

(Majority vote)

To see if the Town will vote to amend the General Bylaw, Chapter E as follows:

A. Insert the following new section E58 as follows:

E58. Donation Collection Bins

The purpose of this bylaw is to regulate Donation Collection Bins in the Town of Acton to protect the public from being misled by Bins that do not disclose for-profit status; prevent clutter around Bins; regulate appropriate Bin signage and identification requirements; establish Bin permits for the orderly administration of this bylaw; and help defray the cost of its administration and enforcement.

Note that Donation Collection Bins are also subject to zoning standards as set forth in Section 3 of the Acton Zoning Bylaw (Chapter M of the General Bylaws of the Town of Acton).

E58.1 Definitions

In this section E58 the following terms shall have the following meanings:

E58.1.1 Donation Collection Bin, or Bin, shall mean any outdoor receptacle or container designed or intended for the donation and the temporary storage of books, clothing, or other goods and materials.

E58.1.2 Property Owner shall mean the owner of land in Acton where a Bin is located or proposed to be located.

E58.1.3 Bin Operator shall mean any person or entity that owns, operates, or controls a Donation Collection Bin located on land in Acton.

E58.2 Annual Bin Permit Required

It shall be unlawful for any person or entity to place or allow to be placed a Donation Collection Bin within the Town of Acton without a Bin Permit from the Zoning Enforcement Officer (ZEO). Each Bin shall require a separate Bin Permit.

E58.2.1 Both the Property Owner and the Bin Operator, through their respective duly authorized representatives shall sign any application for a Bin Permit. For a Bin that complies with this Bylaw, the ZEO may issue a Bin Permit in the name of the Property Owner and the Bin Operator for the specific Bin and the specific property where the Bin is located or is to be located. The Bin Permit shall not be transferable.

E58.2.2 The Property Owner and the Bin Operator shall complete a written application for a Bin Permit on a form provided by the ZEO.

E58.2.3 The application for a Bin Permit shall state the name of the proposed Bin Operator and whether the Bin Operator is a public charity or nonprofit charitable organization registered in good standing with the Non-Profit Organizations/Public Charities Division of the Massachusetts Attorney General’s Office. Any person or entity not so registered shall be considered a for-profit person or entity for purposes of this Bylaw.

E58.2.4 Where the proposed Bin Operator is a public charity or nonprofit charitable organization, the application for the Bin Permit shall include a copy of the Bin Operator's latest registration with the Non-Profit Organizations/Public Charities Division of the Massachusetts Attorney General's Office.

E58.2.5 Where the proposed Bin Operator is a for-profit person or entity, the application for the Bin Permit shall include either (a) a copy of the Bin Operator's latest registration as a commercial co-venturer with the Massachusetts Attorney General's office and a statement representing the percentage of profits that the Bin Operator will donate to charity, or (b) a copy of the Bin Operator's Charter, Articles of Organization, Agreement of Association, Instrument of Trust, Business Certificate, License to Operate, or the equivalent, issued by or filed with the Massachusetts Secretary of State or other governmental entity and a statement representing the percentage of profits if any that the Bin Operator will donate to charity.

E58.2.6 Each Bin Permit shall be valid for the calendar year in which it is issued. Each new calendar year shall require a new Bin Permit.

E58.2.7 The application fee for each Bin Permit shall be \$150.00^[SDA1] for each Donation Collection Bin.

E58.2.8 Evidence of a valid Bin Permit (to be provided by the ZEO) shall be affixed to each Bin beside the receiving door.

E58.2.9 The ZEO shall maintain a current list of all Bin Permits for Donation Collection Bins.

E58.3 Required Identification Sign

Notwithstanding any other bylaws and rules on signs in the Town of Acton, every Donation Collection Bin shall have one sign attached to its exterior surface not to exceed 4 square feet in size. Such sign shall be clearly visible to the donating public and shall clearly identify and state:

- The name, address, telephone number, and website of the Bin Operator;
- The regular collection times;
- The Bin Operator's status as a registered public charity or nonprofit charitable organization, or its status as a for-profit person or entity under this Bylaw;
- In the case of a for-profit company, the percentage, if any, of proceeds that the Bin Operator donates to charity; and
- A declaration whether the Bin Operator is registered with the Massachusetts Attorney General's Office as a public charity, a nonprofit charitable organization, or a commercial co-venturer, its registration number, and the telephone number and website address for the Attorney General's Non-Profit Organizations/Public Charities Division.

No further advertising shall be permitted on the donation collection bin.

E58.4 Prohibitions, Standards, and Requirements

Each Property Owner and Bin Operator shall comply with the following provisions with respect to each Bin for which it is the property owner or Bin operator, respectively:

E58.4.1 Each Bin shall conform to all requirements of this Bylaw.

E58.4.7 Each Bin shall be fully enclosed and locked, and have one receiving door with a theft prevention device.

E58.4.8 Each Bin shall not exceed 200 cubic feet in size.

E58.4.9 Each Bin must be regularly emptied and its contents removed from the property so that they do not overflow, resulting in used clothing or other donated goods or materials being strewn about the surrounding area.

E58.4.10 Each Bin must be maintained in state of good repair and in a neat and clean condition, and free of trash, debris, refuse or like material.

E58.5 Applicability, Effective Date, and Grace Period

The provisions of this Bylaw shall take effect pursuant to G.L. c. 40, § 32, and shall apply to both existing Donation Collection Bins and proposed or future Donation Collection Bins located within the Town of Acton. Property Owners and Bin Operators with Bins in existence in Acton prior to the effective date of this Bylaw shall have the following grace periods to come into compliance:

E58.5.1 Within sixty (60) days after the effective date of this Bylaw, the Property Owner and Bin Operator shall file an application with the ZEO for a Bin Permit as required by Section E58.2 of this Bylaw for each existing Donation Collection Bin located in Acton for which it is the property owner or Bin operator, respectively. The application shall demonstrate how the existing Bin complies with this Bylaw or show the proposed changes that shall be completed to achieve compliance.

E58.5.2 Within ninety (90) days after the effective date of this Bylaw, the Property Owner shall fully comply with this Bylaw as to each Bin on its property.

E58.5.3 Non-compliance of any existing Bin with this Bylaw during the grace periods shall not be deemed a violation of this Bylaw.

E58.6 Responsible Entity, Violations, Enforcement, and Penalties

E58.6.1 The Property Owner shall be responsible for ensuring that each Donation Collection Bin on its property in Acton complies with this Bylaw. The Bin Operator shall be responsible for ensuring that each Donation Collection Bin which it owns, operates, or controls and which is located on land in Acton complies with this Bylaw.

E58.6.2 Any violation of this Bylaw shall be punishable by a fine of \$300.00 for each offense. Each day that a violation of this Bylaw continues shall constitute a separate offense.

E58.6.3 Any violation of this Bylaw that persists for thirty (30) days or longer shall result in the revocation of any and all Bin Permits issued to the Property Owner and Bin Operator for Donation Collection Bins on the subject property, and an order issued by the Zoning Enforcement Officer for removal of all Bins on the property.

E58.6.4 Failure by the Property Owner or the Bin Operator to comply with an order of removal issued by the ZEO may result in removal and disposal of the Bins by the Town. The Town shall be entitled to recover from the Property Owner and the Bin Operator, jointly and severally, all costs of removal and disposal of all Bins from the property.

E58.6.5 Where a Bin Permit under this Bylaw has been revoked, no other Bin Permit for a Donation Collection Bin shall be issued for the same property for a period of two years.

, or take any other action relative thereto.

And in Section E45 (Non-Criminal Disposition), insert the following subsection:

Chapter E - Section E58, Collection Donation Bin Bylaw; enforcing person: Zoning Enforcement Officer. – Fine: \$300.00 for each offense. Each day that a violation continues shall constitute a separate offense.

, or take any other action relative thereto.

SUMMARY

There is a fair number of donation collection bins in Acton. Some are operated by charitable not-for-profit organizations. Others belong to for-profit companies who may or may not donate a portion of the proceeds to charity. The difference is seldom apparent. As a result, residents of Acton may erroneously believe they are making donations to a non-profit charity when they are actually giving books, clothes, or other goods and materials, for free to a for-profit company. As a result, residents may incorrectly claim tax deductions for their donations. This article would establish an administrative permit requirement for each donation bin that must be renewed annually. It would require the disclosure on the bin of the bin operator's identity and its charitable not-for-profit, or non-charitable for profit status. For-profit operators would have to disclose the percentage of profits that goes to charity, if such a charitable claim is made, and post a declaration that the operator is registered with the Attorney General as a commercial co-venturer with the telephone number for the Attorney General's Non-Profit Organizations/Public Charities Division. Existing bins would have a grace period to come into compliance with this bylaw. A companion article in this warrant would amend the zoning bylaw to establish requirements location, setback and related requirements for donation collection bins as accessory uses.

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 929-6631
Selectman assigned:

Board of Selectmen:

Finance Committee:

Planning Board: