

1 **STATE OF GEORGIA**

2 **CITY OF COLLEGE PARK**

3 **ORDINANCE NO. 2016-31**

4 AN ORDINANCE TO AMEND ARTICLE IV (“DISTRICTS AND GENERAL
5 REGULATIONS THEREIN”) OF APPENDIX A (“ZONING”) OF THE CODE OF
6 ORDINANCES, CITY OF COLLEGE PARK, GEORGIA BY ENACTING SECTION 16
7 (“COLLECTION BINS”); TO PROVIDE FOR SEVERABILITY; TO REPEAL
8 CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER
9 PURPOSES.

10 **WHEREAS**, the duly elected governing authority of the City of College Park, Georgia
11 (the “City”) is the Mayor and Council thereof; and

12 **WHEREAS**, the Mayor and Council have, as a part of planning, zoning and growth
13 management, been in review of the City's zoning ordinances and have been studying the City's
14 best estimates and projections of the type of development which could be anticipated within the
15 City; and

16 **WHEREAS**, the Mayor and Council therefore consider it paramount that land use
17 regulation continue in the most orderly and predictable fashion with the least amount of
18 disturbance to landowners and to the citizens of the City. The Mayor and Council have always
19 had a strong interest in growth management so as to promote the traditional police power goals
20 of health, safety, morals, aesthetics and the general welfare of the community; and in particular
21 the lessening of congestion on City streets, security of the public from crime and other dangers,
22 promotion of health and general welfare of its citizens, protection of the aesthetic qualities of the

City including access to air and light, and facilitation of the adequate provision of transportation and other public requirements; and

WHEREAS, it is the belief of the Mayor and Council that the concept of “public welfare” is broad and inclusive; that the values it represents are spiritual as well as physical, aesthetic as well as monetary; and that it is within the power of the City “to determine that a community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled.” Kelo v. City of New London, 545 U.S. 469 (2005); Berman v. Parker, 348 U.S. 26 (1954). It is also the opinion of the City that “general welfare” includes the valid public objectives of aesthetics, conservation of the value of existing lands and buildings within the City, making the most appropriate use of resources, preserving neighborhood characteristics, enhancing and protecting the economic well-being of the community, facilitating adequate provision of public services, and the preservation of the resources of the City; and

WHEREAS, the Mayor and Council are, and have been interested in, developing a cohesive and coherent policy regarding certain uses in the City, and have intended to promote community development through stability, predictability and balanced growth which will further the prosperity of the City as a whole; and

WHEREAS, the zoning regulations contained in the City’s Code of Ordinance do not address collection bins for the donation of certain types of personal property as a permitted or prohibited use of real property located in the municipal limits; and

WHEREAS, the Mayor and Council desire to accordingly amend the City’s Code of Ordinances to provide for the regulation of such uses; and

44 **WHEREAS**, the Mayor and Council have determined that the health, safety, and welfare
45 of the citizens of the City will be positively impacted by the adoption of this Ordinance.

46 **BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF**
47 **THE CITY OF COLLEGE PARK, GEORGIA**, and by the authority thereof:

48 **Section 1.** The Code of Ordinances of the City of College Park, Georgia is hereby
49 amended by enacting Section 16 in Article IV (“Districts and General Regulations Therein”) of
50 Appendix A (“Zoning”), the provisions of which are contained in Exhibit “A” attached hereto
51 and made a part hereof by reference, to read and to be codified as set forth in said attachment.

52 **Section 2.** The preamble of this Ordinance shall be considered to be and is hereby
53 incorporated by reference as if fully set out herein.

54 **Section 3.** (a) It is hereby declared to be the intention of the Mayor and Council that all
55 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their
56 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

57 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest
58 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this
59 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this
60 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the
61 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this
62 Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase
63 of this Ordinance.

64 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
65 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise

unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 4. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.


Section 5. This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

Section 6. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

[SIGNATURES CONTINUED ON NEXT PAGE]

82 ORDAINED this 5th day of December, 2016.
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85 CITY OF COLLEGE PARK, GEORGIA
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88 _____
89 Jack P. Longino, Mayor
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93 **ATTEST:**

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97 Melissa Brooks, City Clerk
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101 **APPROVED BY:**

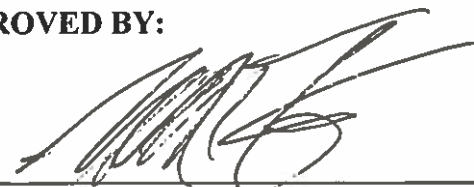
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103 _____
104 Steven M. Fincher, City Attorney
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EXHIBIT A

[See Attached]

Appendix A – Zoning

Article IV – Districts and General Regulations Therein

Section 16. – Collection Bins.

- (a) Definitions. For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them, unless the context clearly indicates a contrary meaning:
- (1) *Administrator*. The individual employed by the City as the “chief building inspector” or his/her designee. In the absence of such employment, the term shall mean the individual designated by the Mayor and Council to oversee the enforcement of this section.
 - (2) *Applicant*. The Person applying for a Bin Permit pursuant to this section.
 - (3) *Bin Permit*. A permit issued by the Administrator to place, operate, maintain or use a Collection Bin pursuant to this section.
 - (4) *Collection Bin*. A freestanding, unattended container, drop-off box, receptacle, trailer or similar device that is located outdoors and is held out to the public as a place for the public to donate household materials, clothes, shoes, books and other salvageable items of personal property to store such items until taken away for donation or resale by the Person that owns, operates, or maintains the container. The term does not include:
 - (a) Any unattended collection or donation box located within a building; or
 - (b) A drop-off box maintained by a public library for the return of books or audio visual items.
 - (5) *Decision Date*. The date upon which the Administrator makes a decision on the approval or the denial of an application for a Bin Permit.
 - (6) *Person*. Any individual, firm, partnership, association, corporation, company, organization or any other entity.
 - (7) *Lot*. A single parcel of real property as indicated on the county tax map.
 - (8) *Non-Residential Zoning District*. Any district that is zoned under the Zoning Ordinance for any use other than residential use.
 - (9) *Permittee*. Any Person in whose name a Bin Permit has been issued under this section.
 - (10) *Property Owner*. The owner of fee simple title of record to a Lot or such owner’s authorized agent.
 - (11) *Residential Zoning District*. Any district that is zoned under the Zoning Ordinance for residential use. For purposes of this section, any lot that is zoned for mixed residential and commercial use shall be considered to be located in a Residential Zoning District.
 - (12) *Submission Date*. The date that an application for a Bin Permit, containing all information required by this section, is actually received by the Administrator.
 - (13) *Zoning District*. The use classification of Lots as defined in the Zoning Ordinance.
 - (14) *Zoning Ordinance*. The provisions contained in Appendix A of the Code of Ordinances, City of College Park, Georgia, as adopted and from time to time as amended.
- (b) Permit Required. It is unlawful for any Person to place, operate, maintain or otherwise use a Collection Bin on any Lot within the municipal limits of the City without first obtaining a Bin Permit under this section. The owner or operator of a Collection Bin on any Lot in the City before the date of the adoption of this section shall have until thirty (30) days after the date that this ordinance is adopted to obtain a Bin Permit under this section or to remove such bin.

153 (c) Permit Application.

154 (1) Any Person seeking the issuance of a Bin Permit shall file a written application for such
155 permit with the Administrator. Such application shall be made on forms provided by the
156 Administrator.

157 (2) An application for a Bin Permit shall include, or have attached thereto, the following
158 information:

159 A. The name, address (including email address) and telephone number of the
160 Applicant. If the Applicant is not an individual, the application shall also include
161 the name, address (including email address) and telephone number of an
162 individual who will serve as its contact.

163 B. If the Applicant claims to be a qualified nonprofit entity, a copy of the
164 determination letter issued by the United States Internal Revenue Service stating
165 that the Applicant is a public charity exempt under 26 U.S.C. § 501(c)(3).

166 C. If the Applicant does not claim to be a qualified nonprofit entity, proof of a
167 current, valid Occupational Tax Certificate issued to the Applicant by the City.

168 D. The address and tax parcel identification number as shown in the records of the
169 county tax assessor of the Lot where the Collection Bin is to be located.

170 E. If the Applicant is not the Property Owner of the Lot upon which the Collection
171 Bin is to be located, the application must contain:

172 i. The name, address (including email address) and telephone number of the
173 Property Owner of such Lot; and

174 ii. A written statement signed by the Property Owner indicating his consent
175 to the installation of the Collection Bin on the Lot and indicating that he is
176 aware of his responsibilities and obligations arising under this section for
177 such installation.

178 F. A map identifying:

179 i. The proposed site on the Lot where the Collection Bin is to be located;

180 ii. The location and dimensions of all parcel boundaries of the Lot;

181 iii. The location of all buildings, signs, motor fuel-dispensing facilities
182 (including any overhanging canopy structures), commercial sanitation
183 dumpsters, fences or other structures on the Lot and the distance between
184 any such structure and the proposed site of the Collection Bin;

185 iv. The location and dimensions of all existing and proposed driveways,
186 garages, parking spaces or areas, vehicular maneuvering areas, curbing,
187 sidewalks, access routes for handicapped or disabled individuals and
188 painted surface markings on such Lot and the distance between each and
189 the proposed site of the Collection Bin.

190 G. Photographs of the Lot on which the Collection Bin will be located.

191 H. A drawing or manufacturer's specification of the Collection Bin identifying the
192 height, width and color of such bin; the material(s) of which such bin is
193 constructed; the number, size and location of any openings on such bin; and the
194 number of lids or covers for such openings and the materials of which such lids or
195 covers are made.

196 I. A description or diagram of any locking mechanism(s) for any lids or covers on
197 the Collection Bin.

- J. A plan stating the frequency and methods by which the Collection Bin will be inspected for general cleanliness, graffiti, and litter and rubbish located on or around such bin and the planned remedial steps to be taken.
- K. A plan stating the frequency and methods by which the collected household material, clothes, shoes, books and other salvageable items of personal property will be removed from the Collection Bin.
- L. If the Applicant is not the Property Owner of the Lot upon which the Collection Bin is to be located, a written statement signed by the Applicant consenting to the immediate removal of the bin from the Lot at the request of the Property Owner.
- M. Documents establishing that the Applicant has liability insurance coverage for the Collection Bin of at least one million dollars (\$1,000,000).
- N. Any other information that the Administrator deems necessary to determine that the issuance of the proposed Bin Permit would fully comply with the requirements of this section, the Zoning Ordinance, and the Code of Ordinances.

(d) Decision on Application.

- (1) Upon receipt of an application for a Bin Permit containing all information required by subsection (c)(2), the payment of the full amount of the permit fee and a determination that the Collection Bin and its proposed location comply with all requirements of this section, the Zoning Ordinance, and all other ordinances and laws of the City, the Administrator shall grant the permit.
- (2) The Administrator shall deny any application for a Bin Permit if any of the following circumstances exist:
 - A. The application does not contain all information required by subsection (c)(2).
 - B. The information in such application is not sufficient to determine whether the Bin Permit should be issued or denied.
 - C. The application contains any materially false information.
 - D. The Lot upon which the Bin Permit is to be located has contained any condition constituting a public nuisance under the Code of Ordinances at any time within six (6) months prior to the Submission Date.
 - E. The Applicant is currently in violation of any provision in this section or has been found in violation of any provision of this section within one (1) year prior to the Submission Date.
- (3) In the event that more than one Application is submitted for a Bin Permit for one Lot, the Administrator shall review and decide each Application in the order by which they were received, with the first Application submitted be considered first, the second Application submitted be considered second, and so forth.
- (4) A decision granting or denying an application for a Bin Permit shall be made within thirty (30) calendar days of the Submission Date. An incomplete application shall be denied and a subsequently submitted application containing all of the information required by subsection (c)(2) shall be assigned a new Submission Date. Should a decision on the application not be made prior to the expiration of said thirty (30) calendar day period, the applicant shall be permitted to place and maintain the Collection Bin under this subsection unless and until such time as the Administrator notifies the applicant of the denial of the application and states the reason(s) for such denial. No Person placing and maintaining a Collection Bin under this subsection shall acquire any vested rights to the continued placement and/or maintenance of such bin. Should the

Administrator subsequently deny the application, any Collection Bin placed pursuant to this subsection shall be removed within seven (7) calendar days of that denial.

(5) The denial of an application for Bin Permit may be appealed to the Board of Zoning Appeals. Any such appeal shall occur under the following procedures:

A. The Applicant shall deliver a written notice of appeal to the Board of Zoning Appeals within fourteen (14) calendar days of the Decision Date. In the event that no appeal is made within this fourteen (14) day period, the decision of the Administrator shall become final.

B. In the event that a timely appeal is filed, the Board of Zoning Appeals shall review the application for a Bin Permit, the decision of the Administrator, and any other information submitted by the Applicant in support of the appeal to determine if the application and the Collection Bin and its proposed location comply with all requirements of this section, the Zoning Ordinance, and all other ordinances and laws of the City. The review by the Board of Zoning Appeals shall be limited to a determination of whether or not the decision of the Administrator was clearly erroneous. The Board of Zoning Appeals shall make a final determination of the appeal within sixty (60) calendar days of the date that the appeal was filed.

C. Any appeal of the decision of the Board of Zoning Appeals shall be taken to the Superior Court by a petition for a writ of certiorari.

(e) Issuance of Bin Permit; Renewal.

(1) The fee to obtain a Bin Permit shall be \$200, an amount that shall not be prorated on the basis of the time during a calendar year when an Application is submitted. No Bin Permit shall be issued until the Permittee has remitted to the Administrator the full amount of the permit fee.

(2) In the event that the Administrator grants an application for a Bin Permit or the Board of Zoning Appeals reverses the Administrator's denial of such application, the Administrator shall issue the Bin Permit upon receipt of the full amount of the permit fee.

(3) The Bin Permit shall be issued on a form prescribed by the Administrator and shall contain the following information:

A. The number assigned to the Bin Permit.

B. The date of issuance.

C. The address of the Lot where the Collection Bin is to be located.

D. The name, address (including email address), and telephone number of the Permittee.

(4) Each Collection Bin located in the City shall be marked with the number of the Bin Permit affixed on such bin in a manner that such number shall be durable and readily visible to the public.

(5) No Permittee shall sell, convey, assign or otherwise transfer a Bin Permit to another Person.

(6) Any Bin Permit granted pursuant to this section shall expire on December 31 of each year. The Permittee may apply for a renewal of the Bin Permit by submitting to the Administrator at least thirty (30) days before the expiration of such permit a renewal application and the required permit fee. Any renewal application shall contain all information required by subsection (c)(2).

(f) Location of Collection Bins.

- (1) A Collection Bin is allowed only as an accessory use to the principal use of the Lot. A Collection Bin shall be located to the side or the rear of the primary building or structure on the Lot. No Collection Bin may be placed on a Lot where there is not a primary building or structure that is currently in use and occupied. In the event that the primary building or structure on the Lot becomes vacant, the Permittee shall remove the Collection Bin from the Lot within seven (7) days of such occurrence.
- (2) No Collection Bin shall be located on any Lot owned or operated by the City or on any public street, road, highway, sidewalk or other public right of way.
- (3) No Collection Bin shall be located on any Lot without the prior written consent of the Property Owner.
- (4) No Collection Bin shall be located within fifty (50) feet of any public street, road, highway, sidewalk or other public right of way.
- (5) No Collection Bin shall be located within ten (10) feet of any fire hydrant.
- (6) A Collection Bin may be placed only on a Lot located in a Non-Residential Zoning District.
- (7) No Collection Bin may be placed on a Lot located in a Residential Zoning District, the DB (Downtown Business District), the VNC District (Virginia Avenue Neighborhood Commercial District) or the OND (Old National Overlay District).
- (8) No Collection Bin may be placed within fifty (50) feet of any Lot located in a Residential Zoning District.
- (9) A maximum of one (1) Collection Bin may be placed on any Lot.
- (10) A maximum of twenty (20) Collection Bins may be located within the municipal limits of the City.
- (11) A Collection Bin may be located only upon an impervious surface consisting of concrete, asphalt, or brick and shall be anchored to such surface.
- (12) No Collection Bin shall be placed on a Lot in such a manner that it reduces the parking area or the number of parking spaces on the Lot below any minimum parking requirements of the Zoning Ordinance.
- (13) No Collection Bin shall be located within any building setback or established buffer area.
- (14) No Collection Bin shall be placed in such a manner as to block any vehicular or pedestrian sight line.
- (15) Notwithstanding any other distance requirements contained in this section, no Collection Bin shall be located in, or block or impede access to, any of the following:
- A. Any parking space or area;
 - B. Any driveway;
 - C. Any garage;
 - D. Any sidewalk or other pedestrian route;
 - E. Any emergency vehicle route;
 - F. Any building ingress or egress;
 - G. Any handicapped or disabled access route;
 - H. Any easement;
 - I. Any commercial sanitation dumpster;
 - J. Any trash bin or enclosed trash bin area;
 - K. Any location that would impede the functioning of exhaust, ventilation or fire extinguisher systems.

(g) Physical Requirements of Collection Bins.

- (1) Each Collection Bin must be constructed of 14-gauge or 16-gauge, powder-coated, galvanized steel.
- (2) Each Collection Bin must be 47.5 inches in width, 39.5 inches in depth, and 72.5 inches in height.
- (3) A Collection Bin shall be designed and constructed in such a manner that prevents it from tipping over.
- (4) A Collection Bin shall be maintained in good condition and appearance with no structural damage, holes or visible rust. A Collection Bin shall be graffiti free.
- (5) Each Collection Bin shall be painted or stained with a low reflectance and subtle neutral or earth-tone color scheme. High intensity colors, metallic colors, black or fluorescent colors shall not be used.
- (6) Each Collection Bin shall have a lid or top to protect the contents from the weather. Such lid or top shall remain closed at all times except when the contents of the Collection Bin are being removed and shall be secured with a tamper proof lock.
- (7) All doors and openings on a Collection Bin shall be placed at a height and a location to minimize the likelihood that a minor child could gain ingress in such bin.
- (8) The front, exterior surface of each Collection Bin shall display the following information:
 - A. A statement indicating that no donated items are to be placed outside of the Collection Bin;
 - B. The name and address (including email address if applicable) of the Permittee; and
 - C. A telephone number for the Permittee by which an individual can communicate directly with an agent of the Permittee or leave a message for the Permittee at any time during any 24-hour period.

Such information shall be conspicuously displayed so that it is readily visible to the public.

(h) Maintenance and Operation.

- (1) No Collection Bin shall be permitted to overflow with donated items or to accumulate such items, junk, litter, rubbish or other materials surrounding it.
- (2) A Collection Bin shall be used only for the collection of clothes, shoes, books, and other salvageable personal items that are of a size that can fit within the door or the opening on such bin through which items are to be deposited. Collection Bins shall not be used for the collection of solid waste or any hazardous materials.
- (3) Collection Bins shall be serviced at least once every two (2) weeks or more often as needed to collect donated items. The time of such servicing shall occur between 7:00 a.m. and 7:00 p.m. on any weekday or 10:00 a.m. to 6:00 p.m. on a Saturday. The servicing of a Collection Bin shall include the following actions:
 - A. The removal of collected items;
 - B. The removal of any litter, junk, debris or other materials surrounding such bin;
 - C. The removal of any graffiti on such bin;
 - D. The abatement of any nuisance condition;
 - E. The inspection of such bin for any peeling paint, rust, dents, holes and the repair of any such condition found;
 - F. The general inspection, maintenance and repair of any lock(s), door(s), lid(s), cover(s) and operating mechanism(s).

The Permittee shall maintain a written log showing the date, month and year of each maintenance action taken under this subsection and shall make such log immediately available to any agent of the City upon request.

- (4) The Administrator or any other agent of the City is authorized to enter upon the Lot to inspect a Collection Bin to ensure compliance with this section, the Zoning Ordinance and any other laws and regulations of the City. Upon discovery of any circumstance concerning a Collection Bin that appears to be in violation of this section (including, but not limited to, overflowing donated items, junk, litter, rubbish or other materials surrounding such bin, the presence of graffiti on such bin, or any physical damage to the bin), the Administrator shall inform, by email or letter, the Permittee and the Property Owner of such condition. The Permittee and/or the Property Owner shall remedy, repair, replace or remove such condition within forty-eight (48) hours following such notice. If the condition is donated items, junk, litter, rubbish or other materials surrounding the Collection Bin and the Permittee and/or the Property Owner has not remedied such condition within said 48-hour period, the City is authorized to remove such litter, junk, debris or other materials and to bill the Permittee and the Property Owner for such clean-up costs. The Permittee and the Property Owner shall be individually and jointly responsible for any such costs.

- (5) In the event the Permittee receives a complaint from any citizen concerning the Collection Bin that reasonably appears to concern a violation of this section, the Permittee shall inspect such bin and remedy or abate any condition that violates any provision in this section within three (3) days following the receipt of such complaint. The Permittee shall maintain a written log showing the date, time, and year when it received any such complaint and containing a summary of the nature of the complaint and what actions the Permittee took in response. The Permittee shall make such log immediately available to any agent of the City upon request.

- (6) Where a Collection Bin is placed on any Lot and the owner of such bin or the Property Owner has not obtained previously a permit under this section for such placement, the Administrator, in his discretion, may remove the bin from the premises and place such bin in storage. The Administrator shall make reasonable efforts to determine the owner of such bin. The Administrator shall notify, by email or letter, the owner of the bin (if known) and the Property Owner of the removal of such bin. The owner of such bin and/or the Property owner shall pay to the City a fee of \$500 to retrieve the bin.

- (i) Revocation or Suspension of Bin Permit. The Administrator shall have the authority to suspend or revoke a Bin Permit for any of the following reasons:

- (1) The Occupation Tax Certificate for the Permittee has been suspended, revoked or cancelled.
- (2) Failure to correct any violation of this section within three (3) calendar days of receipt of any code enforcement notice of violation.
- (3) After the issuance of the Bin Permit, the Administrator discovers that the application upon which such permit was issued contained materially false information.

The Administrator shall notify the Permittee in writing of the decision to revoke or suspend the Bin Permit, stating the reasons for such decision. A Permittee desiring to appeal such decision shall follow the appeal procedures set forth in subsection (d)(4). In the event that the Permittee does not appeal such decision or such decision is affirmed by the Board of Zoning Appeals, the Collection Bin shall be removed within seven (7) calendar days of the

428 Decision Date. Nothing in this subsection shall be construed to otherwise limit the City's
429 police powers.

- 430 (j) Violations. Any Person found in violation of any provision of this section shall be subject to
431 a minimum fine of \$100 per day. A separate offense shall be deemed committed each day
432 during or upon which a violation occurs or is permitted to continue. Any Collection Bin
433 placed or maintained on a Lot in violation of this section for more than fifteen (15) days shall
434 also be subject to removal by the City at the expense of the Permittee or the Property Owner.
435 The Permittee and the Property Owner shall be individually and jointly responsible for any
436 such costs.
437