



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

October 25, 2018

City Council President Linda Morad, and
Honorable Members of the New Bedford City
133 William Street
New Bedford, MA 02740

Re: Unattended Donation/Collection Boxes

Dear Council President Morad, and Honorable Members,

I am submitting for your consideration proposed ordinance changes to City Ordinance 12-39.5 – *Unattended Clothing Donation Container (UCDC)*. In recent years we have seen increased blight and nuisance activity associated with UCDC's throughout the City. This activity has adversely affected the quality of life of our residents and has placed an undue strain on our code enforcement services.

The suggested changes I am proposing will allow the City to ensure that UCDB's are placed in appropriate locations and that they are maintained in a dignified manner.

Enclosed please find the proposed ordinance amending Sec 12-39.5.

Sincerely,

Jon Mitchell
Mayor

Cc: Danny Romanowicz
Damon Chaplin

IN CITY COUNCIL, October 25, 2018

Dennis W. Farias, City Clerk

Referred to the Committee on Ordinances.

a true copy, attest:


City Clerk

CITY CLERK

2018 OCT 18 P 3:09

CITY CLERKS OFFICE
NEW BEDFORD, MA

(A) *PURPOSE*

The purpose of these regulations is to ensure public safety, avoid public nuisance, and promote compatibility of the use with surrounding uses and properties.

(B) *DEFINITION*

"Blight" or "nuisance" means any condition that is in violation of the Massachusetts Health or Building code and/or which is a source of filth that is dangerous to public health, safety, or welfare.

"Commissioner" means Commissioner of Inspectional Services or his/her designee

"Unattended donation/collection boxes" or "UDCB" means any box, building, trailer or other receptacle that is intended for use as a collection point that accepts textiles, shoes, books and/or other salvageable personal property items to be used by the operator for distribution, resale, or recycling.

(C) *PROHIBITIONS*

1. UDCBs are prohibited from being kept on any street, sidewalk or other public property. UDCBs are prohibited from being kept on any private property without obtaining a permit from the Commissioner.
2. No UDCB shall be located within 1,000 feet from any other UDCB, except those described in Subsection C (4).
3. A UDCB is only permitted on a lot that also contains a principal building that contains at least one operating business, occupied residential unit, or other ongoing activity.
4. No more than one UDCB is permitted per parcel unless documented evidence is submitted to the Department of Inspectional Services that a second bin is required due to the volume of items delivered to the site. A UDCB must be operating at a site for at least 90 days in order to establish that a second bin is required. Both UDCBs shall have the same operator. No additional fee is required to submit an application for a second bin.
5. The donation/collection area must be visible from the principal building and be no more than ten feet from a continually operating light source.

(D) *PERMIT REQUIRED FOR UCDB*

1. The applicant shall apply for a permit for a UDCB with the Commissioner.

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2. The UDCB permit applicant shall be the UDCB operator and the permit may not be transferred, conveyed or otherwise assigned to another person or entity, nor shall the permit be valid at an alternate site.

(E) APPLICATION REQUIREMENTS

1. A notarized authorization from the parcel owner/agent to allow placement of the UDCB;
2. A notarized agreement stating that the parcel owner/agent and operator will abide by all the processes and requirements described in this chapter and shall ensure that the UDCB is emptied on a regular basis and that the area surrounding the UDCB is kept free of debris at all times.
3. A non-refundable application fee in the amount of \$300.00 (three hundred dollars).
4. A notarized acknowledgement of responsibility from the parcel owner/agent and the operator for joint and several liability for violations of conditions or regulations, and/or code violations relating to the UDCB;
5. Proof of general liability insurance of at least \$1,000,000 covering the applicant's UDCB and naming the City of New Bedford as an additional insured party;
6. The name, address, email, website (if available) and telephone number of the UDCB operator and parcel owner, including 24-hour contact information;
7. A vicinity map showing 1) the proposed location of the UDCB; and 2) the distance between the sites and all existing UDCBs within 1,000 feet of the proposed UDCB location;
8. A site plan containing:
 1. Location and dimensions of all parcel boundaries;
 2. Location of all buildings;
 3. Proposed UDCB location;
 4. Distance between the proposed UDCB and parcel lines, buildings, fences and other structures; and
 5. Location and dimension of all existing and proposed driveways, garages, carports, parking spaces, maneuvering aisles, pavement and striping/markings;

(F) UDCB PERMIT EXPIRATION AND RENEWAL

- A. Unless renewed as described in Subsection B, below, each UDCB permit shall expire and become null and void annually on the anniversary of its date of issuance.
- B. A UDCB operator may apply for permit renewal by submitting a complete and accurate application to the Commissioner at least sixty (60) days and not more than ninety (90) days prior to the expiration of the active UDCB permit. All applications shall include:
 - 1. A notarized authorization from the parcel owner/agent to allow placement of the UDCB;
 - 2. A notarized agreement stating that the parcel owner/agent and operator will abide by all the processes and requirements described in this chapter and shall ensure that the UDCB is kept free of debris at all times;
 - 3. Photographs of the existing UDCB;
 - 4. A non-refundable application fee in an amount \$300.00 (three hundred dollars);
 - 5. A notarized acknowledgement of responsibility from the parcel owner/agent and the operator for joint and several liability for violations of conditions or regulations, and/or blight relating to the UDCB;
 - 6. Proof of general liability insurance of at least \$1,000,000 covering the applicant's UDCB and naming the City of New Bedford as an additional insured party;
 - 7. The name, address, email, website (if available) and telephone number of the UDCB operator and parcel owner, including 24-hour contact information;

(G) REQUIREMENTS FOR THE APPROVAL AND RENEWAL OF A UDCB PERMIT

The Commissioner or his/her designee shall not issue a UDCB permit or renewal unless each of the following is true:

- 1. The applicant has submitted a complete and accurate application, which shall include the applicable fee;
- 2. There are no open citations, unpaid fines or unresolved violations or complaints related to any UDCB managed by the proposed operator;
- 3. All existing unpermitted UDCB that are managed by the proposed operator have been removed;
- 4. Any verified blight on the subject property has been abated and case of a complaint to the City regarding blighted conditions on the subject property has been closed;

5. For renewals, the site does not have a history of being a nuisance, even if incidents of blight were abated. For the purpose of this subsection, "history of nuisance" means three verified blight complaints in the previous 12 months.

(H) TIME LIMIT FOR FINAL DECISION

The Commissioner or his/her designee shall provide a written decision regarding the placement of the UDCB within sixty (60) days of the submission of a complete application for a UDCB permit.

(I) APPEAL AND DECISION PROCESS

Any applicant aggrieved by the decision of the Commissioner may appeal this decision to the New Bedford Board of Health.

(J) Maintenance/Responsibility

1. No blight shall be within 20 feet of the UDCB including, but not limited to donation/collection overflow, litter, debris, and dumped material.
2. UDCBs shall be maintained and in good working order. Items to be repaired, removed, and/or abated include, but are not limited to graffiti, removed or damaged signs and notifications, peeling paint, rust, and broken collection operating mechanisms.
3. UDCBs shall be serviced not less than weekly between 7:00 a.m. and 7:00 p.m. on weekdays and 10 a.m. and 5:00 p.m. on weekends. This servicing includes the removal of donated/collected material and abatement of the blight described in this section.
4. The operator shall maintain an active email address and a 24-hour telephone service with recording capability for the public to register complaints.
5. UDCBs cannot be used for the collection of solid waste and/or hazardous materials.

(K) Violations/penalties

The penalty for violation of any provision of this Ordinance or of any condition under which a permit is issued shall be three hundred (\$300.00) dollars for each offense. Each day that each violation continues shall constitute a separate offense.

(L) Removal of unpermitted containers

Unpermitted containers or containers whose permits have not been renewed shall be removed by the City after proper notice. This notice shall be posted on the UDCB for not less than five business days. All costs and fees incurred in the removal shall be assessed against the owner of the UDCB. If a removed UDCB goes unclaimed for a period of 60 days it shall be permanently disposed of.

Sec. 12-39.5. - Unattended clothing donation containers—Regulated.

- (a) *Definition.* Unattended Clothing Donation Container (UCDC): Any box, building, trailer, or other receptacle that is intended for use as a collection point for donated clothing or other household materials, intended for use at times when no employee or representative of the sponsoring company, organization or property owner is present to accept donations.
- (b) *Prohibition.* UCDCs are prohibited from being kept on any street, sidewalk or other public property. UCDCs are prohibited from being kept on any private property without first obtaining a permit from the Department of Inspectional Services.
- (c) *Permit for unattended clothing donation container.* The applicant shall apply for a permit for a UCDC with the department of inspectional services. Said application shall include the following:
 - (1) Address of location for placement of the UCDC.
 - (2) Notarized authorization from property owner for the placement of the UCDC.
 - (3) Certification from property owner that applicant has provided a copy of this section to the property owner and that it has been read by property owner and is understood.
 - (4) Detailed plan of how applicant will maintain the UCDC to prevent scattering of donated material.

Cost of said permit shall be one hundred dollars (\$100.00) annually. The cost of said permit may, from time to time, be altered by order of the city council.

The commissioner of the department of inspectional services may deny any permit for a UCDC when, in his/her discretion, the detailed plan does not meet the goals and purpose of this section. Upon denial, the applicant must submit a new application.

- (d) *Violations/penalties.* Any placement of a UCDC without a permit shall result in a notice being placed prominently on the UCDC by the department of inspectional services stating that said UCDC be removed from the property within seven (7) days or that a permit be issued within seven (7) days. If such UCDC is not removed or permit issued within seven (7) days after notice, a fine of three hundred dollars (\$300.00) to the organization placing said UCDC and a three hundred dollar (\$300.00) fine to the property owner where UCDC was placed shall be issued and said UCDC shall be subject to removal by the city. It shall be considered a violation for each day that the UCDC is placed without a permit.

Any UCDC placed without permit shall be subject to removal by the city and cost for removal and storage shall be assessed to the owner of the UCDC.

Any other violation of this section or the failure of the applicant to carry out the plan submitted with the application shall result in a penalty of one hundred dollars (\$100.00) per occurrence.

(Ord. of 5-13-08, § 1)