.5') in height.
- (K) Collection boxes shall not possess a footprint exceeding twenty (20) square feet.
- (L) Collection boxes shall indicate whether the operator is a for profit or not for profit organization in two inch (2") type visible from the front of the collection box.
- (M) Collection boxes shall contain the following contact information in two inch (2") type visible from the front of the box: the name, address, e-mail and phone number of the owner of the collection box.

- (N) Collection boxes shall be maintained in good condition and appearance with no structural damage, holes, or visible rust and shall be free of graffiti. All boxes shall be serviced regularly so as to prevent overflow of collections or the accumulation of junk, debris or other material. Upon servicing, any and all material must be removed.

**3-31-5: REVOCATION OF LICENSE:**

Any licensee who receives three (3) or more violations of the provisions of this article shall have their license revoked. Any licensee whose license was revoked may request a hearing before the Division of Administrative Adjudication to appeal any such revocation.

**3-31-6: REMOVAL; REMOVAL FEE:**

- (A) Any licensee whose license was revoked or any person who places a collection box without a license will be required to remove the collection box within forty eight (48) hours after receiving notice to remove same. The City may remove any box remaining after said forty eight (48) hour period. In this event, the site host wherein the collection box is located may be required to pay a removal fee to the City.
- (B) In the event a property owner, local agent, or local occupant has a collection box placed on their property without their consent and has no intention of being a site host, they shall notify the City of Evanston regarding the collection box. The City of Evanston will consult with the property owner, local agent, or local occupant regarding the removal of any collection box that may have been placed without the property owner's consent.

**3-31-7: PENALTY:**

Any person, firm or corporation who violates any of the provisions of this article shall be fined two hundred dollars (\$200.00) for each offense. A separate offense shall be deemed committed on each day on which a violation occurs or continues to exist. The licensee and the site host are jointly and severally liable for adhering to the provisions of this article and any fees or penalties associated therewith.

**SECTION 4:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 5:** The findings in this Ordinance, and the legislative Record, are declared to be prima facie evidence of the law of the City of Evanston, and shall be

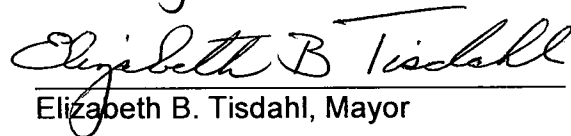
received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

**SECTION 6:** If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

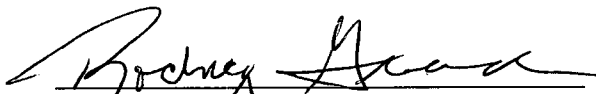
Introduced: May 12, 2014

Adopted: May 27, 2014


Approved: May 29, 2014

  
Elizabeth B. Tisdahl, Mayor

Attest:

  
Rodney Greene, City Clerk

Approved as to form:

  
W. Grant Farrar, Corporation Counsel