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REPORT TO LAW & LEGISLATION COMMITTEE
City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
June 16, 2009

Honorable Members of the
Law and Legislation Committee

Title: An Ordinance adding Chapter 5.152 to the Sacramento City Code Relating to Unattended Donation Boxes

Location/Council District: All

Recommendation: 1) Review and approve an **Ordinance** adding Chapter 5.152 to the Sacramento City Code relating to Unattended Donation Boxes; 2) forward the ordinance to City Council for adoption.

Contact: Brad Wasson, Revenue Manager, 916-808-5844, Bob Rose, Code Enforcement Manager, 916-808-5947

Presenters: Brad Wasson, Revenue Manager, Bob Rose, Code Enforcement Manager, 916-808-5947

Department(s): Finance/Code Enforcement

Division(s): Revenue/Business Compliance

Dept. ID: 06001211/20001211

Description/Analysis

Issue: The City of Sacramento supports charities and their efforts to ensure that all people have adequate resources through donations. However, unattended donation boxes have begun to proliferate without the approval of property owners or without clear information about how the collected donations will be used. If not properly maintained, unattended boxes can become nuisances by attracting graffiti, trash, toxic materials and rodents.

Policy Considerations: A request was made to bring the issue of unattended donation boxes for consideration by the Law & Legislation Committee. The increased concern about unattended donation boxes has created the potential need for a regulation ordinance.

Under this ordinance, charities would be required to register every unattended donation box location with the City's Revenue Division requiring a permit fee and a per location registration fee. The permitting of charities and registering locations would come under Title 5 of the Sacramento City Code Business Licenses and

Regulations. The donation boxes will not be allowed in residential zones. The registration process would identify responsible parties, property owner's consent and confirm that the registrant understands the City's rules for location and maintenance.

In addition, language may be placed on the containers based on their American Institute of Philanthropy (AIP) rating. AIP is a non-profit watchdog service that rates individual charities. Their purpose is to give potential donors information on individual charities so potential donors can make informed decisions about their donations. AIP has developed a rating system that focuses on the percent spent on charitable purposes and the cost to raise $100.

Generally a grade of "C" or better indicates that $35 or less is spent to raise $100 and 60% or more of proceeds are spent on programs. The balance would be spent on administration and fund raising. AIP does disclose that they adjust their ratings by some criteria that may not be agreed upon by the individual donors. However, AIP appears to be consistent with the application of these criteria.

The City may require the charity to post their AIP grade on the donation bin to give the public an idea on how much of their donation will go to services. City staff does not have the resources to evaluate individual charities. Therefore, the use of AIP's information may be a reasonable option to inform and/or safe guard the public's donations to unattended bins.

AIP is not a governmental agency. Individual charities voluntarily submit information to AIP to obtain a rating. AIP does not charge a fee to the charities. AIP is funded by subscribers who want the charity information for making donation decisions. Therefore, AIP appears to be independent and unbiased.

The County of Sacramento is also interested in regulating unattended donation bins in the unincorporated area of the county. City and county staff are sharing information while developing recommendations for the Law & Legislation Committee and Board of Supervisors. Consistency with these regulations will be beneficial to the public and charities utilizing unattended donation bins.

Environmental Considerations: Under the CEQA guidelines, continuing administrative activities do not constitute a "project" as defined in Section 15378 of the CEQA Guidelines and are therefore exempt from review.

Sustainability Considerations: There are no sustainability considerations applicable to amending City Code relating to the proposed ordinance relating to unattended donation boxes.

Commission/Committee Action: At the June 2, 2009 meeting, the Law & Legislation Committee heard an overview and discussion of the status regarding unattended donation boxes. The Committee requested a report back and draft ordinance for the June 16, 2009 Law & Legislation Committee meeting.

Rationale for Recommendation: Due to the recent proliferation of unattended donation boxes in which some attract nuisances, an ordinance has been proposed that would establish procedures and guidelines for the regulation of unattended donation boxes in the City.

Financial Considerations: Costs incurred by the City will be recovered by enforcement action and or permitting fees.

Emerging Small Business Development (ESBD): No goods or services are being purchased under this report.

Approved by: _____
MAX FERNANDEZ
Director of Code Enforcement

Approved by: _____
LEYNE MILSTEIN
Director of Finance

Recommendation Approved:

for _____
RAY KERRIDGE
City Manager

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Attachment 1

BACKGROUND

An unattended donation box is any unattended container that is used for the collection of clothing or other salvageable personal property for charity which is usually located at entrances of a public area. These unattended donation boxes can appear to be representative of a legitimate charity. However, when the boxes are not monitored or maintained, they are likely subject to become public nuisances, particularly if no information is provided to the public about the responsible organization and/or persons.

The City of Sacramento is supporting pending State legislation, AB 918 (Adams). This would require for-profit and non-profit organizations to display the organization's name, address, telephone number, website address and a statement stating that the box is owned by a for-profit agency, a commercial fund raiser or a non profit agency on the donation box. These organizations will be required to provide licensing information and the destination of the proceeds. AB 918 allows local jurisdictions to adopt ordinances or regulations that are more stringent than the bill's provisions.

Statewide, some cities have reported problems with unattended donation boxes. In Oakland, unattended boxes have been reported to corral donations away from legitimate charitable organizations. Permits and fees for unattended donation boxes are required in Berkeley and San Rafael.

Nationwide, cities have adopted ordinances pertaining to unattended donation boxes. Chicago prohibits the installing or maintaining of any collection bin outdoors on private property without first obtaining a permit. Milwaukee requires a permit for publicly accessible bins and prohibits bins on private property unless the provider of the bin has first obtained a permit. Dade County, Florida, prohibits the placement of donation collections bins and provides for removal, destruction and recovery of costs.

Attachment 2

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE ADDING CHAPTER 5.152 TO THE SACRAMENTO CITY CODE RELATING TO UNATTENDED DONATION BOXES

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Chapter 5.152 is added to the Sacramento City Code to read as follows:

Chapter 5.152 Regulation of Unattended Donation Boxes

5.152.010 Findings.

The city of Sacramento supports charities and their efforts to ensure that all people have adequate resources through donations and other means. Unattended donation boxes have begun to proliferate in the city, often in unlawful locations, without the approval of property owners, or without clear information about the operator of the boxes or how the collected donations will be used. If not properly maintained and regularly emptied, unattended donation boxes can become nuisances by attracting graffiti, trash, toxic materials, and rodents. Because donation boxes are unattended, the boxes themselves should provide the public with critical information about the operator and how the donations will be used. Unattended donation boxes should be regulated in order to ensure they provide the public with information about how their donations will be used and to ensure the boxes do not become a nuisance.

5.152.020 Definitions.

"City manager" means the city manager of the city of Sacramento or designee.

"Permittee" means the person to whom a permit authorizing placement of unattended donation boxes is issued.

"Person" means any individual, copartnership, firm, association, joint stock company, corporation, non profit organization or combination of individuals of whatever form or character.

"Residential district" means RE, R-1, R-1A, R-1B, R-2, R-2A, R-2B, R-3, R-3A, R-4, R4-A, RMX, and RO zoning districts as established pursuant to Title 17 of this code.

"Unattended donation box" means any unattended container, receptacle, or similar device that is located on any lot within the city and that is used for soliciting and collecting donations of clothing or other salvageable personal property. This term does not include recycle bins for the collection of recyclable material governed or regulated by the zoning code or any unattended donation box located within a building.

5.152.030 Permits.

A. It is unlawful for any person to place or maintain one or more unattended donation boxes within the city unless that person first obtains a permit from the city authorizing placement of unattended donation boxes as required herein.

B. The permit application shall be made on a form provided by the city manager and shall include the following information:

1. The name, address, email, website (if available) and telephone number of the applicant;

2. Written proof sufficient to establish that the applicant is qualified to solicit donations of salvageable personal property pursuant to California Welfare and Institutions Code section 148.3, as amended; and

3. The text of the disclosures that will be made on the unattended donation box(es) as required by Section 5.152.050(C).

C. Each application shall be accompanied by a nonrefundable fee in the amount established by resolution of the city council. This fee shall be in addition to any fee or tax imposed by the city pursuant to any other provision of this code.

D. Applications shall be filed with the city manager.

E. Within sixty (60) days of receiving a completed application, the city manager shall issue a permit or deny the issuance of a permit.

F. The city manager shall not issue a permit unless:

1. The applicant has submitted a complete and accurate application accompanied by the applicable fee; and

2. The applicant is qualified to solicit donations of salvageable personal property pursuant to California Welfare and Institutions Code section 148.3, as amended.

G. If the city manager denies an application in whole or in part, the city manager shall state, in writing, the specific reasons for denial.

H. The term of the permit shall be two years from the date of issuance.

5.152.040 Registration of Location of Unattended Donation Boxes.

A. Subsequent to issuance of a permit authorizing placement of unattended donation boxes, and before placing unattended donation boxes within the city, for each unattended donation box, the permittee shall, on a form provided by the city manager, register the unattended donation box with the city manager. Registration shall include the following:

1. The address and specific location where the unattended donation box will be located;

2. The name, address, email, website (if available) and telephone number of the owner, lessee or other person or legal entity in control of the property on which the unattended donation box will be located;

3. The name, address, email, and telephone number of the person who is responsible for maintaining the unattended donation box; and

4. A signed declaration from the owner, lessee or other person or legal entity in control of the property on which the unattended donation box will be located, on a form prepared by the city manager including:

a. a statement consenting to the placement of the unattended donation box;

b. a statement that the owner, lessee or other person or legal entity in control of the property has been informed, by the permittee, of the most recent grade, if any, the permittee has received from the American Institute of Philanthropy;

c. a statement that the owner, lessee or other person or legal entity in control of the property has been informed, by the permittee, how the proceeds from the unattended donation box will be utilized; and

d. a statement by the owner, lessee or other person or legal entity in control of the property acknowledging that such owner, lessee or other person or legal entity in control of the property, shall be responsible for any abatement costs or fines that may be imposed under this chapter.

B. A permittee shall notify the city manager within thirty (30) days of the removal of an unattended donation box from a registered location.

5.152.050 Requirements and Maintenance.

A. A permittee shall operate and maintain all unattended donation boxes located in the city as follows:

1. Unattended donation boxes shall be maintained and in good condition and appearance with no structural damage, holes, or visible rust and free of graffiti;

2. Unattended donation boxes shall be locked or otherwise secured;

3. Unattended donation boxes shall contain the following information visible on the outside of each unattended donation box:

a. The name, address, email, and phone number of both the permittee and person responsible for maintaining the unattended donation box;

b. In an area directly above or below the slot or door in which items are to be deposited, and in contrasting color, all of the following:

i. In one-inch type, a statement indicating whether a donation to the unattended donation box is tax-deductible, whether the donation is for charitable purposes, and a description of those purposes;

ii. The most recent grade, if any, received from the American Institute of Philanthropy in a box at least eight inches by eight inches, the following notice in two-inch type and where stated six-inch type:

PUBLIC NOTICE: READ BEFORE DONATING
This entity has received a charity grade of:

[Most Recent Grade, in six-inch type]

by the American Institute of Philanthropy, a nonprofit that grades charities; and

4. unattended donation boxes shall be serviced and emptied as needed, but at least every thirty (30) days.

B. Notwithstanding any other provision of this code to the contrary, it is unlawful for any person to place an unattended donation box in any residential district.

5.152.060 Revocation of Permit, Removal of Unattended Donation Boxes and Liability.

A. The city manager shall have the right for cause to revoke any permit issued hereunder. Any of the grounds upon which he or she may refuse to issue an initial permit shall also constitute grounds for such revocation. In addition, the failure of the permittee to comply with the provisions of this chapter or other provisions of this code or other law also shall constitute grounds for revocation of the permit. The city manager shall provide a written notification to permittee stating the specific grounds for revocation. Upon revocation, all of the permittee's unattended donation boxes shall be removed within thirty (30) days and if not removed within this time period the city may remove the

unattended donation box at the expense of the permittee. Upon revocation, a permittee shall be prohibited from applying for a permit for a period of one year.

B. The city manager shall have the right for cause to require the permittee to remove any registered unattended donation box. Any of the grounds upon which the city manager may refuse to issue an initial permit shall also constitute grounds for removal of registered unattended donation boxes. In addition, the failure of the permittee to comply with the provisions of this chapter or other provisions of this code or other law also shall constitute grounds for removal of registered unattended donation boxes. The city manager shall provide a written notification giving the specific grounds warranting removal. Upon receipt of the written notification, the unattended donation box shall be removed within thirty (30) days and if not removed within this timer period the city may remove the unattended donation box at the expense of the permittee.

C. Any violation of the provisions of this chapter is a public nuisance subject to abatement pursuant to Chapter 8.04 of this code.

5.152.070 Violation—Penalty.

Any person violating any provision of this chapter is guilty of an infraction.

5.152.080 Appeals to city council.

A. Any person aggrieved by the decision rendered by the city manager in granting or denying an application for a permit under this chapter or revoking a permit issued under this chapter, may appeal the decision to the city council in accordance with Chapter 1.24. The appeal shall be made by filing a written notice thereof with the city clerk not later than ten (10) calendar days after receiving notice of the decision of the city manager. The city council shall hold a hearing on the appeal and its decision thereon shall be final. Instead of hearing the appeal, the city council may refer the matter to a hearing examiner pursuant to chapter 1.24, in which case the hearing examiner's decision shall be final.

B. Failure to properly file a written appeal of the decision of the city manager within ten (10) calendar days of the decision will constitute a waiver of all rights to an appeal hearing before the city council, and the city manager's decision will be final. Failure to properly and timely appeal the city manager's decision also shall constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the city manager's decision.

SECTION 2.

The provisions of Chapter 5.152 as enacted by this Ordinance shall apply to all unattended donation boxes located within the City as of the effective date of this Ordinance. All persons owning or operating one or more unattended donation boxes within the City as of the effective date of this Ordinance shall have sixty (60) days from that date to file an application for a permit as provided for in this chapter. Any such person who has filed a timely application for a permit within the sixty (60) day time limit

shall not be subject to the provisions of this chapter relating to unattended donation boxes until a permit is issued or denied to the applicant. Upon issuance of a permit, the permittee shall have thirty (30) days to register the location of all unattended donation boxes that were located within the City as of the effective date of this ordinance and comply with all other provisions in this chapter.