

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA MARQUE, TEXAS, AMENDING CHAPTER 44 OF THE CITY OF LA MARQUE, TEXAS CODE OF ORDINANCES TO REGULATE DONATION DROP BOXES:

WHEREAS, there are a number of unattended donation boxes in the City of La Marque, Texas;

WHEREAS, these unattended donation boxes attract illegal dumping activities;

WHEREAS, the City of La Marque, Texas does not know the location of all of these unattended donation boxes within the City of La Marque, Texas; and

WHEREAS, the City of La Marque, Texas desires to regulate unattended donation boxes within the City of La Marque, Texas to address illegal dumping activities around these boxes.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA MARQUE, TEXAS THAT:

Section 1:

The findings and recitals set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

Section 2:

Chapter 44 of the La Marque Code of Ordinances is amended to read as follows:

Article VI - Donation Boxes

Section 44.160 Definitions

Donation Drop Box means any unattended outdoor container, receptacles, or similar device used for soliciting and collecting donations such as clothing, toys, or other salvageable personal property.

Property Owner means the person that has care and control of the area where the donation drop box is placed.

Operator means a person who manages the organization for which the donations are solicited or the person who applies for the donation drop box permit.

Section 44.161. Permit required.

- (a) Operators of Donation Drop Boxes are prohibited from placing Donation Drop Boxes on all public and private property in the City without first obtaining a permit from the Building Official. The permit must be renewed annually.
- (b) Permit Fees:
 - (1) Non-Profit Organizations \$25.00 per year, per box (must provide valid proof of exemption under I.R.C. 501(c)(3)); and
 - (2) For Profit Organizations \$100.00 per year, per box (must provide Tax ID #)
- (c) To obtain a permit, the Operator must pay a permit fee and show:
 - (1) A sketch indicating the spot where the Donation Drop Box will be placed;
 - (2) The dimensions of the Donation Drop Box;
 - (3) The signage that will be on the Donation Drop Box;
 - (4) Written consent from the Property Owner, property manager, or person who has a right to possession of the property, indicating that the Donation Drop Box may be placed on the property and acknowledging that they will be held responsible for maintenance of the area around the donation drop box; and
 - (5) That the Donation Drop Box will comply with all requirements in this article.
- (d) The Operator may not transfer the permit to any other person or organization.
- (e) The Operator shall affix a copy of the permit to the Donation Drop Box in a manner that ensures that it will not be damaged by rain.

Section 44.162. Permit revocation.

- (a) The City official may revoke the permit for failure of the Operator or Property Owner to comply with the requirements in this article. The Operator may appeal the revocation to the City Manager or his designee within 72 hours of the revocation notice.
- (b) The Donation Drop Box must be removed within Ten (10) days of the permit revocation. If not removed within ten (10) days, the city shall have it removed and the Operator shall be billed the removal and storage costs.

Section 44.163. Construction and placement.

- (a) Donation Drop Boxes may not be placed on any residentially zoned property.
- (b) Donation Drop Boxes must:
 - (1) Be constructed of metal, fiberglass or wood;
 - (2) Have a sign or label indicating the name, address, and telephone number of the organization;
 - (3) Be secured at all times, except when being emptied;
 - (4) Have a lid or a top to protect the contents from the weather; and
 - (5) Be no larger than 102 cubic feet.
- (c) Donation Drop Boxes may not be placed so that they block driveways, interfere with traffic flow or visibility, are on minimum required parking spaces, are in front, rear, or side yard setback, or on a required landscape area.
- (d) Only one Donation Drop Box may be placed on per platted lot.

Section 44.164. Maintenance.

- (a) The area around the Donation Drop Box shall be kept free of debris and shall be emptied often enough so that the donations do not overflow.
- (b) Donation Drop Boxes shall not have structural damage, holes, or visible rust.
- (c) The City shall give the Property Owner ten days written notice to clear the debris. If the debris is not cleared, the city shall clear the debris and bill the Property Owner for the clean-up costs.

Section 44.165. Existing Donation Drop Boxes.

- (a) Operators of existing Donation Drop Boxes shall be given notice that they have thirty (30) days to obtain a permit. If the Operators do not apply for a permit, the Operators and the Property Owners have thirty (30) days to remove the Donation Drop Boxes.
- (b) If an Operator cannot be reached, a letter will be mailed to the address on the Donation Drop Box, if available, and posted on the Donation Drop Box itself. The Operator shall have thirty (30) days from the day the letter is mailed or posted on the Donation Drop Box to remove the Donation Drop Box.

Section 44.166. Enforcement.

A person who violates this Article VI shall for each violation or noncompliance be deemed guilty of a misdemeanor, and upon conviction, shall be fined as provided in Section 1-7 of the City Code.

Upon the third conviction, within two years, of a person for violation of this Article VI may have its permit to place a donation drop box revoked by the City Manager or his designee.

A person whose permit is revoked under this Section shall be ineligible for a permit for five years after revocation.

Section 3:

This ordinance is intended to be cumulative and shall not repeal any provision of a previous ordinance or City Code provision, except to the extent that a provision is inconsistent and cannot be reconciled with this ordinance.

Section 4:

In the event any clause, phrase, provision sentence, or part of this Ordinance or the application of the same to any person or circumstance for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it is the intention of the City Council that the invalidity or unconstitutionality of the one or more parts shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision other than the part declared to be invalid or unconstitutional; and the City Council of the City of La Marque, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Any person who shall install or permit the installation of a Donation Drop Box in violation of this section shall, upon conviction, be punished by a fine as prescribed in section 1-7 of this Code. If fireworks are separately wrapped or packaged, the commission or omission of any act prohibited by this section shall be a separate offense as to each such separately wrapped or separately packaged fireworks.

Section 5:

This Ordinance shall be effective thirty days after final passage by City Council, a public hearing in accordance with Section 2.19 of the City Charter, and publication of this ordinance or a caption that summarizes the purpose of this ordinance.

PASSED, APPROVED AND ADOPTED by the City Council of the City of La Marque on First Reading this 12th day of December, 2022; and

PASSED, APPROVED AND ADOPTED by the City Council of the City of La Marque on Second and Final Reading this _____ day of _____, 2023.

Keith Bell, Mayor

ATTEST:

**Kierra Nance
City Clerk**

APPROVED AS TO FORM:

**Gus Knebel
City Attorney**