

# CITY OF WEST CHICAGO

WHERE HISTORY & PROGRESS MEET

## DEVELOPMENT COMMITTEE

**Monday, April 13, 2015  
7:00 P.M. - Council Chambers**

### AGENDA

1. Call to Order, Roll Call, and Establishment of a Quorum
2. Approval of Minutes
  - A. March 9, 2015
3. Public Participation
4. Items for Consent
  - A. Wild Ginger Trail Right-of-Way Vacation & Conveyance
5. Items for Discussion
  - A. USAgain Donation Collection Bin Code Amendment - Conceptual Review
6. Unfinished Business
7. New Business
8. Reports from Staff
9. Adjournment

## **MINUTES**

### **DEVELOPMENT COMMITTEE**

**March 9, 2015, 7:00 P.M.**

**1. Call to Order, Roll Call, and Establishment of a Quorum.**

Alderman Stout called the meeting to order at 7:02 p.m.

Roll call found Aldermen John Banas, James Beifuss, Laura Grodoski, Melissa Birch, Jim Smith, John Smith and Becky Stout, present.

Also in attendance was City Planner, Jeff Harris.

**2. Approval of Minutes.**

**A. January 12, 2015**

**Alderman Beifuss made a motion to approve the minutes with changes. The motion was seconded by Alderman Grodoski and all remaining members agreed and the motion was carried.**

**B. February 9, 2015**

**Alderman Banas made a motion to approve the minutes with changes. The motion was seconded by Alderman Beifuss and all remaining members agreed and the motion was carried.**

**3. Public Participation.**

Gene Frost, Head of School at Wheaton Academy was present. He expressed his thanks on behalf of the school for the hearing and subsequent support at last week's Plan Commission Meeting. He then read a portion of a petition signed by 41 friends and neighbors of the school that expressed its support of not only the school as a neighbor and as an asset to the City, but also of the amended PUD submitted by the Academy.

**4. Items for Consent.**

**A. Thornton's Gas Station Development Proposal – 1330 S. Neltnor Boulevard**

**B. Wheaton Academy Final PUD Amendment – 900 N. Prince Crossing Road**

**Alderman Banas made a motion, seconded by Alderman Birch, to place the Item for Consent for Wheaton Academy on the March 16, 2015 City Council Agenda. The Committee members unanimously agreed and the motion carried.**

As it related to Items for Consent A, Thornton's Gas Station, Alderman Banas requested clarification on the two variances that were requested—specifically the distance of the building setback variance and the landscape variance. He asked how the maintenance of the landscaping is enforced and Jeff Harris responded that they are required to maintain it in living condition, such that they are obligated to replace anything that dies. Mr. Harris further remarked that landscape installation is inspected and that it must follow the plans exactly. Later, he said, correction notices may be used if needed for upkeep. Alderman Banas asked about the reason to move the landscape buffer and Jeff Harris replied that the move will create a better screen for residents to the north. Alderman Banas then inquired about the building setback variance of 20 feet. Jeff Harris explained that it relates to the diesel canopy and the ultimate intent is to move it as far away from the residents as possible. He also stated that this is an almost identical variance to the one given to the Shell Station at Route 59 and North Avenue.

**Alderman Banas made a motion, seconded by Alderman John Smith, to place the Item for Consent of the Thornton's Gas Station Development Proposal also on the March 16, 2015 City Council Agenda. The Committee members unanimously agreed and the motion carried.**

**5. Items for Discussion.**

**A. Speedway Gas Station Conceptual Review – NWC of Roosevelt Road and W. Washington Street**

Jeff Harris provided a summary of the proposed development of the site, which includes a 4,600 square-foot convenience store, automobile fuel canopy with eight pump islands, facing south, 24 parking spaces and a diesel fuel canopy with two pump islands located in the northeast corner. There will be full access for trucks and autos off of Washington Street and a right-in/right-out from the site to Roosevelt Road. One-way truck traffic is proposed in the northwest edge of the site, which is also the entrance for the adjacent asphalt plant. IDOT is also going to be improving the intersection of Fabyan/Roosevelt, but Speedway has already incorporated these anticipated changes into their proposal. The site is currently zoned ORI, Office/Research/Light Industrial, which does not allow

for gas stations, the following alternatives are offered: 1) a text amendment to the ORI Zoning District to add gas stations as a special use or 2) rezoning the property to B-2 General Business District. The downside of the latter is that the building setbacks are greater than in the ORI District, which would necessitate the reconfiguration of the site or the request of more variances. In the case of ORI Zoning, there would be some simple landscape variances and also some setback variances. Mr. Harris then asked the Committee members if there were any concerns about the site design.

Alderman Banas asked for clarification about the type of zoning for the neighboring BP Gas Station and Jeff Harris replied that their zoning is a special use within a Manufacturing District. Alderman Banas wondered about the possibility of using this same type of zoning for Speedway's proposal and Mr. Harris responded that by rezoning this site to Manufacturing, the development of this site would be open to other Manufacturing uses, in the event the gas station did not come to fruition. Alderman Banas then asked about the true downside of having a gas station as a special use within the ORI district. Jeff Harris explained that the intersection in question is part of the City's prime ORI corridor and a text amendment as discussed would allow for more gas stations on Roosevelt Road.

Alderman Beifuss expressed support of B-2 zoning for the two parcels in question. He then made an inquiry about the shared entrance to the asphalt plant and the volume of trucks. He also pointed out the potential for truck stacking and expressed further concern for there being a potential conflict with the trucks. Jeff Harris concurred that the area near Washington Street may be congested, particularly during the construction season due to the asphalt trucks. Mr. Harris added that the intent is to have truck traffic exiting the site at the northeast corner and autos exiting in the southwest corner. However, staff is concerned that there may be trucks not following this pattern and exiting in the southwest corner. This may cause additional stacking near the diesel canopies.

Alderman Banas shared the concerns of Alderman Beifuss, especially where truck stacking may prevent cars from exiting at the southwest exit and suggested that there be clear one-way only indicators. Jeff Harris explained that the site design provides for trucks to enter off of Roosevelt and as such, there is ample stacking space—50 feet wide—for trucks to access the pumps within the site. He does not foresee a problem for cars exiting on to Roosevelt. Alderman Banas then asked about an exit to the south. Jeff Harris explained that IDOT had already advised that the exit be situated as far west as possible. He also stated that there are trucks that turn left into the BP Gas Station frequently, despite the fact that the entrance is right-in only.

Alderman Grodoski expressed that in her experience, this intersection is already busy. If there is another gas station, coupled with trucks possibly turning the wrong way, the intersection could become more dangerous. She asked if the signals will be adjusted and

Jeff Harris responded that IDOT will be redoing that intersection and pointed out some of the changes that IDOT will be making, which have already been worked into the site plan.

Ed Dul of EN Engineering came forth to speak as the engineer of record representing Speedway for this property and displayed their site plan. He explained that the B-2 setbacks would greatly affect the property and more variances would be needed. By keeping it ORI, it would allow for them to meet all of the building setback requirements, with some potential landscape requirements as well. He stated that he is looking for clear direction from the Committee. Where the traffic is concerned, Mr. Dul mentioned that the right-in/right-out in the southwest corner is designed for a full sized semi-truck. As far as truck stacking, Speedway prefers to have two trucks stacking to enter the CFL lanes and two trucks stacking after them; this site is laid out accordingly. They are also proposing to widen the entrance to the north to meet City code. He also stated that trucks exiting the site will not be crossing over into the asphalt plant entrance. Alderman Banas asked about the length of the area and Mr. Dul responded that it is about 70 feet long.

Alderman Stout inquired if there would be an advantage to moving the diesel canopy further to the southwest so that there would be greater maneuverability for trucks, especially for those trucks that have mistakenly entered off of Washington Street. Mr. Dul stated that they had anticipated the need to make modifications, and then showed a visual of the alternate plan. He pointed out the bypass lane that would allow for trucks to exit the site if they had entered incorrectly, but that moving the diesel canopy further south would bring potential conflict with the fueling trucks. Jeff Harris asked how often a fueling truck would visit the site. Mr. Dul replied that it is usually once a day for about 45 minutes. Alderman Stout also asked about the potential to move the right-in/right-out and have one entrance off of Washington to gain additional space within the site. Mr. Dul explained that this particular site design would meet the setback requirements for the City's ORI zoning. Alderman Banas expressed his preference for the alternate plan.

Alderman Stout suggested that being there is a Manufacturing district to the northeast, there are probably going to be trucks turning the wrong way and that the bypass lane would help alleviate the problem. Jeff Harris offered that the site requires a lot of truck maneuvering in order for them to visit the pumps and for them to go the right way. Ed Dul said that they are proposing signage for the exit only.

Alderman Beifuss stated that one of the big problems is the shared entrance with the asphalt plant that is also an exit. He asked if a traffic study had been done to know how many trucks would be expected there on a daily basis.

Richard Yost, Division Project Manager for Speedway, explained that they have designed sites for diesel and car traffic in Burbank and Lombard, IL. Further, he stated, they take

safety first and foremost. Secondly, IDOT reviews the plan and they are also stringent about safety and avoiding conflicts. It was a difficult piece to design, given the triangular shape of the parcel. As to the truck volume, he replied that they anticipate about five trucks per hour on average, over an 18 hour period, to visit the site, with slightly more volume in the mornings than at night. There are about 2,000 to 3,000 trucks per day on Roosevelt Road. Mr. Yost also stated that the higher margin earned from diesel truck fueling is what will make this a successful site. Also, the site design reflects truck drivers wanting the convenience of being able to fuel from both sides and provides more safety because it separates the trucks from the auto canopy. Without the separate diesel lanes, trucks might try to refuel from the diesel pump at the auto canopy. They also designed the site with a large curb coming around the gas canopy to create a pinch point with a stop sign for cars to maneuver safely. Mr. Yost stated that initially, trucks might enter from the wrong direction at a new site, but that their staff would communicate the problem to the drivers were that to happen. They also propose signage to indicate where the truck and car entrances are located off of Roosevelt. There will also be signs for the truck exit and on the canopy, which should be very visible.

Alderman Banas requested clarification from the Speedway representatives about the need for an optional exit path for trucks entering the wrong way, given the canopy signage they propose. The Speedway representatives suggested additional signage for an "auto only/no trucks allowed" area. Jeff Harris inquired about the option of designing the canopy for two-way traffic in the truck area, reminding that there is a lot of car traffic during peak hours and trucks will have difficulty exiting.

Alderman Banas asked if a new island and extra pump would be needed for a two-way truck canopy. Speedway representatives replied that it is not common, but that they understand the concerns about the shared entrance that are being raised. Alderman Stout pointed out that, with only one fuel delivery per day, more consideration should be given to moving the canopy further southwest to allow for greater safety for the vehicles. Jeff Harris stated that staff would prefer to pave up to the west lot line to have up to 15 foot of more usable space.

Kerry Trombley, Construction Program Manager with Speedway, addressed the notion of two-way truck traffic. He stated that it is an industry standard to avoid having two-way traffic or two-way commercial vehicle fueling because it creates a lot of conflict. The industry design is for one-way fueling. Mr. Trombley accepted Mr. Harris' idea for additional paved area to allow for an emergency bypass lane that they could consider. Mr. Harris added that in the real world, he does not feel that the design will function as it was intended and Alderman Stout concurred. Mr. Trombley also suggested that with additional paving, there could be another 15-foot drive aisle to help as needed.

Alderman Beifuss expressed his understanding of both sides of the issue and additionally the logic behind one-way fueling. He also mentioned the possibility of passenger cars cutting through. Jeff Harris did not feel that cars would save much time by cutting through the site to avoid the traffic signal. Alderman Beifuss expressed that he thought the one-way design is better to avoid the conflict of vehicles coming in and out. He then asked about where the truck drivers would park in order to use the convenience store. The Speedway representative explained that they would stack outside the CFLs and that the design allows for one full truck to pull forward from the pump area. Alderman Banas asked about what would happen if trucks stack after fueling to enter the store and Jeff Harris responded that it seemed more likely they would enter the store prior or during fueling. The Speedway representative responded that this is a common question heard at their presentations.

Alderman Stout asked what the consensus was. Alderman Beifuss said that a gas station seems to make sense at this corner and Alderman Jim Smith expressed that he felt this would be an easier in and out because they are all right hand turns.

Alderman Stout asked the Committee their opinions about the different zoning options of B-2 versus ORI. Alderman Beifuss stated that the B-2 appears to be beneficial from the City's standpoint. Jeff Harris surmised that so long as the Committee agrees to a gas station at this site with the general layout proposed then the number of variances can be worked out. Alderman Grodoski voiced her support of B-2 and Alderman Birch and Alderman Jim Smith agreed.

Alderman Stout asked if BP would also be included in the B-2 zoning and Jeff Harris answered that a full analysis had not yet been conducted to determine the effects. Alderman Banas asked if a public hearing would be required for this change and Jeff Harris said yes.

Mr. Harris summarized that B-2 zoning would require three steps of rezoning, special use and variances, whereas as ORI would require text amendment, special use and variances. Alderman Stout stated that B-2 seems to be preferred option, given the Committee members' input. Jeff Harris reminded the Committee that the B-2 option would require several more variances based on the site layout. Alderman Beifuss expressed his support of B-2.

Jeff Harris then asked what changes to the site plan are recommended. Alderman Stout answered that based on member input, the second option is favored. This option, coupled with the additional pavement along the west lot line, allows for greater maneuverability. Jeff Harris also suggested that they consider widening the right-out exit on to Roosevelt so that trucks may also exit there should they need to. The Speedway representatives replied that they would be willing to look at this idea and there is room to do so.

Alderman Banas added his preference for clear signage as an exit only. Alderman Birch asked if any photos were available of the Lombard Speedway project to help understand what the canopy signs would look like. The Speedway reps replied that they did not, but in the case of Lombard, there is a large enough area for trucks to circulate. Alderman Stout stated that the Committee's review is merely conceptual at this point and that photos could be introduced later for an approval. The Speedway reps clarified that the Lombard site does not include directional signage, but Burbank does.

Jeff Harris said that staff review may occur in March or April and then the formal presentation would be in May. Alderman Stout concluded that with the modifications discussed, they would be favorable.

#### **B. Property Owner Consent and Application Fee Amendments for Individual Landmark and Historic District Nominations**

Jeff Harris summarized the direction agreed upon at the Development Committee's meeting on February 9, 2015 as well as the suggestions drafted by the Historical Preservation Commission's meeting on February 24<sup>th</sup>. In particular, the Historical Preservation Commission proposed changes to the timeline for the application process and to the preliminary review and owner consent aspects.

Alderman Banas stated that the Development Committee had already reached a consensus in regards to property owner consent and that those ideas were reflected in the Development Committee version drafted. He further reiterated that that version be the one they move forward with, explaining that the Historical Preservation Commission version could potentially disregard property owner consent if a unanimous vote resulted. Alderman John Smith and Alderman Jim Smith both agreed with Alderman Banas. Alderman Stout concluded that the consensus of the members is to support the Development Committee version from the February meeting.

Alderman Beifuss requested clarification about the proposed percentage required for the designation of a historic district. Jeff Harris explained that the Development Committee version does not contain a percentage in the landmark nomination procedure of the Code. Alderman Beifuss also mentioned the discussion from last month's Development Committee meeting regarding the ownership of property by differing taxing bodies as it relates to historic preservation. He also remarked on the time allotted for preliminary review in which the Historical Preservation Commission has 45 days to review a property and use their expertise accordingly. He then asked about the majority vote needed to override property owner consent in the Historical Preservation Commission's draft version. Alderman Stout stated that the Historical Preservation Commission's version disregarded the compromise reached at the Development Committee's meeting last



month and further recommended that the Development Committee's version be approved and sent to the full Council.

Alderman Beifuss then asked about the application fee. Jeff Harris explained that the Development Committee's version stipulates the payment of the application fee at the time of application. Mr. Harris also stated that the deposit is not used until the time of the public hearing process. Alderman Beifuss expressed his concern about requiring a \$500.00 deposit for a property already having passed preliminary review and for which property owner consent had been obtained. Mr. Harris said that the application fee does not come close to covering the costs of processing the application and that the deposit is designed to prevent the City from having to pay out of pocket. Alderman Beifuss added that given how rare the application process is, it might be worth it for the City to pay the associated costs and not charge a deposit.

Alderman Banas stated that their job is to ensure that taxpayer money is spent wisely and that recouping City costs is part of that. He requested that the members consider keeping the \$500.00 deposit fee in their version in an effort to recoup City costs. Jeff Harris clarified that, if the final cost of the application process is greater than the deposit amount, then the applicant would be required to pay for those additional costs.

Alderman Beifuss pointed out that, it makes sense to not require an additional deposit amount in the rare instance it should happen, and especially given that historic preservation is of value to all and something they want to encourage. Alderman Grodoski offered that if a property owner is serious about the application, then he/she is going to be willing to foot the bill to see it through. Jeff Harris estimated that the City incurred around \$1,500.00 for the historic preservation process of St. Mary's Catholic Church. Alderman Beifuss observed that had property owner consent been obtained, the application would have never been submitted nor gone to Public Hearing.

Alderman Banas asked staff if the deposit requirement is consistent with the way in which other applications are processed and if so, then it makes sense from a consistency standpoint to continue to require it. He also pointed out that if property owner consent is not obtained, then the deposit money would not get used. Jeff Harris concurred and identified that the process is the same for special use, re-zoning and variances. Alderman Beifuss stated that there are several things that the City does that are not revenue neutral, but are of value for building the community. Furthermore, he added, putting up roadblocks for the homeowner, who might be interested in having his/her property landmarked, would not be a benefit. By making it less expensive for the property owner, he/she is more likely to go along with the application process.

**Alderman Banas made a motion to accept the Development Committee version as proposed by staff in regards to individual property owners and with the amendment**

**that owner consent would not be required if the owner were another government entity. Alderman Grodoski seconded the motion. The remaining Committee members unanimously agreed and the motion carried.**

**6. Unfinished Business.**

None.

**7. New Business.**

None.

**8. Reports from Staff.**

None.

**9. Adjournment.**

**Alderman Banas made a motion, seconded by Alderman John Smith, to adjourn the March 9, 2015 Development Committee meeting at 9:22 p.m. The Committee members unanimously agreed and the motion carried.**

Respectfully submitted,

Jane Burke  
Executive Secretary

## CITY OF WEST CHICAGO

### DEVELOPMENT COMMITTEE AGENDA ITEM SUMMARY

**ITEM TITLE:**

Plat of Right-of-Way Vacation & Conveyance of Land  
Wild Ginger Trail in Forest Trails Subdivision

Vacation Resolution 15-R-0025  
Conveyance Ordinance 15-O-0014

AGENDA ITEM NUMBER: 4. A.

FILE NUMBER: \_\_\_\_\_

COMMITTEE AGENDA DATE: April 13, 2015

COUNCIL AGENDA DATE: \_\_\_\_\_

STAFF REVIEW: John D. Said

SIGNATURE JDS

APPROVED BY CITY ADMINISTRATOR: Michael Guttman SIGNATURE \_\_\_\_\_

**ITEM SUMMARY:**

City staff is requesting the vacation of a portion of the Wild Ginger Lane right-of-way located in Forest Trails Subdivision that is not needed as part of the City's public roadway system. The portion of right-of-way was dedicated in 1987 when the subdivision was originally platted. The right-of-way currently is unimproved green space and does not contain any City owned utilities. As part of this vacation the underlying land will also be conveyed to the adjacent property owner to the east at 910 Ridgewood Lane (Dayla Brown).

**ACTIONS PROPOSED:**

Consideration of the requested plat of right-of-way vacation for a portion of Wild Ginger Trail and conveyance of said vacated right-of-way to the adjacent property owner at 910 Ridgewood Lane.

**COMMITTEE ACTION:**

**RESOLUTION NO. 15-R-0025**

**A RESOLUTION APPROVING A PLAT OF RIGHT-OF-WAY VACATION -  
WILD GINGER TRIAL (PORTION)**

BE IT RESOLVED by the City Council of the City of West Chicago, in regular session assembled as follows:

Section 1. That the Plat of Vacation, as prepared by Thomas Engineering Group, consisting of one (1) sheet, attached hereto and incorporated herein as Exhibit "A", be and the same is hereby approved and that the Mayor and City Clerk and all other necessary and appropriate officers of the City are authorized to execute said plat.

Section 2. That all resolutions or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, expressly repealed.

Section 3. That this Resolution shall be in full force and effect from and after its adoption and approval as provided by law.

APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2015.

AYES: \_\_\_\_\_

NAYES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

\_\_\_\_\_  
Mayor, Ruben Pineda

ATTEST:

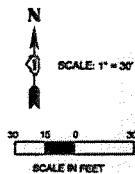
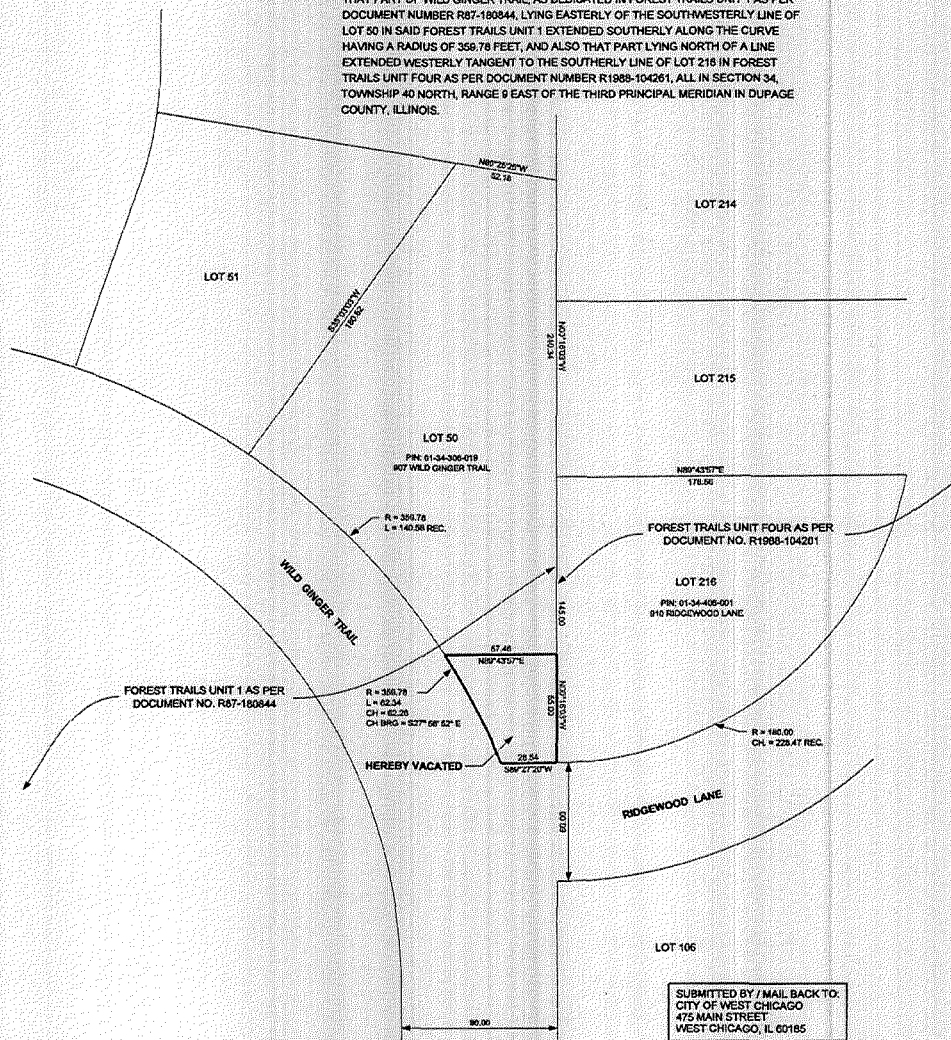
\_\_\_\_\_  
City Clerk, Nancy M. Smith

**EXHIBIT "A"**

(INSERT PLAT OF VACATION HERE)

# PLAT OF VACATION OF

THAT PART OF WILD GINGER TRAIL, AS DEDICATED IN FOREST TRAILS UNIT 1 AS PER DOCUMENT NUMBER R87-180844, LYING EASTERLY OF THE SOUTHWESTERLY LINE OF LOT 50 IN SAID FOREST TRAILS UNIT 1 EXTENDED SOUTHERLY ALONG THE CURVE HAVING A RADIUS OF 359.78 FEET, AND ALSO THAT PART LYING NORTH OF A LINE EXTENDED WESTERLY TANGENT TO THE SOUTHERLY LINE OF LOT 216 IN FOREST TRAILS UNIT FOUR AS PER DOCUMENT NUMBER R1989-104261, ALL IN SECTION 34, TOWNSHIP 40 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN IN DUPAGE COUNTY, ILLINOIS.



NOTE:  
THE BASE OF BEARINGS ON THIS PLAT OF VACATION ARE BASED ON THE RECORDED BEARINGS OF FOREST TRAILS UNIT 1 AS PER DOCUMENT NUMBER R87-180844.

SUBMITTED BY / MAIL BACK TO:  
CITY OF WEST CHICAGO  
475 MAIN STREET  
WEST CHICAGO, IL 60185

## CITY OF WEST CHICAGO MAYOR AND CITY COUNCIL APPROVAL CERTIFICATE

STATE OF ILLINOIS )  
COUNTY OF DUPAGE ) SS

MAYOR AND CITY COUNCIL OF THE CITY OF WEST CHICAGO, COUNTY OF DUPAGE, STATE OF ILLINOIS, HEREBY CERTIFY THAT THE SAID COUNCIL HAS DULY APPROVED THIS PLAT OF VACATION ATTACHED HERETO BY ORDINANCE NO. \_\_\_\_\_ DULY AUTHENTICATED AS PASSED THIS DAY OF \_\_\_\_\_, 2015.

MAYOR \_\_\_\_\_

ATTEST: \_\_\_\_\_

CITY CLERK \_\_\_\_\_

## DUPAGE COUNTY RECORDER'S CERTIFICATE

STATE OF ILLINOIS )  
COUNTY OF DUPAGE ) SS

THIS INSTRUMENT NUMBER \_\_\_\_\_ WAS FILED FOR RECORD IN THE RECORDER'S OFFICE OF DUPAGE COUNTY, ILLINOIS ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 2015, AT \_\_\_\_\_ O'CLOCK IN THE \_\_\_\_\_ DAY OF \_\_\_\_\_ IN BOOK OF PLATS ON PAGE \_\_\_\_\_.

RECORDER OF PLATS \_\_\_\_\_

## SURVEYOR'S CERTIFICATE

STATE OF ILLINOIS )  
COUNTY OF COOK ) SS

WE, THOMAS ENGINEERING GROUP, LLC DO HEREBY CERTIFY THAT WE PREPARED THIS PLAT OF VACATION, AND THAT IT IS A TRUE AND CORRECT REPRESENTATION OF THE SAME BASED ON OFFICIAL PLATS AND RECORDS. DIMENSIONS ARE GIVEN IN FEET AND DECIMAL FIFTHS THEREOF.

DATED THIS 31<sup>ST</sup> DAY OF MARCH, 2015.

ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 825-883817  
LICENSE EXPIRES NOVEMBER 30, 2016  
ILLINOIS PROFESSIONAL DESIGN FIRM NO. 004-031913

## **ORDINANCE NO. 15-O-0014**

### **AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CERTAIN PROPERTY - VACATED PORTION OF WILD GINGER TRAIL RIGHT-OF-WAY**

WHEREAS, on April 20, 2015, the City Council of West Chicago approved Resolution No. 15-R-0025, a copy of which is attached hereto and incorporated herein as Exhibit "A", vacating the unimproved portion of the Wild Ginger Trail right-of-way located north of Ridgewood Lane; and,

WHEREAS, the vacated portion of the Wild Ginger Trail right-of-way was unimproved and the City determined that it would not be in the best interest of the City to retain ownership of said property; and,

WHEREAS, the City has agreed to convey the vacated portion of the Wild Ginger Trail right-of-way property to Dayla Brown of 910 Ridgewood Lane (P.I.N. 01-34-408-001), West Chicago, Illinois, who is the respective property owner located immediately adjacent to the east of said vacated right-of-way; and,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of West Chicago, DuPage County, Illinois, in regular session assembled, as follows:

Section 1. That the vacated portion of the Wild Ginger Trail right-of-way property that is located north of the Ridgewood Lane is hereby conveyed to Dayla Brown of 910 Ridgewood Lane (P.I.N. 01-34-408-001), West Chicago, Illinois, who is the respective property owner located immediately adjacent to the east of said vacated right-of-way.

Section 2. That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 3. That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_ 2015.

Alderman L. Chassee	_____	Alderman J. Beifuss	_____
Alderman A. Hallett	_____	Alderman L. Grodoski	_____
Alderman K. Meissner	_____	Alderman J. C. Smith, Jr.	_____
Alderman R. Stout	_____	Alderman J. Smith	_____
Alderman M. Birch	_____	Alderman D. Earley	_____
Alderman M. Fuesting	_____	Alderman S. Dimas	_____
Alderman J. Banas	_____	Alderman M. Edwalds	_____

APPROVED as to form: \_\_\_\_\_  
City Attorney

APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2015.

\_\_\_\_\_  
Mayor, Ruben Pineda

ATTEST:

\_\_\_\_\_  
City Clerk, Nancy M. Smith

PUBLISHED: \_\_\_\_\_



**Exhibit “A”**

(insert Resolution 15-R-0025 here)

## CITY OF WEST CHICAGO

### DEVELOPMENT COMMITTEE AGENDA ITEM SUMMARY

**ITEM TITLE:**

Conceptual Review and Direction  
Donation Collection Bin Regulations  
USAgain

**AGENDA ITEM NUMBER:** 5.A.**FILE NUMBER:** \_\_\_\_\_**COMMITTEE AGENDA DATE:** April 13, 2015**COUNCIL AGENDA DATE:** \_\_\_\_\_**STAFF REVIEW:** John D. Said**SIGNATURE** JDS**APPROVED BY CITY ADMINISTRATOR:** Michael Guttman **SIGNATURE** \_\_\_\_\_**ITEM SUMMARY:**

USAgain, a local for-profit agency that collects used clothing for resale, is requesting the City Council consider adopting regulations to allow placement of donation bins for collection of items donated by the public.

City officials have previously identified a number of concerns regarding donation bins, and City regulations currently prohibit them (based on Sec. 6.27 of the Zoning Code prohibiting fundraising activities for more than 72 hours, and various Zoning Code sections prohibiting outdoor storage). In general, City concerns have focused on the monitoring of donation bins, such as during off-hours when a business is closed, as well as the parties responsible for installing the bins and collection of donated goods in them. City officials have also expressed concerns about the placement of donation such bins, especially in high visibility areas around the community, and the difficulties associated with regulation and enforcement of donation bins requirements.

Attached is some literature from the textile recycling industry's advocacy group, Secondary Materials and Recycled Textiles Association (SMART), outlining their industry's perspectives on the following: allowing donation collection bins, common perceptions associated with donation collection bins, and how municipalities can regulate these bins (and organizations responsible for the bins) to limit potential negative or adverse impacts the bins might have on the community. Also attached is a letter from USAgain explaining their operations. A representative from USAgain will also be at the April 13<sup>th</sup> Committee meeting to participate in this discussion.

Staff obtained and reviewed existing ordinances from seven (7) other communities (Cicero, Elmhurst, Elmwood Park, Evanston, Lake in the Hills, Wheaton and Woodridge) on this matter. All of these ordinances had the same general format and content with respect to how they define and regulate donation collection bins. Elmhurst's ordinance is attached as a representative sample of these municipalities' regulations. These regulations establish the following aspects associated with donation collection bins:

- Define any necessary terms
- User qualifications (non-profit and for-profit organizations in good standing, property owner

consent, insurance requirements, etc.)

- License, registration and fee requirements
- Usage restrictions (i.e. placement, dimensions, maintenance, etc.)
- Violations and penalties

While other communities have enacted regulations allowing collection bins, City staff does not support the proposal for West Chicago, due to the concerns noted previously. Staff believes that the benefits outlined by SMART do not outweigh the regulatory difficulties associated with allowing donation bins in the community.

Should the Committee opt to consider establishing regulations for donation bins, staff will respectfully recommend that regulations emphasize those points to address previous City concerns, including placement, licensing/registration, monitoring and enforcement.

**ACTIONS PROPOSED:**

Conceptual review and Committee direction on potential regulations to allow for donation collection bins within the City.

**COMMITTEE RECOMMENDATION:**





November 13, 2014

Michael Guttman  
City of West Chicago  
475 Main St.  
West Chicago, IL 60185

Dear Mr. Guttman

Please allow this letter to introduce you to USAgain, LLC, and the benefits of textile recycling. USAgain, a for-profit textile recycling company based in West Chicago, owns and operates clothing collection and recycling bins on public and private property for the purpose of diverting useful items from landfills and returning them to the stream of commerce.

Clothing collection bins offer a convenient recycling service to local residents that are not only close to home, but also accessible 24 hours a day and 7 days a week. By locating collection bins within strategic population areas, it is possible to effectively divert items from entering the waste stream. According to a 2009 study<sup>1</sup> conducted in Illinois, clothing represents 3.5% of the landfilled urban residential municipal solid waste (MSW). Statewide, Illinois generates 336,300 tons of discarded clothing, of which 315,860 tons are disposed of in landfills. With a massive amount of textiles going into landfills every year, communities such as yours are facing increasing costs of MSW disposal for materials that are easily reusable or recyclable. Clothing collection bins can play an important role in waste diversion, thereby helping the environment and decreasing community disposal costs.

Although local communities have warmly welcomed collection bins for aluminum, plastic, glass, and paper; the proliferation of clothing collection bins has become a concern for some local governments. Some have struggled to balance the benefits of clothing collection bins with the needs and standards of the community. USAgain works with communities throughout Illinois and across the country, on our own and in concert with the Secondary Materials & Recycled Textiles (SMART) Association, to advocate and pass reasonable and equitable regulations that recognize and create standards for the placement and operation of collection bins. We are confident that with meaningful regulation, an example of which is SMART's model ordinance, communities can balance the interests and concerns of the community while promoting the best practices for the operation of clothing collection bins.

We would like to schedule some time to discuss the benefits of clothing collection bins with you and your colleagues at your convenience. Thank you in advance for your consideration.

Sincerely,

Osvaldo Cedillo  
Division Manager  
[O.cedillo@usagain.com](mailto:O.cedillo@usagain.com)  
630-930-2424

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<sup>1</sup> Illinois Commodity/Waste Generation and Characterization Study. Illinois Department of Commerce & Economic Opportunity, 22 May 2009. Available at: <http://www2.illinois.gov/gov/green/documents/waste%20study.pdf>



*The Association of Wiping Materials, Used Clothing and Fiber Industries*

### ***Key Elements of an Effective Clothing Collection Bin Ordinance***

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#### ***SMART Association Recommendations***

As a growing number of local governments propose measures that aim to regulate organizations operating clothing collection bins (herein referred to as bins) that collect unwanted clothing, shoes, textiles and other household items, the leading organization of the textile recycling industry, **Secondary Materials and Recycled Textiles Association (SMART)**, offers recommendations to local governments for the drafting of effective ordinances.

**SMART** is frequently approached by officials seeking language for clothing collection bin regulations. While every city has different methods for regulating local businesses, which makes it difficult to craft a one-size-fits-all approach, **SMART** has identified a number of key recommendations to achieve effective and community sensitive ordinances.

While some local governments look to simply clarify existing policies, others are discussing a limit or outright ban on the presence of bins provided to the community by for-profit entities. Unfortunately, those measures in the latter category have unintended consequences for the communities they serve. Banning or limiting the ability of for-profit textile recyclers to operate clothing collection bins severely limits contributions that private sector businesses are making to meet national economic, philanthropic and environmental objectives.

For-profit textile recyclers create tens of thousands of jobs throughout local and international communities and create a vital stream of revenue for numerous well-respected charities. For-profit textile recyclers routinely partner with local charities to collect unwanted items through the use of convenient collection bins bearing the charity's name and logo. This partnership allows the charities to share in the profit from the proceeds of collecting unwanted clothing, shoes, textiles and other household items in communities. As a number of charities have stated on the record, these arrangements provide essential, risk-free funding that is difficult to secure through other sources. Therefore, policy measures that limit for-profit textile recyclers from operating these bins would devastate many charities' bottom line.

Clothing collection bin operators and other for-profit textile recyclers also play a vital role in national recycling activities by diverting nearly 4 billion pounds of used clothing and other textiles from landfills each year. Unfortunately, as Environmental Protection Agency data show, the average household only recycles approximately 15% - a fraction of the total textile waste generated annually. This reality has prompted public officials in Massachusetts, New York City, Arizona and elsewhere to work with for-profit organizations to institute textile recycling programs. These officials understand that the unique efficiencies and infrastructure that the private sector offers are absolutely necessary to successful waste reduction efforts.

Below are recommendations provided by **SMART**:



# RECOMMENDATIONS

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➤ ***An effective clothing collection bin ordinance SHOULD NOT ban bins operated by for-profit recyclers.***

Broadly held misconceptions about the textile recycling industry have led some communities to consider banning bins provided by for-profits, with critics charging that some companies aren't as transparent in their charitable affiliation arrangements as they should be, that some fail to properly maintain their bins, and that donations create debris and clutter in public places. It is a reality that there are non-**SMART** member companies that do in fact merit the critiques of detractors. **SMART** member organizations have approved a robust Code of Conduct that is designed specifically to prevent these outcomes and believe that these non-compliant companies are the "bad actors" that should be weeded out by local government regulation. However, imposing outright bans on all for-profit recyclers actually threatens the public good. For example:

- Banning clothing collection bins operated by all for-profits will significantly increase the stream of textile waste in disposal sites and increase the cost to local governments to operate local landfills.
- For-profit textile recyclers create positive tax bases across the United States by creating thousands of jobs, and by creating much needed revenue streams for worthy charities nationwide. Banning bins operated by for-profit textile recyclers will eliminate these meaningful contributions.

We believe that communities should work with local industry representatives to craft measures that simultaneously address concerns and enable textile recycling to thrive.

➤ ***Ordinances SHOULD NOT impose artificial limits on the number of clothing collection bins per organization.***

While some local governments have moved to impose outright bans on bins, others have called for limits on the number of bins allowed per organization. Although bin operators *must* ensure that bins meet all applicable public zoning, health and safety standards, strict limits on the number of bins per organization means reducing the number of convenient locations for the public to donate and recycle their used clothing and household items.

➤ ***Ordinances SHOULD impose disclosure and transparency requirements on clothing collection bin operators.***

Ordinances should require bins to display helpful information for the public, local government, property owners and bin operators, including:

- Contact information (name/address/telephone/email; url) for person, business entity, or organization responsible for placing and maintaining the bin;
- A statement making clear that those dropping off goods may contact the appropriate local operator for additional information regarding the manner in which the items will be used, sold, or dispersed;
- A copy of the bin permit, if one is required, should be made available to local government officials, as requested.

- **Ordinances SHOULD discourage the use of deceptive or ambiguous labels/logos on clothing collection bins that falsely imply an underlying affiliation with a charitable organization when one does not exist.**

- **Ordinances SHOULD require clothing collection bin operators to obtain written consent from a property owner or owner's agent prior to placing clothing collection bins.**

Though it is imperative that a bin operator should be required to obtain consent in order to preserve the respectability of the textile recycling industry and to uphold property rights, an "owner's agent" should be broadly defined to include the authorized local agent at a chosen bin location. Many times large multinational corporations anchor sites where bin operators will choose to locate. It is nearly impossible to obtain a signed document from the CEO of these companies or their fiscal agent located at company headquarters. An owner's agent should include a local property manager/agent or authorized general store manager, so that bin operators are realistically able to obtain the consent necessary, and to avoid undo and unwieldy consent thresholds.

- **Ordinances SHOULD specify appropriate management/maintenance requirements to prevent clothing collection bins from becoming a threat to public health and safety.**

Maintenance requirements should be reasonable and realistic and should provide clothing collection bin operators the opportunity to respond to any potential issues. Requirements may be general, e.g. "Bins shall be serviced and emptied as needed or within 48 hours of a request by owner or owner's agent."

- Ordinances SHOULD require organizations to provide a Certificate of Liability Insurance of at least \$1 million.
- Ordinance should require bin operators to secure each clothing collection bin with a tamper proof lock.
- Ordinances should require bin operators to maintain the aesthetic presentation of the bins including fresh paint, readable signage, and general upkeep to maintain community standards.
- ***In addition it should be clearly posted on the bin that nothing should be left outside of the bin, and provide a clear and visible phone number to follow up on maintenance issues.***

- **Ordinances SHOULD require clothing collection bin operators to provide property owners or owner's agents with an attended, working phone number and be required to respond to any bin maintenance complaints within 24 hours of receiving notification during regular business hours.**

- **Ordinances SHOULD provide both property owners and clothing collection bin operators important civil liability protections by:**

- Giving property owners or owner's agent the right to rescind consent for a bin to be placed on their property, provided written notice of the rescission is given to the bin operator within a specified period of time prior to the bin being removed.

- Shielding property owners or owner's agents from civil liability from a clothing collection bin operator for the removal of an unauthorized bin or where removal is necessary to comply with local zoning ordinances.
- Ensuring that a property owner, owner's agent or other entity that causes the unauthorized removal of a collection bin, despite valid written consent from the property owner at the time of removal, is civilly liable to the owner/ operator of the bin.

➤ **Ordinances mandating the acquisition of permits *SHOULD* mandate the requirements be reasonable, affordable and manageable.**

Many communities require bin operators to obtain a permit before placing a bin. **SMART** supports the right of a community to require permits, yet the following recommendations to assure a reasonable, affordable and manageable process.

- **Information requested on a permit application *SHOULD* be straightforward and necessary. Examples include:**
  - Contact information (name/address/telephone/email) for person, business entity, or organization applying for the permit
  - Proposed location/address where the bin is to be placed
  - Contact information (name/address/telephone/email) for owner or owner's agent of location where bin will be placed
  - Written consent from the property owner or owner's agent to place the bin on his or her property
  - Contact information (name/address/telephone/email) for individual placing the bin
  - Information as to the manner/ schedule for which the bin is to be emptied/maintained.
- **Permitting fees *SHOULD NOT* be cost-prohibitive.**
  - A \$25-\$50 initial processing/application fee and \$10 for each additional bin is a standard adopted by many local governments and are fees that **SMART** supports. Keeping permitting fees at a reasonable and non-cost prohibitive level will assure the availability of donation bins and increase textile recycling.
- **Permits *SHOULD* remain in effect for at least one year.**
- **Permitting agencies *SHOULD* be required to respond to applicants within a specific amount of time and provide adequate justification if a permit is denied.**
- **Organizations applying for a permit should be required to be registered with the appropriate state corporation regulatory agency.**

➤ **Local governments *SHOULD* provide for enforcement and abatement when certain key obligations are not met.**

Many local governments have opted to codify clothing collection bin ordinances within jurisdictional zoning provisions. **SMART** respects the ability of local government to determine the best statutory



method for regulation, yet recommends that ordinances specifically provide for tangible enforcement and penalty provision for failure to meet ordinance provisions.

Ordinances should have enforcement provisions for:

- unlawful placement of bins
- infringement on another permittee's location
- failure to remove debris, graffiti or bulk items in allotted time
- failure to respond to maintenance requests in allotted time
- violation by property owners or bin operators to adhere to permit provisions for initial location and removal of bins
- to provide for legal protections for both property owners and bin operators

## SECONDARY RECOMMENDATIONS

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**SMART** also has the following suggestions for other less critical provisions that communities may wish to include in clothing collection bin ordinances:

➤ ***Local governments may wish to include language establishing that the purpose/intent of the measure is to establish procedures and requirements that:***

- Encourage the use of clothing collection bins to provide free, easy and convenient public solutions for community textile recycling.
- Adopt textile recycling programs to reduce the amount of textile and household waste going to landfills and reduce landfill dumping fees.
- Implement these no cost private sector recycling solutions to meet local and statewide waste reduction mandates.
- Support textile collection and recycling programs that provide funding to charitable organizations and stimulate local economies.
- Ensure transparency about how these contributions will be used.
- Promote the community's health, safety and welfare.

➤ ***Local governments may wish to specify appropriate dimensions/bin specifications.***

Officials may wish to work with local industry representatives to recommend specifications that are consistent with industry standards.

- ***Local governments may wish to include a definitions section identifying key stakeholders, terminology, etc.***
- ***Local governments should endeavor to harmonize ordinance terminology with that used by other local governments when at all possible.***
  - There are many cases where it is difficult to determine the applicability of an existing clothing bin ordinance because of differences in the terminology used by various local governments to describe/define these bins (e.g. some refer to bins as “temporary structures,” while others deem them “dumpsters” or “accessory units,” etc.). This ambiguity, in many cases, makes it difficult for the bin operator and often times even for local officials to identify the appropriate requirements and may result in inadvertent ordinance violations. To address this concern, local governments when at all possible should aim to harmonize terminology with that which is being most commonly used by other local governments.

Questions? Please contact the Secondary Materials Recycled Textiles Association at 443-640-1050 or via e-mail: [smartinfo@kingmgmt.org](mailto:smartinfo@kingmgmt.org) or visit our website at [www.smartasn.org](http://www.smartasn.org).

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY/VILLAGE OF  
[INSERT HERE]

RECYCLING COLLECTION BINS

SUMMARY

An Ordinance amending the Municipal Code of the City/Village of [INSERT HERE] establishing rules, regulations and registrations of Recycling Collection Bins.

LEGISLATIVE INTENT

The City Council/Village Board notes that the citizens of the United States disposes of more than 242.96 million tons of solid waste each year, 55%-65% of which comes from single family residences. With a national recycling rate of just 33.8% such disposal unnecessarily burdens the state's landfills and contributes to pollution and climate change by emitting greenhouse gases such as CO<sub>2</sub> and methane.

It is the intent of this ordinance to support and encourage, in a responsible manner, the placement and use of attended and unattended recycling collection bins. These bins are most commonly used to collect for recycling, re-sale or re-use general household goods such as clothing, shoes, books and small appliances. When enacted, this ordinance will protect the environment by increasing community recycling and reducing the burden on local landfills, and will improve the economy by creating more jobs and provide goods for reuse and recycling.

**Definitions.**

Recycling Collection Bin

An attended or unattended receptacle, trailer or container made of metal, wood, steel or similar material for permanent or temporary use, designed or intended for the collection of unwanted clothing, shoes, textiles, books and other household items.

Site Host

The owner or lawful occupant (or their respective representatives) of the site of a Recycling Collection Bin within the City.

Permittee

Any organization, firm or other entity that owns and receives a permit to operate a Recycling Collection Bin in the City pursuant to this Chapter.

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**§xxx. Permit required; dates of issuance, expiration, response**

- A. It shall be unlawful to erect, place, maintain or operate any Recycling Collection Bin without first obtaining a permit issued by the City.
- B. The City shall approve permittee's application if such application fulfills the application requirements under **§xxx. Qualifications of Permittee and Form of Application.**
- C. A permit issued under this Chapter shall be valid for one year and renewable for one-year periods thereafter.
- D. Recycling collection bins owned and/or operated by one entity for the benefit of another entity require the contact information for both entities on the permit application.

**§xxx. Fee required.**

- A. Initial Application (one-year period) e.g. \$25.00.
- B. Renewal Applications (one-year period) e.g. \$25.00.
- C. Sticker fee (one year period) e.g. \$10.00.

**§xxx. Qualifications of Permittee and Form of Application.**

In order to qualify as a permittee under this Chapter, an applicant must either be (1) a public charity exempt from taxes under Section 501(c)(3) of the United States Internal Revenue Code, and in good standing with the State of xxx, or (2) a business in good standing with the State of xxx. The application for a Recycling Collection Bin permit shall require the following information from the applicant:

- A. If the applicant claims to be a qualified nonprofit entity, (1) a copy of the determination letter issued by the Internal Revenue Service stating that the applicant is a public charity exempt under Internal Revenue Code Section 501(c)(3), and (2) a certificate of good standing issued by the state office that regulates corporations.. If the applicant is a business, a certificate of good standing issued by the Office of the Secretary of State of xxx. A certificate of good standing must not be older than 3 months at the time of application for a permit.
- B. Name, address and telephone number of contact person of the applicant.
- C. Written consent from the Site Host to place the Recycling Collection Bin on the property, including name, address and telephone number of the Site Host.
- D. Permittee must provide proof to the City of a Certificate of Liability Insurance of at least \$1million covering permittee's Recycling Collection Bins.

**§xxx. Proof of Permit**

The City shall provide the permittee with one permit sticker for each approved permit. The permit sticker shall be placed in a conspicuous place in front of the recycling collection bin that is installed on the permitted property. The City will provide replacement stickers for (insert value) should the original sticker become damaged, fall off or disappear.

**§xxx. Management, Maintenance; Requirements**

- A. Permittee must maintain the aesthetic presentation of each recycling collection bin including fresh paint, readable signage and general upkeep.
- B. Permittee must provide to the Site Host a telephone number for requests to respond to recycling collection bin maintenance complaints.
- C. Permittee must respond to recycling collection bin maintenance complaints within 24 hours of receiving notification during regular business hours.
- D. Permittee must remove graffiti within 72 hours following receipt of notice of its existence.
- E. If a recycling collection bin becomes damaged or vandalized, it shall be repaired, replaced or removed within five days of receipt of notice of such condition.

**§xxx. Placement of Recycling Collection Bins**

- A. Recycling Collection Bins shall be placed on the site in a manner that does not impede vehicular or pedestrian traffic flow.
- B. Recycling Collection Bins shall not be placed in the right-of-way and shall adhere to the set-back standards for the site where they are placed.
- C. Recycling Collection Bins shall not be placed in a required parking space (designated for handicap/disabled parking) or reduce the number of parking spaces below the minimum number required by local zoning codes.
- D. Recycling Collection Bins placed on sidewalks must allow for five (5) feet of pedestrian walkway in front of the Recycling Collection Bin.
- E. Recycling Collection Bins shall not be placed within the sight triangle of any intersection.

**§xxx. Information and Label Requirement for all Bins**

The front of every Recycling Collection Bin shall conspicuously display the following:

- (a) The name, address, telephone number and the Internet Web address of the Owner and Operator the recycling collection bin;
- (b) A statement, in at least two-inch typeface, that either reads, or "this collection bin is owned and operated by a nonprofit organization" or "this collection bin is owned and operated by a for-profit organization";
- (c) If the recycling collection bin is owned by a non-profit organization, the front of the collection bin shall also conspicuously display a statement describing the charitable causes that will benefit from the donations;
- (d) If the recycling collection bin is owned by a for-profit company, the front of the collection bin shall conspicuously display a statement that reads "[name of company] is a for-profit company, deposits are not tax deductible";

Recycling collection bins operated by a for profit entity on behalf of or in conjunction with a non-profit organization shall have the name, address, telephone number and web address of both entities on the front of the bin.

(e) Recycling collection bins operated by corporate fundraisers or any entity placing and operating collection bin(s) for the benefit of another for-profit entity or non-profit entity shall abide by the requirements of (d) above and any additional guidelines and labeling requirements required under state law.

#### **§xxx. Reporting of Recycled Goods.**

The Permittee must report the total number of tons of goods diverted from the municipal waste stream in the city. Such reporting should be done on a quarterly basis to the City Clerk by letter or e-mail.

#### **§xxx. Violations and Penalties.**

- A. In addition to any other penalties or remedies authorized by law, any permittee which violates any provision of this Chapter shall be subject to a penalty of \$250 for each violation, which includes:
1. Unpermitted placement of a Recycling Collection Bin;
  2. failure to adequately respond to maintenance request pursuant to this Chapter;
  3. failure to maintain Recycling Collection Bins pursuant to this Chapter;
  4. failure to adhere to Recycling Collection Bin placement and removal provisions pursuant to this Chapter; and
  5. Failures to adhere to all permit requirements pursuant to this Chapter.
- B. If a permittee is found to have willfully violated the provisions of this Chapter and ignores mitigation, on more than 3 occasions in a calendar year, the permittee shall, in addition, be deemed ineligible to place, use or employ a recycling collection bin within the City pursuant to this Chapter for a period of five years, and the City may remove any or all of such permittee's recycling collection bins upon 30 days advance notice.

#### **§ xxx Liability; protections**

- A. A Site Host shall have the right to rescind consent for a recycling collection bin to be placed on the property, provided written notice of the rescission is provided to the permittee, as provided in their agreement but in no event less than 10 business days prior, to the recycling collection bin being removed.
- B. The Site Host will be held harmless by the permittee for the removal of an unauthorized recycling collection bin or where removal is necessary to comply with local zoning ordinances.
- C. A Site Host that causes the unauthorized removal of a permitted recycling collection bin pursuant to this chapter is civilly liable to the permittee of that recycling collection bin.
- D. Permittees shall maintain general liability insurance that covers any claims or losses due to the placement, operation or maintenance of the recycling collection recycling collection bin.

**MCO - 15 - 2014**

**AN ORDINANCE AMENDING  
CHAPTER 16 ENTITLED "GARBAGE AND RUBBISH"  
OF THE MUNICIPAL CODE OF ORDINANCES OF THE CITY OF ELMHURST, ILLINOIS  
(Recycling and Donation Collection Bins)**

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**WHEREAS**, the City of Elmhurst (the "City") deems it necessary and desirable to establish rules and regulations governing the placement and operation of recycling and donation collection bins located within the City's corporate boundaries; and

**WHEREAS**, it is necessary and desirable to amend Chapter 16 entitled "Garbage and Rubbish," in order to provide for the rules and regulations governing the placement and operation of recycling and donation collection bins within the City.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of Elmhurst, DuPage and Cook Counties, Illinois, as follows:

**SECTION 1.** Section 16.13 entitled "Recycling and Donation Collection Bins," of Chapter 16 entitled "Garbage and Rubbish" of the City's Municipal Code of Ordinances is hereby added, as follows:

**16.13 Recycling and Donation Collection Bins.**

**(a) Definitions.**

Certain terms used in this Section shall have the following meanings unless their context or use clearly indicates otherwise:

**"Collection Bin"** shall mean an unattended outdoor receptacle, trailer or container made of metal, or similar material for permanent, semi-permanent or temporary outdoor use, designed or intended for the collection of clothing, shoes, textiles, books, electronics and other household items for the purpose of recycling or donation.

**"Site Host"** shall mean the owner or lawful occupant (or their respective representatives) of the site of a Collection Bin within the City.

**"Permittee"** shall mean any organization, firm or other entity that owns and receives a permit to operate a Collection Bin in the City pursuant to this Section.

**(b) Permit required; dates of issuance, expiration.**

1. It shall be unlawful to erect, place, maintain or operate any Collection Bin without first obtaining a permit issued by the City.

2. The City shall approve an application if such application fulfills the application requirements under Subsection (c) of this Section.

3. A permit issued under this Section shall be valid for one year and renewable for one-year periods thereafter.

4. Collection Bins owned and/or operated by one entity for the benefit of another entity require the contact information for both entities on the permit application.

**(c) Qualifications of Permittee and Form of Application.**

In order to qualify as a Permittee under this Section, an applicant must either be (1) a public charity and/or not for-profit organization exempt from taxes under Section 501(c)(3) of the United States Internal Revenue Code, and in good standing with the State of Illinois, or (2) a business in good standing with the State of Illinois. The application for a Collection Bin permit shall require the following information from the applicant:

1. If the applicant claims to be a qualified nonprofit entity, (1) a copy of the determination letter issued by the Internal Revenue Service stating that the applicant is a public charity exempt under Internal Revenue Code Section 501(c)(3); (2) evidence of registration and that the annual financial report has been filed with the Illinois Attorney General's Office and; (3) a certificate of good standing issued by the Illinois Secretary of State. If the applicant is a business, a certificate of good standing issued by the Illinois Secretary of State. A certificate of good standing must not be older than three (3) months at the time of application for a permit.

2. Name, address and telephone number of contact person of the applicant.

3. Written consent from the Site Host to place the Collection Bin on the property, including name, address and telephone number of the Site Host.

4. Permittee must provide proof to the City of a certificate of liability Insurance of at least One Million (\$1,000,000) Dollars covering the operation of Permittee's Collection Bins.



**(d) Fee Required.**

Any business organization shall submit an annual fee of Seventy-Five (\$75.00) Dollars with its application to become or remain a Permittee as defined in this Section, except for any charitable and/or nonprofit organization, for which the annual fee shall be Twenty-Five (\$25.00) Dollars.

**(e) Proof of Permit**

The City shall provide the Permittee with one permit sticker for each approved permit. The permit sticker shall be placed in a conspicuous place in front of the Collection Bin that is installed on the permitted property. The City will provide replacement stickers for Twenty-Five (\$25.00) Dollars should the original sticker become damaged, fall off or disappear.

**(f) Management, Maintenance; Requirements**

1. Permittee must maintain the aesthetic presentation of each Collection Bin, including fresh paint, readable signage with lettering not greater than six (6") inches in height and general upkeep.

2. Permittee must provide to the Site Host a telephone number for requests to respond to Collection Bin maintenance complaints.

3. Permittee must respond to Collection Bin maintenance complaints within twenty-four (24) of receiving notification during regular business hours.

4. Permittee must remove graffiti within twenty-four (24) hours following receipt of notice of its existence.

5. If a Collection Bin becomes damaged or vandalized, it shall be repaired, replaced or removed within five days of receipt of notice of such condition.

6. All persons, companies, corporations or entities causing any Collection Bin to be placed within the City shall furnish to the City a performance bond for a minimum of Ten Thousand (\$10,000) Dollars, which bond shall guarantee adherence to these restrictions. Such bond must be provided to the City prior to the delivery and placement of any Collection Bin.

**(g) Placement and Restrictions of Collection Bins**

Collection Bins shall be permitted to be placed in commercial and industrial districts, and on church and school properties in residential districts, as designated by the City's Zoning Ordinance, subject to the following conditions:

1. Collection Bins shall be placed on the site in a manner that does not impede vehicular or pedestrian traffic flow.
2. Collection Bins shall not be placed in the right- of-way and shall adhere to the set-back standards for the site where they are placed.
3. Collection Bins shall not be placed in a required parking space (designated for handicap/disabled parking) or reduce the number of parking spaces below the minimum number required by the City zoning code.
4. Collection Bins placed on private sidewalks must allow for five (5) feet of pedestrian walkway in front of the Collection Bin.
5. Collection Bins shall not be placed within the sight triangle of any intersection.
6. Collection Bins may not be located within ten (10) feet of a fire hydrant or fire suppression connection.
7. Collection Bins shall be placed on a paved surface.
8. No more than two Collection Bins are allowed on lots of less than two (2) acres in area. No more than three (3) Collection Bins are allowed on any other lot.
9. Collection Bins may not exceed seven (7') feet in height or cover a ground area of more than thirty-two (32) square feet. Collection Bins may cover a ground area of up to one hundred (100) square feet in industrial districts.
10. All Collection Bins must have attached covers, lids or the like, in order to secure the top of the Collection Bins at all times and in a manner to preclude winds from dispersing any donated materials from the Collection Bins, and to prevent animals from gaining entry into the donation box.
11. No hazardous materials or items may be permitted to be deposited or collected in a Collection Bin.
12. No donated items shall be permitted to be placed around, beside, or on top of the Collection Bins in any manner, whatsoever.
13. All Collection Bins must be in good working order and able to function properly. If a Collection Bins cannot function properly and reaches a state of disrepair, it must be replaced as soon as practicable.
14. Collection Bins shall not be permitted on properties that are vacant.

**(h) Information and Label Requirement for all Bins**

The front of every Collection Bin shall conspicuously display the following:

(a) The name, address, telephone number and the Internet Web address of the Owner and Operator the Collection Bin;

(b) A statement, in at least two (2") inch typeface, that either reads, or "this collection bin is owned and operated by a nonprofit organization" or "this collection bin is owned and operated by a for-profit organization";

(c) If the Collection Bin is owned by a non-profit organization, the front of the Collection Bin shall also conspicuously display a statement describing the charitable causes that will benefit from the donations;

(d) If the Collection Bin is owned by a for-profit company, the front of the Collection Bin shall conspicuously display a statement that reads "[name of company] is a for-profit company, deposits are not tax deductible";

(e) Collection Bins operated by corporate fundraisers or any entity placing and operating collection bin(s) for the benefit of another for-profit entity or non-profit entity shall abide by the requirements of (d) above and any additional guidelines and labeling requirements under state law.

**(i) Reporting of Recycled Goods.**

The Permittee must report the total number of tons of goods diverted from the municipal waste stream in the City. Such reporting should be done on a quarterly basis to the City Clerk by letter or e-mail.

**(j) Violations and Penalties.**

In addition to any other penalties or remedies authorized by law, any Permittee which violates any provision of this Section shall be subject to a penalty of Two Hundred Fifty (\$250.00) Dollars for a first offense and a penalty of Five Hundred (\$500.00) Dollars for a second offense and each additional offense thereafter, which includes:

1. Unpermitted placement of a Collection Bin;
2. Failure to adequately respond to maintenance request pursuant to this Section;
3. Failure to maintain Collection Bins pursuant to this Section;
4. Failure to adhere to Collection Bin placement and removal provisions pursuant to this Section; and

5. Failures to adhere to all permit requirements pursuant to this Section.

If a Permittee is found to have willfully violated the provisions of this Section on more than three (3) occasions in a calendar year, the Permittee shall, in addition, be deemed ineligible to place, use or employ a Collection Bin within the City pursuant to this Section for a period of five (5) years. If a Permittee fails to remove any Collection Bin, then the City may remove it upon thirty (30) days' advance notice and the Permittee shall be liable for the reasonable costs of removal.

(k) **Liability; protections**

1. A Site Host shall have the right to rescind consent for a Collection Bin to be placed on the property, provided written notice of the rescission is provided to the Permittee, as provided in their agreement but in no event less than ten (10) business days prior, to the Collection Bin being removed.

2. The Site Host will be held harmless by the Permittee for the removal of an unauthorized Collection Bin or where removal is necessary to comply with this Section or other City zoning ordinances.

**SECTION 2.** This Ordinance shall be in full force and effect from and after its passage, approval and publication in accordance with law.

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2014, pursuant to a roll call vote as follows:

**AYES:** \_\_\_\_\_

**NAYS:** \_\_\_\_\_

**ABSENT:** \_\_\_\_\_

**ABSTENTION:** \_\_\_\_\_

**APPROVED** by me this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Steven M. Morley, Mayor of the City of  
Elmhurst, DuPage and Cook Counties,  
Illinois

ATTESTED and filed in my office,  
this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Patty Spencer, Clerk of the City of  
Elmhurst, DuPage and Cook Counties, Illinois

### **COUNCIL ACTION SUMMARY**

**SUBJECT:** An Ordinance Amending Chapter 16 entitled "Garbage and Rubbish," of the Municipal Code of Ordinances of the City of Elmhurst, Illinois.

**ORIGINATOR:** City Attorney

#### **DESCRIPTION OF SUBJECT MATTER:**

Pursuant to the recommendation of the Development, Planning and Zoning Committee, in order to promote charitable donations and a reduction in waste within the City, the City desires to amend its Municipal Code by adding Section 16.13, entitled "Recycling and Donation Collection Bins," to regulate the placement and operation of receptacles for the donation or recycling of household goods such as clothes, books, shoes, or other household items.