

Proposed Local Law No. 2 Of 2016

County Of Ulster

A Local Law Amending Local Law No. 5 of 2000 (A Local Law Requiring Checkout Accuracy And The Clear, Accurate, And Adequate Display Of Selling Price), To Update The Consumer Protection Law To Allow For The Registration And Regulation Of Publicly Accessible Donation Bins

BE IT ENACTED, by the Legislature of the County of Ulster, as follows:

SECTION 1. TITLE.

This Local Law shall be known by and may be cited as the “Donation Dropbox Disclosure and Regulation Act.”

SECTION 2. LEGISLATIVE INTENT AND FINDINGS.

This bill would allow the County of Ulster to impose certain disclosure, registration, and regulatory requirements upon publicly accessible donation bins, “donation dropboxes,” located on properties within the County. The Office of the Ulster County Comptroller has found significant anecdotal evidence, in addition to recent action by the New York State Attorney General and Legislature, demonstrating that many of these containers – commonly used to collect clothing and other items for charitable purposes – are inadequately monitored and marked, which may mislead members of the public as to exactly whom or what entity receives the ultimate benefit of the donated goods. While donation dropboxes may facially appear to provide charitable services, businesses are often profiting to a large degree from selling the received goods while little or no benefit is bestowed upon a charitable organization. Moreover, bins may be overflowing or insufficiently maintained, which can lead to common eye sores or more substantial safety concerns.

Communities across New York, as well as the country, have enacted regulatory policies aimed at ensuring that charitable organizations and commercial enterprises that run these dropboxes are properly identified, disclosed, and registered with the supervising authority. This bill would implement best practices from the NYS Attorney General and several other jurisdictions, while codifying aspects of state law, in order to bolster transparency and consumer protections for County residents as to address hygiene, aesthetic, and safety issues related to the placement and operation of these receptacles.

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SECTION 3. DEFINITIONS.

Chapter 169: Consumer Protection of the Code of Ulster County, (adopted by Local Law No. 5 of 2000; amended in its entirety by Local Law No. 12 of 2007), § 169-4 Definitions is hereby amended to include the following definitions:

DONATION DROPBOX – Any enclosed container, receptacle, or similar product held out to the public or otherwise intended as a place for people to drop off clothing or other materials for charitable or non-charitable purposes until such items are carted away by an authorized party.

REGISTRANT – Any individual, organization, or business entity that registers a donation dropbox pursuant to the provisions in this Article and otherwise owns, operates, or maintains the container.

SECTION 4. Chapter 169: Consumer Protection of the Code of Ulster County is hereby amended by adding a new Article II to begin at Section 169-11:

Article II: Donation Dropbox Disclosure and Regulation

§ 169-11 Permit required; issuance, validity, terms, and penalties.

A. It shall be unlawful for any person, organization, business, or corporate entity – except the County of Ulster or its related agencies – to maintain, place, empty, or cause to be maintained, placed, emptied, or removed a donation dropbox without having first obtained a permit issued by the Ulster County Clerk. The exact form and content of the permit shall be determined at the Clerk’s discretion but shall at least include and conspicuously state the following to be sworn to under oath: (1) name and suitable contact information, including a telephone number and address, of the registrant; (2) the location of the donation dropbox, as well as similar name and contact information of the owner of the property; (3) dates for which the permit is valid; and (3) the name(s) and similar contact information of the organization, individual, charity or ultimate destination that has

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a pecuniary interest or stands to benefit from the donations received, as well a reasonable description – including a percentage breakdown if possible – of how any sales proceeds derived from donated goods will be shared.

B. A registrant shall affix a permit to every donation dropbox prior to its placement. The permit shall be placed on the same side of the donation dropbox as the chute or opening used to deposit items.

C. Upon the sale or transfer of a donation dropbox, or any change in the material terms as to the beneficiaries of donated goods, a new or updated permit shall be issued to the registrant and affixed prior to its placement.

D. Permits shall be valid for one (1) calendar year starting from the date of issuance and may be renewed by the registrant as soon as thirty (30) days prior to the date of the current permit's expiration.

E. An application processing fee of twenty-five (\$25) dollars shall be charged in advance of each one (1) year period the donation dropbox shall be in place. The fee shall be waived for any registrant that can demonstrate its status as a duly registered and recognized charity, not-for-profit, or religious organization in the State of New York, or that the entirety of the proceeds gained from the donated goods will go toward a duly registered and recognized charity, not-for-profit, or religious organization.

F. In addition to penalties provided for in any other provisions of law, any person or entity found in violation of this Article shall be jointly and severally liable therefor. The Code Enforcement Officer of the Ulster County Department of Health, Environmental Sanitation Division and the Ulster County Sherriff are hereby authorized to issue summonses or appearance tickets, returnable to the Ulster County Courthouse. Any such offense shall be punishable by a fine of up to two-hundred-fifty (\$250) dollars per violation, per day to be paid to the County of Ulster, and/or up to fifteen (15) days in jail. Additionally the County Attorney may, in an appropriate case, institute an injunction or require the removal of a

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donation dropbox within thirty (30) days of notice to the registrant in the name of the County to assure compliance with the terms of this Article.

§ 169-12 Regulation and disclosure; markings and prohibitions.

A. Any registrant that places or maintains a donation dropbox in public view in accordance with this Article shall clearly and conspicuously display on one (1) other side, in addition to the side on which the permit is affixed:

1. A permanent sign or label, printed in a font type of at least two (2") inches in height, with the name(s), mailing address(es), phone number(s), electronic mail and/or website if applicable, and statement expressing the mission and purpose of the charity, not-for-profit, of religious organization with an interest or derived pecuniary benefit from the donated goods, as well as the following message:

i. DONATED ITEMS WILL BE USED FOR CHARITABLE PURPOSES. THE VALUE OF ITEMS PLACED IN THIS DROPBOX IS TAX-DEDUCTIBLE. FOR MORE INFORMATION, CONTACT THE DEPARTMENT OF LAW AT (INSERT THE CURRENT TELEPHONE NUMBER ESTABLISHED BY THE DEPARTMENT OF LAW FOR RECEIVING INQUIRIES FROM CONSUMERS) OR (INSERT THE CURRENT ADDRESS OF THE WEBSITE OF THE DEPARTMENT OF LAW);

or

2. If any interest or pecuniary benefit is derived by a non-charitable, for-profit, or non-religious party in addition to any simple maintenance, rental, or similar fees necessary for the donation dropbox's operation not exceeding a nominal amount of the overall revenue derived from its proceeds then the following additional declaration shall be made in printed letters that are at least two (2") inches in height and in a color that clearly contrasts with the donation dropbox:

ii. DONATED ITEMS WILL BE USED FOR PROFIT. THE VALUE OF ITEMS PLACED IN THIS DROPBOX IS NOT TAX-DEDUCTIBLE. THE DONATIONS MADE HERE MAY NOT ENTIRELY BENEFIT A CHARITABLE PURPOSE AND WILL BE SOLD BY A BUSINESS. ALL OR PORTIONS OF THE PROCEEDS WILL BE PAID TO [NAME(S)]. FURTHER INFORMATION ABOUT THESE PAYMENTS CAN BE OBTAINED FROM

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[NAME OF REGISTRANT] AT [PHONE NUMBER AND/OR EMAIL ADDRESS].

B. The registrant shall maintain the donation dropbox in a structurally sound, clean, tamper-resistant, and sanitary condition, including its signage and overall aesthetic presentation. Donation dropboxes must be regularly emptied by authorized parties monthly, whenever full, or within seven (7) days of a request by the property owner, owner's agent, or County official, whichever is sooner. Registrants will have seven (7) days to remedy overflowing, inoperable, vandalized, or otherwise damaged donation dropboxes upon notice or communication of a defect or concern.

C. The registrant shall comply with all applicable state and local zoning, maintenance, and/or permitting requirements, including those specifically outlined in Chapter 524 of the Laws of 2015 (New York State).

SECTION 5. SEVERABILITY.

In the event that any portion of this local law is found to be invalid, such finding will not have any effect on either the remaining portions or applications of this local law or any provisions of the Ulster County Charter, which shall remain in full force and effect.

SECTION 6. EFFECTIVE DATE.

This local law shall take effect ninety (90) days after filing with the Office of the Secretary of State and shall apply to all publicly accessibly donation dropboxes in place on the effective date of this local law and all publicly accessible donation dropboxes placed subsequent to the effective date of this local law.