

Town of Wallkill
Chapter 229
Unattended Donation Boxes

HISTORY:

The Town of Wallkill has specific locations where Unattended Donation Boxes (as defined herein) are in use. The Town Board deems it necessary to standardize the handling of these Unattended Donation Boxes and their locations in the interest of public health and safety.

§229-1 Intent.

The purpose of this Chapter is to regulate the placement of Unattended Donation Boxes (as defined herein) within the Town. The procedures and requirements of this chapter are enacted to:

- A. Promote the community's health, safety, and welfare by regulating Unattended Donation Boxes for clothing or other salvageable personal property within the Town;
- B. Ensure that Unattended Donation Boxes do not pose a hazard to pedestrian and vehicular traffic;
- C. Ensure that material is not allowed to accumulate outside of the Unattended Donation Boxes where it can be scattered by adverse weather conditions, animal contacts and human activities; and
- D. Establish criteria that avoid attracting vermin, unsightliness, and a public health hazard.

§229-2 Definitions.

OPERATOR

A person, entity, association or organization that places, maintains or operates Unattended Donation Box(es) to solicit donations of salvageable personal property.

PERMITTEE

The Property Owner or Lessee who is issued a permit authorizing placement of Unattended Donation Box(es).

PROPERTY OWNER

The person, entity, association or organization who owns the real property where the Unattended Donation Box(es) are or are proposed to be located.

RESIDENTIAL DISTRICT

Residential zoning districts as established pursuant Town code and Town zoning code, including but not limited to RA, RA-1, R2, APR, RA-H, R-M(B), PRD, and adopted specific plans with applicable residential zoning districts.

UNATTENDED DONATION BOX:

Any unattended container, receptacle, or similar device that is located on any property within the Town used for soliciting and collecting donations of clothing or other salvageable personal property. This term does not include recycle bins for the collection of recyclable materials governed or regulated by the Town zoning code or other applicable law.

§229-3 Unpermitted Unattended Donation Boxes Prohibited.

Unless otherwise exempt, it shall be unlawful and a public nuisance for any Property Owner or Operator to place, operate, maintain or allow Unattended Donation Box(es) on real property unless the Property Owner first obtains a permit issued pursuant to this Chapter and the Unattended Donation Box is placed, operated and maintained in accordance with all provisions of this chapter.

§229-4 Permit applications.

A. The permit application shall be made on a form provided by the Town Building Department and shall include the following information:

1. The name, address, email, website (if available) and telephone number of the Property Owner or applicant;
2. Written proof sufficient to establish that the Operator who will utilize the Unattended Donation Box is qualified to solicit donations of salvageable personal property pursuant to applicable local, state and/or federal law;
3. The text of the instructions, signage and disclosures that will be affixed to the Unattended Donation Box;
4. The physical address of the Property Owner's proposed location and a drawing sufficient to specify the proposed location of the Unattended Donation Box on the real property, as well as the size of the proposed Unattended Donation Box;
5. The proposed method of operating, monitoring, emptying, cleaning and maintaining the Unattended Donation Box, including, but not limited to, the proposed frequency of each of the aforesaid activities.

B. Each application shall be accompanied by a nonrefundable fee in an amount established annually by Town Board resolution. This fee shall be in addition to any fee or tax imposed by the Town pursuant to any other provision of the Town Code.

C. Applications shall be completed and filed with the Town Building Department, with payment.

D. Within 30 days of receiving a completed application, the Town shall issue a permit or deny the issuance of a permit.

E. The Town shall not issue a permit unless:

1. The applicant has submitted a complete and accurate application accompanied by the applicable fee;
2. The Operator who will maintain or operate the Unattended Donation Box is qualified to solicit donations of salvageable personal property pursuant to local, state or federal law;
3. The proposed location and placement of the Unattended Donation Box on the Property Owner's real property is in compliance with all applicable laws and will not impede pedestrian and/or bicycle traffic, sight distances onto adjacent streets, or vehicular traffic.

F. If the Building Inspector denies an application, he shall state the specific reasons for denial in writing.

G. Any permit issued shall be valid for one Unattended Donation Box. Multiple Unattended Donation Boxes controlled by the same Owner/Operator shall have separate permits for each box.

H. The term of the permit shall expire one year from the date of issuance.

I. No Permittee or Operator to whom a permit has been issued shall transfer, assign, or convey such permit to another person or Operator.

J. Prior to expiration of the permit, the Permittee may voluntarily surrender the permit by notifying the Building Department in writing of the intent to surrender the permit. The permit shall become void upon the Town's receipt of written notice of intent to surrender the permit. Upon such surrender, the Permittee shall remove the Unattended Donation Box from the permitted location within 14 calendar days from the date of surrender. Failure of the Operator/Permittee to remove the Unattended Donation Box, along with all accumulated personal property, clothing, debris and other items in the immediate area of the Unattended Donation Box will result in fines and penalties as prescribed annually by resolution of the Town board.

§229-5 Renewal of permits.

A. A Permittee may apply for permit renewal by submitting to the Building Department, before the expiration of the permit, a renewal application and a nonrefundable renewal fee in an amount set by resolution of the Town council.

B. The Building Inspector shall either approve or deny the renewal of a permit within 30 days of receipt of the complete renewal application and payment of the renewal fee.

C. The Building Inspector shall approve the renewal of a permit if he or she finds that no circumstances existed during the term of the permit, existed at the time of submission of an application for renewal, or existed at any time during the review of the application for renewal that are inconsistent with any finding required for approval of a new permit or that would justify the revocation of the permit.

D. A permit may be suspended or revoked for cause, if an Operator/Permittee is found to be violation of the below guidelines to operate and maintain the Unattended Donation Box.

§229-6 Unattended Donation Box requirements for operation and maintenance.

A. A Permittee shall operate and maintain or cause to be operated and maintained, all Unattended Donation Box(es) located in the Town as follows:

1. Unattended Donation Box(es) shall be maintained in good condition and appearance with no structural damage, holes, or visible rust, and shall be free of graffiti;
2. Unattended Donation Box(es) shall be locked or otherwise secured;
3. Unattended Donation Box(es) shall contain the following contact information in two-inch type visible from the front of each Unattended Donation Box: the name, address, email, and phone number of both the Permittee and Operator;
4. Unattended Donation Box(es) shall be serviced and emptied as needed, but at least once per month, or within five business days of a request by the Town.

B. The Permittee shall maintain or cause to be maintained the area surrounding the Unattended Donation Box free of any junk, garbage, trash, debris or other refuse material.

C. The Permittee and Operator shall be individually and severally responsible for abating and removing all junk, garbage, trash, debris and other refuse material in the area surrounding the Unattended Donation Box within twenty-four hours of written or verbal notice from the Town.

D. The Permittee and Operator shall be individually and severally responsible for all costs for abating and removing any junk, garbage, trash, debris and other refuse material from the area surrounding the Unattended Donation Box as well as fines associated with littering in the event said boxes are not maintained.

E. It shall be unlawful for any Property Owner or Operator to place an Unattended Donation Box in any Residential District.

F. No Unattended Donation Box shall be placed within four hundred feet from another Unattended Donation Box.

G. No Unattended Donation Box shall be placed in designated parking spaces on private commercial property.

H. No more than one Unattended Donation Box shall be placed on each tax map parcel of real property.

§229-7 Revocation of permit, removal of Unattended Donation Box(es) and liability.

A. The Town shall have the right to revoke any permit issued hereunder under the following circumstances:

1. If any of the grounds upon which it may have refused to issue an initial permit exists;

2. The failure of the Permittee to comply with the provisions of this Chapter, other provisions of the Town Code, or other local, state or federal law; or
 3. The Town determines that the continued presence of the permitted Unattended Donation Box in its current location in any way compromises the health, safety and/or welfare of the public.
- B. In such event, the Town shall provide a written notice to the Permittee stating the specific grounds for such suspension or revocation. Upon such suspension or revocation, the Unattended Donation Box shall be removed from the Permittee's real property within 30 calendar days and, if not removed within this time period, the Town may remove, store and dispose of the Unattended Donation Box at the Permittee's sole cost and expense.
- C. Upon suspension or revocation, a Permittee shall be prohibited from applying for a permit to place an Unattended Donation Box at any location within the Town of Wallkill for a period of one year.
- D. Any violation of the provisions of this Chapter constitutes a public nuisance subject to abatement pursuant to this code or as otherwise permitted by law.

§229-8 Violation; Penalties.

Any person violating any provision of this Chapter is guilty of a violation.

§229-9 Appeal of Denial, Suspension or Revocation.

Any person aggrieved by the decision rendered by the Town in:

1. Granting or denying an application for a permit under this Chapter;
2. Granting or denying an application to renew a permit under this Chapter; or
3. Suspending or revoking a permit issued hereunder

may appeal such decision to the Town Supervisor. The appeal shall be made by filing a written notice thereof with the Town Clerk not later than ten calendar days after receiving notice of the decision from the Town. The Town Supervisor shall hold a hearing on the appeal within 30 calendar days and issue a decision within 10 business days following the conclusion of the hearing. Any party aggrieved by the decision of the Supervisor may appeal such decision to the Town Board within 5 days of receipt of the Supervisor's decision. The Town Board may choose to hold a further appeal hearing or decide the matter on the existing record. A decision of the Town Board will be issued within 45 days of the date when the appeal was filed with the Town Clerk.

§229-10 Administrative fees.

The Town Board may, by resolution, establish reasonable fees and deposits to defray the cost of processing applications, appeals and for the administration of this chapter.

§229-11 Exemption.

Unattended Donation Boxes located entirely within the interior of a building are exempt from the requirements of this Chapter, in the event that the Operator and Property Owner are one in the same and not to the extent that they violate other Town building or fire codes.