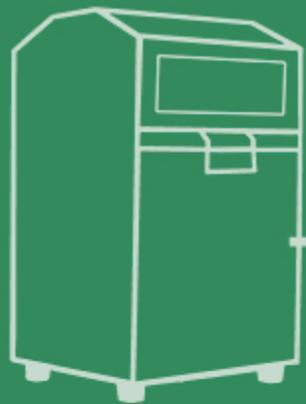


2015

FIVE THINGS GOVERNMENTS  
MUST KNOW ABOUT  
PRIVATE CLOTHING DONATION BINS



Developing a Regulatory Response to  
Manage Textile Donations and Recycling

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# Five Things Local Governments Must Know About Private Clothing Donation Bins

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*Developing a Regulatory Response to Manage Textile Donations and Recycling*

Recycling bins, especially clothing recycling bins, operated by various private organizations have proliferated in towns and cities, increasing the need for regulation of their placement and use. Since recycling of textiles lags far behind that of plastic, soda cans, paper and glass, donation bins for clothing and shoes fill an important recycling gap, diverting usable materials from municipal waste streams and saving resources. The bins are part of a new but growing industry, and they are generally unregulated. Unfortunately, some bin operators have not managed their businesses responsibly; for example, by not servicing bins often enough, or by failing to obtain placement permission from land users, cities, towns and counties. Some mislead the public by misrepresenting their business status.

Local governments have responded to these issues in various ways, from a complete hands-off approach to wholesale bans. This paper argues that neither extreme is the appropriate response. Below, we first list the benefits made available by clothing donation bins and then set forth a regulatory approach to ensure communities continue to reap the benefits of the bins, while avoiding unwanted issues and costs.

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## 1. Bins Provide a Public Service

Textile collection bins offer a great deal of convenience to consumers. These bins become local fixtures and are patronized on a regular basis. The bins are located near shopping malls, mass transit stations, schools, larger office parks, and in other well trafficked areas. They are accessible 24 hours a day, seven days a week. Research has shown that increased accessibility to recycling bins has been effective in getting people to recycle more.<sup>1</sup>

In 2012, the EPA<sup>2</sup> estimated recyclers succeeded in recovering 2.25 million tons of textiles from the waste stream for reuse or recycling.<sup>3</sup> This diversion represents a large savings for local governments. To otherwise dispose of clothing, local governments would have to pay for transport and disposal or implement labor and capital intensive recycling programs exclusively for textiles.<sup>4</sup> While 2.25 tons of recycled textiles represents a significant

accomplishment, much more needs to be done. In 2012 alone, an additional 12 million tons of textiles that could have been recycled ended up in landfills and incinerators.

## **2. Bins Are Legally Protected Free Speech**

The U.S. Supreme Court has declared charitable solicitation to be protected free speech under the First Amendment.<sup>5</sup> Other prominent Federal courts have also affirmed that donation bins are a form of charitable solicitation.<sup>6</sup> Most recently, the U.S. Court of Appeals for the Sixth Circuit upheld a lower courts decision to prevent a city in Michigan from banning bins.<sup>7</sup> The court also described the contribution that bins make in mobilizing social thought and action. In its unanimous published opinion the Sixth Circuit court wrote:

*A passer-by who sees a donation bin may be motivated by it to research the charity to decide if he wants to donate—in so doing, the passer-by will gain new information about the social problem the charity seeks to remedy. Indeed, the donation bin may ultimately motivate citizens to donate clothing or shoes even if they had not previously considered doing so. The speech may not be unidirectional, either—a citizen faced with a choice among several bins from different charities may be inspired to learn more about each charity’s mission in deciding which charity is consistent with his values, thus influencing his donation decision.*

Local and state governments may regulate bins; however, they should do so reasonably so as not to limit the recognized constitutionally protected rights of charitable organizations.

## **3. Bin Use Supports Job Creation**

Recycling programs are widely recognized as a source of good paying jobs, increased tax revenue, and a means for strengthening communities.<sup>8</sup> Organizations that use collection bins to recycle clothing must make a significant investment of capital and labor to keep their operations running smoothly and responsibly. For example, to monitor, maintain and service these bins on a regular basis, an organization must hire drivers and other laborers, as well as invest in trucks, warehouses, and processing and packaging equipment. In the U.S. alone, nearly 3,000 recyclers handle the surplus of textile goods.

Approximately 10-20 percent of *all* the clothing collected in the United States by charities and other organizations is sold domestically in second-hand shops, ensuring more jobs and spending in local economies.<sup>9</sup> The remaining 80-90 percent of clothing collected becomes a U.S. export commodity, with much of this being shipped to overseas markets where demand for used clothing is high.<sup>10</sup> Twenty percent of this exported quantity may be remanufactured into industrial wiping cloths, and another 25 percent may be converted back to raw fiber for reuse as insulation or paper products. The remainder is reused as wearable items by individuals who cannot afford new clothing.

## **4. Bin Use Reduces Environmental Harms**

Though it is not widely known, the manufacture and disposal of textiles is one of the leading contributors of greenhouse gas emissions.<sup>11</sup> The sources of these gases range from the fuels involved in the production of fibers to the release of methane (an extremely potent greenhouse gas) during decomposition.<sup>12</sup> The 2.25 million tons of textiles diverted in 2012 alone prevented an enormous quantity of these gasses from entering the atmosphere—the equivalent to removing 1.2 million cars from the road.<sup>13</sup>

## **5. Bins Foster Charitable Giving**

Clothing donation bins operated by nonprofit organizations help to increase charitable giving while reducing the amount of clothing that ends up in the trash. The bins offer the public a way to support charitable causes regularly at convenient nearby locations. Charitable organizations are thus able to derive a steady revenue source from the sale of the clothing to fund their social welfare programs.<sup>14</sup>

### **A Reasoned Regulatory Response for Local Government**

Donation bins provide important community benefits. An outright ban of such bins would eliminate these vital benefits and, because they represent a protected form of free speech, violate the Constitution.

To mitigate issues that arise from improper management, municipalities should regulate the placement and operation of textile collection bins. When properly designed and implemented, regulations promote and protect responsible bin operations. Regulation should include both the registration of bin operators as well as a permit process to assure legal placement of bins. Registration will ensure that all operators are adhering to the same standards and establish a higher degree of accountability and transparency.

Below are five measures that should be included when creating a comprehensive and effective regulation strategy, encompassing benchmarks, licensing, permitting, and code enforcement.

#### *a) Establish clear benchmarks for operations*

Emptying bins in a timely manner should be mandatory to avoid overflow, in addition to ensuring that the surrounding area is kept free of trash and debris and checking to ensure that bins remain in good working condition and are clean and free of graffiti. Moreover, non-profit and for-profit entities (including professional fundraisers) should have to disclose

their corporate status on their bins to inform potential donors whether the bins are operated for charitable purposes or are part of commercial recycling initiatives.

*b) Obtain a business license from the city or town and post a bond*

All operators should obtain a business license; this will ensure the smooth and responsible operation of legitimate bin operators within a community. To be granted a business license, an operator (profit or nonprofit) should first demonstrate its good standing with the applicable state body.<sup>15</sup> It should also provide a certificate of liability insurance, ownership information, a list of its board of directors, contact information for the bin owner (and the operator if they are different entities).

A municipality seeking greater assurances could require bin operators to also post a bond. Some bin operators may voluntarily elect to post a bond as a good-faith measure when there is no such requirement. In this way, the city would be guaranteed bond funds as a form of insurance to help mitigate performance issues.

*c) Obtain a permit to place bins*

Once a bin operator has obtained the proper business license, the permit process for placing bins should be a straightforward matter with minimal administrative work for the municipality and the bin operator. The permit application should include information about the number of bins sited or to be sited, written consent from the existing sites' property owner or lessee, and a schematic drawing of the property and bin location (e.g., on a Google Maps print out). The application should also be accompanied by an appropriate fee to cover all associated costs.

*d) Display a permit sticker*

It is important that local and/or state authorities provide permit stickers for collection bins.<sup>16</sup> Local enforcement officials can then easily determine which bins are permitted, which permits have expired, and which operators are licensed and bonded. To account for permitting, oversight, and enforcement costs, authorities can charge fees for sticker issuances and renewals.<sup>17</sup>

*e) Ensure adequate enforcement*

A solid regulatory scheme must include effective enforcement measures. Enforcement provisions should specify how unpermitted or unlawfully placed bins will be removed; for example, how much notice will the city provide prior to removal and in what form will the

notice be provided (by placing a violation sticker on the bin, sending a letter, phoning the operator, or all of the above). Additional penalties may include fines, revocation of a business charter, or, where appropriate, criminal charges.<sup>18</sup>

## CONCLUSION

As the impacts of climate change grow more severe, it is imperative that do all they can to conserve resources and reduce waste. Donation bins play a vital role in this effort, reminding consumers about the need to recycle and providing the needed convenience that enables them to make a positive contribution to society. With minimal regulatory intervention on the part of local governments, the benefits that these bins offer can be further enhanced, while increasing donors' philanthropic choices. The net effect is that everyone benefits: the consumer, the poor, the environment, and society as a whole.

For more information, visit Planet Aid's Government Resources page at:  
[Planetaid.org/get-involved/government-resources](http://Planetaid.org/get-involved/government-resources)

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<sup>1</sup> "Convenience of a waste collection and recycling program is one of the most important non-socioeconomic determinants in whether an individual will recycle. However, because curbside collection is more expensive; time-consuming to design, implement, and operate; and special provisions would be necessary for curbside collection of hazardous, fragile, or low economic value materials; offsite drop-off remains attractive to public solid waste managers," from Travis P. Wagner, "Examining the Concept of Convenient Collection: An Application to Extended Producer Responsibility and Product Stewardship Frameworks," *Waste Management*, 2012.

<sup>2</sup> To address the issue of ever-increasing municipal waste, the EPA has advanced the concept of "SSM" or "sustainable materials management," which "seeks to use materials in the most productive way with an emphasis on using less; reducing toxic chemicals and environmental impacts throughout the material life cycle; and assuring we have sufficient resources to meet today's needs and those of the future."

<sup>3</sup> [http://www.epa.gov/wastes/nonhaz/municipal/pubs/2012\\_msw\\_fs.pdf](http://www.epa.gov/wastes/nonhaz/municipal/pubs/2012_msw_fs.pdf)

<sup>4</sup> The City of Los Angeles has a number of contracts with privately run landfills through its Bureau of Sanitation. These contractors receive waste from municipally run sites for a fee based on tonnage. Its largest contractor charges the following amounts to receive waste: Household Refuse: \$43/Ton; Bulky Waste: \$45/Ton; and Green Waste (clean): \$20/Ton (if contaminated with household refuse, it becomes \$43/Ton). [http://clkrep.lacity.org/onlinecontracts/2010/C-93688\\_c\\_am\\_5-5-10.pdf](http://clkrep.lacity.org/onlinecontracts/2010/C-93688_c_am_5-5-10.pdf)

<sup>5</sup> *Schaumburg v. Citizens for a Better Environment*, 444 U.S. 620 (1980); *Secretary of State of Maryland v. Joseph H. Munson Co.*, 467 U.S. 947 (1984); *Riley v. National Federation of the Blind of North Carolina*, 487 U.S. 781 (1988).

<sup>6</sup> *Linc-Drop, Inc. v. City of Lincoln*, 4:13-CV-03133-JMG-CRZ (N.E. Feb. 18, 2014); *National Federation of the Blind of Texas v. Abbott*, 647 F.3d 202 (5<sup>th</sup> Cir. 2011).

<sup>7</sup> *Planet Aid v. City of St. Johns* (6<sup>th</sup> Cir. 2015)

<sup>8</sup> U.S. Environmental Protection Agency, "Recycling a Strong Component of Community Development" <http://www.epa.gov/region4/rcra/mgtoolkit/Community.html>

<sup>9</sup> <http://www.smartasn.org/consumers/lifecycleofrags.pdf>

<sup>10</sup> In developing countries across Africa, Asia, and Central and South America, local store owners purchase bundles of sorted used clothing. They then sell these items in local communities at a more affordable rate than one might find for new clothes. Upon reaching a destination port in Africa, Asia, Europe, India, China, South or Central America, bales are routed to overland locations by truck or railcar. Along the way numerous transactions may occur. Bales may be divided into smaller bundles for sale to wholesalers or distributors down the line. Ultimately, an aspiring entrepreneur in a small village may buy a 100 pound sack for resale to his friends and neighbors. A wearable pair of work shoes originally purchased new for \$50 may protect the feet of a farmer in Malawi for just a couple of dollars. A used children's polo shirt bought for 45 cents may serve as daily wear for a student attending a school in India.

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<sup>11</sup> Valerio Zaffalon, “Climate Change, Carbon Mitigation And Textiles,” Textile World, July/August 2010.  
<http://www.textileworld.com/Issues/2010/July-August/Dyeing Printing and Finishing/Climate Change-Carbon Mitigation And Textiles>

<sup>12</sup> As an example, the application of just one ton of nitrogen fertilizer onto cotton fields results in the release of seven tons of carbon dioxide, a key contributor to global warming. “Fabric and Your Carbon Footprint,”  
<http://oecotextiles.wordpress.com/category/co2-emissions-in-textile-industry/>

<sup>13</sup> [http://www.epa.gov/wastes/nonhaz/municipal/pubs/2012\\_msw\\_fs.pdf](http://www.epa.gov/wastes/nonhaz/municipal/pubs/2012_msw_fs.pdf)

<sup>14</sup> <http://www.goodwill.org/about-us/>

<sup>15</sup> Almost every state in the U.S. offers a “Certificate of Good Standing” indicating that an organization is permitted to operate in the given state.

<sup>16</sup> Laurel, Maryland has proposed a permit sticker that includes a registration number, color code, and expiration date.

<http://www.cityoflaurel.org/calendar/2013/05/01/mayor-and-city-council-work-session>.

<sup>17</sup> Prince William County, Virginia charges \$28 per collection bin. Section 33-400.22 of the Prince William Zoning Ordinance.

<sup>18</sup> SMART has provided model legislation including many of the same permitting, oversight, and enforcement concepts advocated for in this piece. [http://www.smartasn.org/government/SMART\\_bin\\_position\\_documents.pdf](http://www.smartasn.org/government/SMART_bin_position_documents.pdf).