

INTRODUCED: 7/11/2022

REFERRED TO: Public Safety and Criminal Justice Committee

SPONSOR: Councillors Adamson, Jones and Osili

DIGEST: amends the Code regarding public health and welfare to add Chapter 602, Charitable Distribution of Goods to create a free-of-charge registration process for individuals and entities engaging in charitable distributions of goods, to ensure that an appropriate balance is struck between promoting charitable activities and preventing littering, property damage, and violence

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**SOURCE:**

Initiated by: Office of Public Health and Safety

Drafted by: Office of Corporation Counsel

**LEGAL REQUIREMENTS FOR ADOPTION:**

Subject to approval or veto by Mayor

**PROPOSED EFFECTIVE DATE:**

Adoption and approvals

GENERAL COUNSEL APPROVAL: \_\_\_\_\_

Date: July 7, 2022

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CITY-COUNTY GENERAL ORDINANCE NO. \_\_\_\_\_, 2022

A PROPOSAL FOR A GENERAL ORDINANCE to add Chapter 602, Charitable Distribution of Goods, to the Revised Code.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Title III of the "Revised Code of the Consolidated City and County," regarding public health and welfare, hereby is amended to add Chapter 602, "Charitable Distribution of Goods," reading as follows:

**CHAPTER 602 – CHARITABLE DISTRIBUTION OF GOODS**

**Sec. 602-101. – Council Findings.**

(a) The City-County Council recognizes that charitable donations of food, clothing, and other items play a vital role in our community, particularly for Indianapolis residents who are experiencing homelessness or housing insecurity. The Council applauds individuals and organizations who engage in such work and seeks to ensure that they can continue to do so, free from unreasonable regulation or interference.

(b) The Council also recognizes the importance of ensuring that such activities are conducted in a way that is orderly and safe – not only for the donors and donees themselves, but for other members of the community who have a right to use and enjoy the public spaces in which these activities take place.

(c) The Council takes note of evidence that charitable distributions of food, clothing, and other items can cause extensive littering in public areas. Charitable distributions have also led, in several recent well-documented cases, to conflicts that have resulted in serious physical harm to the most vulnerable members of our community.

(d) The Council has enacted the following ordinance in order to balance the need to protect and promote charitable activities, on one hand, with the equally weighty need to ensure that all participants and bystanders remain safe, that order is maintained, and that public areas of the City remain free from excessive litter.

**Sec. 602-102. - Application.**

This chapter will take effect starting on October 1, 2022. This chapter does not apply to any political subdivision that engages in the charitable distribution of goods on that political subdivision's property.

This chapter should not be construed to alter or supersede any existing law or ordinance applicable to the activities described in this chapter.

**Sec. 602-103. - Definitions.**

*Charitable distribution of goods* means the act of distributing, in a single location, donations of food, clothing or other consumer goods (or such items if purchased by the donor solely with donated funds), to a group of at least ten individuals in need of the donations. This definition applies regardless of whether the distribution is conducted from a vehicle.

*Donor* means a person engaged in the charitable distribution of goods.

*Donee* means the recipient of a donor's charitable distribution of goods.

*Person* means any individual, group of individuals, organization, association, or other legal entity (including a non-profit corporation). This definition applies regardless of the purpose, intent, or ideological affiliation of such person.

**Sec. 602-104. - Registration required.**

(a) Unless the exception stated in Section 106 of this Chapter applies, it shall be unlawful for a donor to make a charitable distribution of goods in a public right-of-way or on City property without having a valid, unrevoked registration on file with the Office of Public Health and Safety ("OPHS"), or for a registered donor to make a charitable distribution of goods in a public right-of-way or on City property at a time and place for which notice has not been provided to OPHS as required by Section 105(a)(3) of this Chapter. For purposes of this chapter, a charitable distribution of goods shall be considered to occur in a public right-of-way or on City property if any portion of the activity occurs in a public right-of-way or on City property, or if it foreseeably results in litter or property damage in a public right-of-way or on City property.

(b) The requirement of subsection (a) is in addition to, and does not supersede or alter, the licensure and registration requirements for food establishments contained in the Marion County Health Code, as enforced by the Marion County Public Health Department. For purposes of clarity, subsection (a) applies regardless of whether the charitable distribution of goods in question is subject to any separate regulation by the Marion County Public Health Department.

(c) A person who fails to comply with subsection (a) is subject to one initial written warning. A written warning provided to an individual affiliated with a group of individuals, organization, association, or other legal entity shall suffice to give notice to that group of individuals, organization, association, or other legal entity. A person who, having received a written warning, subsequently violates subsection (a) is subject to admission of violation and payment of a civil penalty for that violation and for each succeeding violation in an amount provided in Section 103-52 of the Code. Pursuant to Section 103-3 of the Code, the City may also enjoin or abate a violation of subsection (a) by appropriate action.

**Sec. 602-105. - Registration information required; notification of change.**

(a) A registration required by this chapter shall be filed on the forms and in the manner directed and approved by OPHS, and shall include the following information:

- (1) If the donor is an individual or a group of individuals: at least one representative individual's name, address, email address, and telephone number where the donor can be reached; or
- (2) If the donor is an organized entity: the name, address, email address, and telephone number of the organization; and
- (3) A schedule of planned charitable distributions of goods, including the dates, times, and locations of planned charitable distributions of goods. If charitable distributions are to occur on a regular schedule, then providing that regular schedule (i.e. "every Wednesday" or "the first Saturday of every

month”), along with times and locations, shall be sufficient information. Donors may make charitable distributions of goods in addition to those disclosed on their regular schedule, but notice must be provided to OPHS no later than 48 hours before the planned distribution.

(b) The donor registered under this chapter shall notify OPHS in writing of any change in circumstances which would render the information contained in the registration incomplete or inaccurate, including a change in its regular schedule of charitable distributions of goods.

(c) Registration under this chapter shall be free of charge, and all donors providing the information required above shall be considered validly registered, regardless of the donor’s identity, affiliation, or mission statement. If the donor initially fails to provide the required information, OPHS shall not deny the application but shall cooperate with the donor to ensure proper registration.

(d) OPHS shall make registration forms available in both paper and electronic form.

(e) OPHS shall share registered donor information with the Marion County Public Health Department to aid in enforcement of food safety measures, as they may be applicable.

**Sec. 602-106. – Exception for Designated Distribution Sites.**

Donors may conduct charitable distributions of goods at designated charitable distribution sites established by OPHS pursuant to Section 231-508 of the Revised Code without fulfilling the registration requirement described in Sections 104 and 105 of this Chapter. OPHS shall, however, encourage all donors conducting charitable distributions of goods at designated charitable distribution sites to register.

**Sec. 602-107. – Revocation of Registration; Re-registration.**

(a) OPHS shall receive and maintain documentation, which may be received from OPHS staff, IMPD, MCPHD, or other law enforcement entities with appropriate jurisdiction, concerning littering, property damage to City property, or criminal violations occurring at the site of a charitable distribution of goods.

(b) If OPHS receives at least three (3) separate documented reports of littering or property damage to City property that occurs on site during or immediately after a person’s charitable distributions of goods, and has not been redressed by the person, within any twelve-month period, OPHS shall revoke the person’s registration status and provide notice of revocation to the person using the contact information on file.

(c) If IMPD or another law enforcement agency with appropriate jurisdiction receives information of one or more incidents occurring on site during or immediately after a charitable distribution of goods that result in serious bodily harm to an individual, that law enforcement agency shall provide a report, accompanied by appropriate documentation, to OPHS. Upon receipt of such documented report, OPHS shall revoke the person’s registration status and provide notice of revocation to the person using the contact information on file.

(d) If OPHS revokes the registration status of a person under subsections (b) or (c), the person may not re-register for a period of at least one year from the date of revocation.

(e) A person shall be eligible to re-register after revocation, by following the procedure described in Section 105 of this Chapter, only after (1) at least one year has passed since its revocation of registration and (2) it has paid in full any monetary penalties assessed against it for any violation of this Chapter.

SECTION 2. Section 103-52 of the "Revised Code of the Consolidated City and County" hereby is amended to add the information that appears below:

602-104	Violation of registration requirement for charitable distributions – first offense after receiving one written warning	250.00
602-104	Violation of registration requirement for charitable distributions – second or successive offense after receiving one written warning	500.00

SECTION 3. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 4. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 5. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

The foregoing was passed by the City-County Council this \_\_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_ p.m.

ATTEST:

\_\_\_\_\_  
Vop Osili  
President, City-County Council

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SaRita Hughes  
Clerk, City-County Council

Presented by me to the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
SaRita Hughes  
Clerk, City-County Council

Approved and signed by me this \_\_\_\_ day of \_\_\_\_\_, 2022.

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Joseph H. Hogsett, Mayor