

CITY OF BENICIA

ORDINANCE NO. 18-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING VARIOUS SECTIONS OF TITLE 17 (ZONING) TO ESTABLISH AN ACCESSORY USE CLASSIFICATION AND REGULATIONS FOR DONATION AND COLLECTION BINS IN BENICIA

Section 1.

Section 17.16.080 (Accessory Use Classifications) of Chapter 17.16 (Use Classifications) of Title 17 (Zoning) of the Benicia Municipal Code is amended to add the following use classification in alphabetical order:

Donation and collection bin. An unstaffed drop off box, receptacle or other similar container used to accept donated clothing or other salvageable personal property, including but not limited to books, shoes, canned goods, and small household items to be used by the operator for distribution, resale, or recycling.

Section 2.

Section 17.24.020 (RS, RM and RH districts – Land Use Regulations) of Chapter 17.24 (Residential Districts) of Title 17 (Zoning) of the Benicia Municipal Code is amended to add Donation and Collection Bins to Accessory Uses and additional regulations L-5 and (R) as follows:

	RS	RM	RH	Additional Regulations
Accessory Uses				
Donation and Collection Bins	L5	L5	L5	(R)

L-5 Only permitted when accessory to a duly permitted club, lodge, cultural institution, religious assembly or school.

(R) See BMC 17.70.410, Donation and collection bins.

Section 3.

Section 17.28.020 (CC, CO, CG and CW districts – Land Use Regulations) of Chapter 17.28 (Commercial Districts) of Title 17 (Zoning) of the Benicia Municipal Code is amended to add Donation and Collection Bins to Accessory Uses and additional regulations L-22, and (P) as follows:

	CC	CO	CG	CW	Additional Regulations
Accessory Uses					
Donation and Collection Bins	L22	L22	P	L22	(P)

L-22 Only permitted when accessory to a duly permitted club, lodge, cultural institution, religious assembly or school.

(P) See BMC 17.70.410, Donation and collection bins.

Section 4.

Section 17.36.020 (OS Open Space District – Land Use Regulations) of Chapter 17.28 (OS Open Space District) of Title 17 (Zoning) of the Benicia Municipal Code is amended to add Donation and Collection Bins to Accessory Uses and additional regulations L-4 and (H) as follows:

	OS	Additional Regulations
Accessory Uses		
Donation and Collection Bins	L4	(H)

L-4 Only permitted when accessory to a duly permitted religious assembly.

(H) See BMC 17.70.410, Donation and collection bins.

Section 5.

Chapter 17.70 (General Regulations) of Title 17 (Zoning) of the Benicia Municipal Code is amended to add a new Section 17.70.410 (Donation and Collection Bins) as follows:

17.70.410 Donation and collection bins.

A. Purpose. In addition to the general purposes of Title 17 (Zoning), the purposes of these regulations include the following:

1. Promote the health, safety and/or welfare of the public by providing minimum blight-related performance standards for the operation of donation and collection bins;
2. Protect the property rights of the owners of parcels on which the donation and collection bins are located;

3. Provide for the location, placement, design, and maintenance of donation and collection bins in a manner compatible with the community appearance;
4. Ensure that donation and collection bins do not create blight and become a public nuisance due to illegal dumping, unauthorized placement, overconcentration, aesthetic impacts and/or result in vehicle site distance and circulation impediments; and
5. Ensure that residents and/or users are fully informed of those who operate the bins so that they can be contacted if there are any blight-related questions or concerns.

B. Permit Required.

1. The placement, appearance and design, and maintenance of a donation and collection bin on any real property shall first obtain a zoning permit
2. The permit applicant shall be the donation and collection bin operator and the permit may not be transferred, conveyed or otherwise assigned to another person or entity.
3. The permit applicant must comply with the application process and submit an application and all documentation required by the community development department.
4. No permit shall be required for donation and collection bins placed located within a building.

C. Process for permit approval.

1. All applications for a donation and collection bin zoning permit shall meet the following:
 - a. The applicant has submitted a complete and accurate application accompanied by the required documents and applicable permit fee;
 - b. There are no open citations, unpaid fines or unresolved violations or complaints related to any collection and donation bin managed by the proposed operator;
 - c. All existing unpermitted bins that are managed by the proposed operator have been removed;
 - d. Any verified blight on the subject property has been abated and any case of a complaint to the City regarding blighted conditions on the subject property has been closed; and

D. Standards. The following standards shall apply to the placement of the donation and collection bins.

1. Location.

- a. Only one donation and collection bin may be permitted on a single parcel or shopping center, and not within 1,000 feet from any other collection and donation bin.
- b. A donation and collection bin shall not be located in a public right-of-way or within twenty feet of a public street.
- c. A donation and collection bin shall not occupy any required off-street parking or loading space nor reduce driveways and aisles below the dimensions specified in Chapter 17.74.
- d. A donation and collection bin shall not occupy nor obstruct any pedestrian path of travel, including sidewalks and walkways, or required handicapped accessibility routes.
- e. A donation and collection bin shall not block or impede access to required easements, trash enclosure areas or access to trash bins/trash enclosures.

- f. A donation and collection bin shall not impede the functioning of exhaust, ventilation, or fire extinguishing systems.
2. Appearance and design. Collection and donation bins shall have the following physical attributes:

 - a. Be constructed of a uniform durable and waterproof material with a single non-reflective finish.
 - b. Have a collection opening that has a tamper-resistant locking mechanism;
 - c. Not be electrically or hydraulically powered or otherwise mechanized;
 - d. Shall not exceed the maximum size of 25 square feet.
 - e. Shall not exceed the maximum height of 6.75 feet.
 - f. Shall have the following information displayed on the front of the donation and collection bin in two-inch typeface visible on the front of the bin:

 - i. The name, address, 24-hour telephone number, website, and email address of the owner and operator of the donation and collection bin and the parcel owner/owner agent;
 - ii. The type of material that may and may not be deposited in the bin;
 - iii. A notice stating that no material shall be left outside the bin;
 - iv. If the collection and donation bin is owned by a nonprofit organization:

 - a) A statement describing the charitable cause that will benefit from the donations;
 - b) The Federal Tax identification number of the nonprofit organization operating the UDCB; and
 - c) The statement "This collection box is owned and operated by a nonprofit organization."
 - v. If the collection and donation bin is owned by a for-profit entity:

 - a) "This donation is not tax deductible." And
 - b) "This collection box is owned and operated by a for-profit organization."
 - g. Notwithstanding sections 2a through 2f, sign lettering shall not exceed 5 inches in height.
 - h. Notwithstanding sections 2a through 2f, sign area shall not exceed 2 square feet in size per side.
3. Maintenance.

 - a. No blight shall be within 20 feet of the bin. Blight includes, but is not limited to, donation/collection overflow, litter, debris, and dumped material.
 - b. Bins 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.
 - c. Bins shall be serviced not less than weekly. This servicing includes the removal of donated/collected material and abatement of the blight described this section.
 - d. The operator shall maintain an active email address and a 24-hour telephone service with recording capability for the public to register complaints.

- e. Bins cannot be used for the collection of solid waste and/or any hazardous materials.
- f. Graffiti shall be removed in a timely manner within a period of three business days unless otherwise extended by the city's code enforcement officer.
- g. No uplighting or illumination of any kind shall be permitted.

E. Violations and Compliance Process. Violations of this chapter shall be handled by the city's code enforcement officer pursuant to the procedures set forth in Chapter 8.04.

F. Nothing in this chapter shall be interpreted to authorize a right of action against the City, nor shall this section give rise to any cause of action for damages against the City.

G. Exemptions. Donation and collection bins that are located within an entirely enclosed and lawfully constructed and permitted principal building shall not require a zoning permit.

Section 5.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared unconstitutional on their face or as applied.

On motion of Council Member _____, seconded by Council Member _____, the foregoing Ordinance was introduced at a regular meeting of the City Council on the 2nd day of October 2018, and adopted at a regular meeting of the Council held on the 16th of October 2018, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

DRAFT