

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCILMAN OF THE CITY OF GONZALES,
STATE OF LOUISIANA, TAKEN ON MONDAY, OCTOBER 23, 2023, 5:30 P.M.,
AT CITY HALL, 120 S. IRMA BLVD, GONZALES, LA 70737.

MEMBERS PRESENT:

Barney Arceneaux, Mayor
Councilman Tim Riley
Councilman Kirk Boudreaux

Councilman Tyler Turner
Councilman John A. Berthelot

MEMBERS ABSENT: Councilman Harold Stewart

ALSO PRESENT:

Scot Byrd, City Clerk
Matt Percy, City Attorney

Chief Sherman Jackson, Gonzales PD
Terri Delatorre, Administrative Secretary

Motion by Councilman John A. Berthelot, seconded by Councilman Tyler Turner, to approve the Minutes of a Public Hearing of the Mayor and City Council taken on Monday, October 9, 2023.

YEAS: Councilman Tim Riley, Councilman Kirk Boudreaux, Councilman Tyler Turner, Councilman John A. Berthelot

NAYS: NONE

ABSENT: Councilman Harold Stewart

Motion by Councilman Tim Riley, seconded by Councilman Kirk Boudreaux, to approve the Minutes of a Regular Meeting of the Mayor and City Council taken on Monday, October 9, 2023.

YEAS: Councilman Tim Riley, Councilman Kirk Boudreaux, Councilman Tyler Turner, Councilman John A. Berthelot

NAYS: NONE

ABSENT: Councilman Harold Stewart

Final Vote on Ordinance #4225:

ORDINANCE INTRODUCED

September 11, 2023

ORDINANCE # 4225

**AN ORDINANCE ADDING CHAPTER 30 – DONATION BOXES, TO THE
CODE OF ORDINANCES FOR THE CITY OF GONZALES.**

WHEREAS, the increase in the number of persons or entities desiring to collect clothing and household products for profit or charitable purposes has led to the proliferation of donation boxes in various areas of the City; and
WHEREAS, the inability of landowners to accurately identify the owners of said donation boxes has resulted in decreased accountability on the part of donation box owners; and
WHEREAS, the absence of identifying information makes it difficult or impossible for the City, property owners, or local citizens to contact donation box operators about items placed outside of the box, broken glass, or other concerns; and
WHEREAS, the placement of donation boxes on property without permission from the property owner constitutes a trespass of private property; and
WHEREAS, the failure to properly empty and to clean in and around donation boxes creates an unsightly and littered appearance near said containers; and
WHEREAS, the placement of discarded clothes and other household items outside of the donation boxes leads to rummaging of items, which causes scattering and litter and may defeat the donor's intent; and
WHEREAS, the documented trash and debris present around unkempt donation boxes invite illegal dumping under the guise of charitable solicitation and recycling; and
WHEREAS, the presence of broken glass and other sharp objects provide a threat to the general public wishing to access donation boxes and other pedestrians walking on or near the property containing donation boxes and provides a threat to the tires of vehicles using parking lots where donation boxes are placed; and
WHEREAS, wooden donation boxes have been observed with deteriorated conditions, and are more easily toppled by storm conditions, and have been subject to arson; and
WHEREAS, the Gonzales City Council finds that regulating the placement, proximity and use of donation boxes is necessary for the health, safety and welfare of the general public; the promotion of consistent land use development; and the protection of landowners and residents of the City of Gonzales;

BE IT ORDAINED, by the Mayor and Councilman of the City of Gonzales, Louisiana:

That the Code of Ordinance of the City of Gonzales be amended as follows:

(ADD)

CHAPTER 30 – DONATION BOXES

ARTICLE I. DEFINITIONS

"Administrator" means the City Clerk, who shall enforce and administer this Chapter, or his designee.

"Donation Box" means any drop-off box, container, trailer or other receptacle that is intended for use as a collection point for accepting donated textiles, clothing, shoes, books, toys, dishes, household items, or other salvageable items of personal property.

"Fluorescent" means a color that appears very bright, vivid, or glowing to the human eye.

"Front Side" means the side of a donation box that contains the opening that allows the depositing of donated items.

"GPS" means global positioning system.

"Person" includes an individual, sole proprietorship, corporation, association, nonprofit corporation, partnership, joint venture, a limited liability company, estate, trust, public or private organization, or any other legal entity.

ARTICLE II - REGISTRATION

Section 2-1. Donation Box - General Provisions

A. It shall be unlawful for any person to place or maintain, or allow to be placed or maintained, a donation box at any location within the City of Gonzales, without a valid permit issued in accordance with this Article.

B. Any donation box located within the jurisdiction of the City of Gonzales that does not have a current, valid permit shall be subject to impoundment by the City. Any donation box impounded by the City shall be released to the owner upon payment of all applicable impoundment and storage fees. If a donation box is impounded for longer than ten calendar days, it shall be considered abandoned property subject to disposal or sale at the City's sole discretion.

C. Donation boxes shall only be permitted to be placed on real property located within the following zoning use districts in the Unified Development Code:

C-1 - Limited Commercial

C-2 - Commercial

I-1 - Industrial

Donation boxes may also be permitted on real property zoned Planned Unit Development with the above-referenced underlying zoning use districts. Donation boxes shall not be permitted to be placed on real property located within any other zoning use districts.

Section 2-2. Donation Box Permit and Decal Required

It shall be unlawful for any person that owns, leases, is in control of, or is entitled to possession of real property within the City of Gonzales, to authorize or allow any donation box to be placed on or remain on such real property without a valid permit decal in compliance with the provisions of this Article.

Section 2-3. Permit Requirements

A. Permit and decal required. A permit and corresponding decal to allow a donation box to be placed and used at a designated location shall be issued by the Administrator within sixty (60) days of receipt of a completed application after determining that all the requirements of this Section are satisfied.

B. Authorization for use. A written authorization allowing the donation box on the property shall be required from the real property owner, lessee, or property manager.

C. Requirement to keep clean. A permit holder shall be responsible for collecting the contents of the donation box to prevent overflow and littering. A permit holder shall keep the real property situated within 25 feet of the location of a donation box clean and free of trash, debris, broken glass, coat hangers, clothes, clothing accessories, or excess donations. A permit holder that fails to maintain the cleanliness of the surrounding real property may receive a notice of violation from the City. If the City elects to send a notice of violation to the email address on file for the permit holder, the permit holder shall have 48 hours to remedy the complaint. Failure to comply with a notice of violation may result in the issuance of a citation by the City. A permit holder who is issued a citation within the one year term of a donation box permit is subject to revocation of the associated donation box permit.

D. Number of Boxes Allowed. No more than one (1) donation box may be permitted for placement on any one lot. In the case of a shopping center or office development that consists of multiple platted lots, the Administrator shall treat the shopping center or office development as if it is only one contiguous lot. In the case of a shopping center or office development, the Administrator can permit a single additional donation box; provided that neither box is within 200 feet of the other.

E. Maximum Size of the Box. No donation box shall exceed 120 cubic feet in size.

F. Construction Material for the Box. Each donation box shall be constructed from metal material to prevent high winds from toppling and/or moving the donation box and to reduce the potential of arson or graffiti.

G. Color of the Box. Each donation box shall be painted one solid color. Trade dress color schemes or corporate logos will be allowed. No fluorescent colors shall be used for a donation box or its associated signage.

H. GPS Coordinates. No donation box shall be permitted without a valid set of GPS coordinates identifying the placement location of the donation box.

I. Placement on Site. No donation box shall be permitted within the row of parking adjacent to street right-of-way unless an existing landscape setback is present in good condition. If there is no existing landscape setback, a donation box shall not be placed less than 40 feet from the adjacent street right-of-way.

J. Notice to donors. Each donation box shall clearly indicate in writing on the front side of each box that all donations must fit into and be placed within the donation box. The size of lettering for the notice shall not be less than one inch in height.

K. Contact information. The permit holder placing or maintaining the donation box shall display current contact information including street address and phone number on the donation box. Said information must be readable and clearly visible to the public from the front side of the box. The size of lettering for the contact information shall not be less than one inch in height.

L. No donation box may be located closer than 1,000 linear feet of another donation box, except for the exception provided for shopping centers in D of this Section.

Section 2-4. Applications for Permits

A. Applicants for permits under this Article shall file a written, sworn application with the Administrator. The application shall include the written authorization of the property owner, lessee, or property manager allowing the donation box on the property. A site plan depicting the exact proposed location (with GPS coordinates indicated) of the donation box shall be submitted with each application.

B. A separate permit and application shall be required for each donation box regardless of the ownership thereof. Permits issued under the provisions of this Article shall be valid only at the address and GPS coordinates stated on the permit.

C. An annual permit fee of \$250 (Two Hundred Fifty Dollars) for each donation box shall be required. All permits shall expire on the one-year anniversary of the date of issuance.

D. Any person denied a permit shall have the right to appeal such action in accordance with the provisions of Section 2-9.

Section 2.-5. Transfer of permit prohibited

No permit issued under the provisions of this Article shall be transferrable. The authority a permit confers is conferred only on the permit holder named therein.

Section 2-6. Maintenance and Upkeep

A. The permit holder and the real property owner shall be held jointly and severally liable and responsible for the maintenance, upkeep, and servicing of the donation box and clean up and removal of any donations left on the property outside of the donation box.

B. The City shall have the authority to abate any property in violation of this article that is deemed a public nuisance under the procedures contained in the "Nuisance" provisions of the Code of the City of Gonzales, Louisiana. This provision does not exclude or limit the use of any other provision in this Chapter, the Gonzales City Code, or the laws of the State of Louisiana.

C. The visual and structural integrity of the donation box must be maintained continuously.

D. The placement of the donation box shall not impede traffic nor visually impair any motor vehicle operation within a parking lot, driveway or street.

E. The donation box shall not be located in a required landscape or building setback, drainage easement, floodplain, driveway, utility easement or fire lane.

F. At least one (1) stacking or parking space must be provided for use of persons accessing the donation box.

G. The donation box must not be located in, or block public access to, any required off-street parking spaces, access easements, or stacking lanes serving a structure on the property, fire lane, or fire hydrant.

H. The current permit decal for the specific donation box must be affixed and displayed at all times on the outside of the donation box on the front side.

I. The donation box shall only be used for the solicitation and collection of clothing and household items. All donation materials must fit into and be placed inside the donation box. The collection or storage of any materials outside the container is strictly prohibited.

J. No donation box shall be permitted to be placed or remain placed within 200 feet from a residential dwelling use district. Said distance shall be measured from a donation box to a residential lot line.

K. The donation box shall be continuously maintained in compliance with all requirements imposed by Section 2-3, Permit Requirements.

Section 2-7. Revocation of permit

A. Grounds. Any permit issued hereunder may be revoked by the Administrator if the permit holder has:

(1) received a citation for a violation of this Chapter or any other provision of this Code of Ordinances within the preceding 12-month time period or;

(2) has knowingly made a false material statement in the application, or;

(3) has otherwise become disqualified for the issuance of a permit under the terms of this Article.

B. Notice. Notice of the revocation shall be given to the permit holder in writing, with the reasons for the revocation specified in the notice, served either by personal service or by certified United States mail to their last known address. The revocation shall become effective the day following personal service or if mailed, three (3) days from the date of mailing.

C. Appeal: hearing. The permit holder shall have ten (10) days from the date of such revocation in which to file notice with the Administrator of their appeal from the order revoking said permit. The Administrator shall provide for a hearing on the appeal in accordance with the provisions of Section 2-9 herein.

D. Removal of Box: impoundment. Upon finalization of any revocation, the permit holder shall remove said donation box no later than ten (10) days after said final decision. Upon expiration of this 10-day grace period, the donation box shall acquire noncompliant status and be subject to immediate impoundment without further notice. Any donation box impounded by the City shall be released to the owner upon payment of all applicable impoundment and storage fees. If a donation box is impounded for longer than ten calendar days, it shall be considered abandoned property subject to disposal or sale at the City's sole discretion.

E. One-Year Waiting Period. In the event the permit of any permit holder is revoked by the Administrator, no second or additional permit shall be issued to such person within one year of the date such permit was revoked.

Section 2-8. Fees

All fees established by this Chapter shall be in an amount set by resolution of the City Council.

Section 2-9. Administrative Appeals of Denial or Revocation of Permit

A. Upon denial or revocation of a permit for a donation box, the Administrator, or his designee, shall notify the applicant or permit holder, in writing, of the reason for which the permit is subject to denial or revocation. The applicant or permit holder shall file a written request for a hearing with the Administrator within ten (10) days following service of such notice. If no written request for hearing is filed within ten (10) days, the denial or revocation is sustained.

B. The appeal shall be conducted within thirty (30) days of the date on which the notice of appeal was filed with the Administrator.

C. The hearings provided for in this Section shall be conducted by the Administrator or his designee at City Hall or at a time and place designated by the Administrator. Based upon the recorded evidence of such hearing, the Administrator or his designee shall sustain, modify or rescind any notice or order considered at the hearing. A written report of the hearing decision shall be furnished to the applicant or permit holder requesting the hearing.

D. After such hearing, an applicant that has had a permit denied or revoked by the Administrator may appeal to the City Council, which shall hear the appeal at the next regularly scheduled meeting within the next 30 days.

E. An appeal shall not stay the denial or suspension of the permit unless otherwise directed by the Administrator.

Section 2-10. Appeals of Administrator Decision

A. All appeals to the City Council must be made in writing to the City Clerk and received no less than ten (10) days after any final decision made by the Administrator.

B. The City Clerk shall schedule the appeal hearing within thirty (30) days from receipt of the appellant's appeal.

C. If the City Council finds by preponderance of the evidence that the denial or revocation of the donation box permit was necessary to protect the health, safety, or welfare of the general public, the City Council shall affirm the denial or revocation of appellant's donation box application or permit.

D. The City Council may consider any or all of the following factors when reaching a decision on the merits of the appeal:

1. The number of violations, convictions, or liability findings;
2. The number of previous revocations;
3. The number of repeat violations at the same location;
4. The degree to which previous violations endangered the public health, safety or welfare; or
5. Any pending action or investigation by another agency.

E. The City Council may affirm or reverse the denial or revocation of the donation box permit. If affirmed, the order issued must state that the appellant is not eligible to receive a new donation box permit sooner than one year after the date of the order. If reversed, the donation box permit shall be reinstated immediately (in the case of a revocation) or within three (3) business days (in the case of a denial).

F. The determination of the City Council shall be final on the date the council meeting minutes are signed by the Mayor.

G. An appeal to the City Council does not stay the effect of a denial or revocation or the use of any enforcement measure unless specifically ordered by the Administrator or the Mayor.

2. Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Five Hundred Dollars and No Cents (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3. This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Gonzales; and except as otherwise stated herein, this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

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

5. All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Gonzales in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6. Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Gonzales in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Gonzales.

YEAS: Councilman Tim Riley, Councilman Kirk Boudreaux, Councilman Tyler Turner, Councilman John A. Berthelot

NAYS: NONE

ABSENT: Councilman Harold Stewart

ORDINANCE ADOPTED: October 23, 2023

Motion by Councilman Tim Riley, seconded by Councilman Kirk Boudreaux, to approve the Special Event Permit Request of E. Theresa Dickerson, with the Gonzales Rotary Club, to have “Kids in the Park” at Kidz Cove on Tuesday, October 24, 2023, from 7:00 am – 1:00 pm.

YEAS: Councilman Tim Riley, Councilman Kirk Boudreaux, Councilman Tyler Turner, Councilman John A. Berthelot

NAYS: NONE

ABSENT: Councilman Harold Stewart

Motion by Councilman John A. Berthelot, seconded by Councilman Tyler Turner, to approve the Special Event Permit Request of Pastor Sonny Iyasere, of Marvelons Ministry, to use Jambalaya Park and the Amphitheater on Saturday, October 28, 2023, from 11:00 am – 2:00 pm, to have a Community Outreach.

YEAS: Councilman Tim Riley, Councilman Kirk Boudreaux, Councilman Tyler Turner, Councilman John A. Berthelot

NAYS: NONE

ABSENT: Councilman Harold Stewart

Motion by Councilman Tim Riley, seconded by Councilman Tyler Turner, to approve the Special Event Permit Request of Joel Rodriguez, of Iglesia de Dios Pentecostal, to use Jambalaya Park on Saturday, November 11, 2023, from 12:00 pm – 6:00 pm, to have “Iglesia de Dios (Missionary Crusade)”, which will include gospel music, free food, gifts, and the Word of God.

YEAS: Councilman Tim Riley, Councilman Kirk Boudreaux, Councilman Tyler Turner, Councilman John A. Berthelot

NAYS: NONE

ABSENT: Councilman Harold Stewart

Motion by Councilman John A. Berthelot, seconded by Councilman Tyler Turner, to approve the Special Event Permit Request of Tiffany St. Pierre, with Volunteer Ascension, to use the Amphitheater on Saturday, December 9, 2023, to have “Christmas Movie Night”, which is a free community event.

YEAS: Councilman Tim Riley, Councilman Kirk Boudreaux, Councilman Tyler Turner, Councilman John A. Berthelot

NAYS: NONE

ABSENT: Councilman Harold Stewart

Motion by Councilman John A. Berthelot, seconded by Councilman Tyler Turner, to adopt Resolution No. 2957: A Resolution authorizing the Mayor to sign all documents related to a Cooperative Endeavor Agreement for the Gonzales Fire Department to provide first response to Fire District 1 in Ascension Parish.

YEAS: Councilman Tim Riley, Councilman Kirk Boudreaux, Councilman Tyler Turner, Councilman John A. Berthelot

NAYS: NONE

ABSENT: Councilman Harold Stewart

Scot Byrd, City Clerk, on behalf of the Finance Director, stated the City Council Members have copies of the revenue and expense compared to budget report in their packets. The City is within budget. We continue to maintain compliance with the corrective action plan to resolve the prior year audit findings.

Motion by Councilman Tyler Turner, seconded by Councilman John A. Berthelot, to approve Balancing Change Order No. 2 for St. Francis Parkway Ext. to decrease the contract with RJ Daigle & Sons, in the amount of \$43,035.98.

YEAS: Councilman Tim Riley, Councilman Kirk Boudreaux, Councilman Tyler Turner, Councilman John A. Berthelot

NAYS: NONE

ABSENT: Councilman Harold Stewart

Motion by Councilman Tyler Turner, seconded by Councilman Kirk Boudreaux, to table approval of the Care Center Civil Site Work Contract, in the amount of \$907,061.00, to TD Construction Group, LLC, until the next regular City Council meeting, scheduled for Monday, November 11, 2023.

YEAS: Councilman Tim Riley, Councilman Kirk Boudreaux, Councilman Tyler Turner, Councilman John A. Berthelot


NAYS: NONE

ABSENT: Councilman Harold Stewart

There being no further business to come before the City Council and upon a motion duly made and seconded, the Meeting was adjourned.


Barney Arceneaux, Mayor

ATTEST:


Scot Byrd, City Clerk/CAO