



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

3

STAFF REPORT
January 7, 2010

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 to City Council the ordinance for adoption.

Contact: Brad Wasson, Revenue Manager, 916-808-5844; Tina Lee-Vogt, Program Manager, 916-808-2679

Presenters: Brad Wasson, Revenue Manager, , 916-808-5844; Tina Lee-Vogt, Program Manager, 916-808-2679

Department(s): Finance/Code Enforcement

Division(s): Revenue/Neighborhood Code 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 and other means. Unattended donation boxes have begun to proliferate in the City without the approval of property owners, or without clear information about the property owner or the operator of the boxes. If not properly maintained and regularly emptied, unattended donation boxes can become nuisances by attracting graffiti, trash, toxic materials, and rodents. Because these donation boxes are unattended, the boxes themselves should be regulated in order to ensure they provide the public with critical information about the property owner and operator and to ensure the boxes do not become a nuisance. Further, due to the characteristics and the purpose of the unattended donation boxes, locating these boxes in residential zones would distract from the peace and enjoyment of residential neighborhoods in the City of Sacramento.

Policy Considerations: Staff was asked to present the issue of unattended donation boxes to the Law and Legislation Committee. Increased concern regarding unattended donation boxes has created the potential need for a regulation ordinance.

In accordance with the proposed ordinance, property owners would be required to obtain a permit from the City for each unattended donation box placed on their property. The permit process would identify responsible parties and would affirm the property owners' and any operator's responsibility for maintaining donation boxes located on the property owner's real property. Donation boxes would be prohibited in residential zones.

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

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.

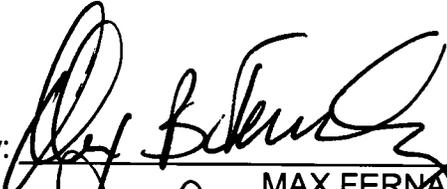
Sustainability Considerations: There are no sustainability considerations applicable to amending City Code relating to the proposed ordinance relating to unattended donation boxes.

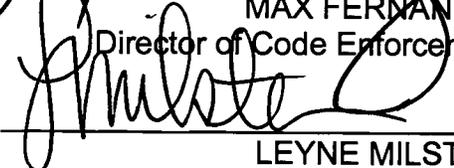
Commission/Committee Action: At the June 16, 2009 meeting, the Law & Legislation Committee approved and forwarded a draft ordinance to the Mayor and City Council. The item was withdrawn from the City Council agenda to address various concerns and the ordinance has been revised.

Rationale for Recommendation: Due to the recent proliferation of unattended donation boxes and instances when they have attracted nuisances, an ordinance has been proposed that would establish procedures and guidelines for the regulation of unattended donation boxes in the City.

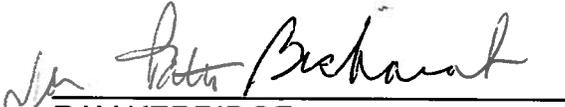
Financial Considerations: Costs incurred by the City will be recovered by enforcement action and or permitting fees.

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:



RAY KERRIDGE
City Manager

Table of Contents:

Report Pg 1

Attachment:

1 Background Pg 4
2 Ordinance Pg 6

Attachment 1

BACKGROUND

An unattended donation box is 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.

On December 10, 2009, City staff met with stakeholders to present the key points of the ordinance. These points regarding management and maintenance of unattended donation boxes are as follows:

1. Must be maintained in good condition and appearance with no structural damage, holes, or visible rust, and shall be free of graffiti.
2. Shall be locked or otherwise secured.
3. Shall contain the following information, for both the permittee and operator, in two inch type visible from the front of each unattended donation box:
 - Name
 - Mailing Address
 - E-mail (if available)
 - Telephone number
4. Shall be serviced and emptied as needed, but at least every thirty (30) days.
5. The permittee shall maintain the area surrounding each unattended donation box free of any junk, debris or other material and shall be responsible to the extent provide by law for the cost to abate any nuisance.
6. No unattended donation boxes will be allowed in any residential districts.
7. Must be no less than 400 feet from any other unattended donation box.
8. Only one (1) box may be placed on each parcel of real property.

The City supports Assembly Bill 918 (Adams) which 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. In April 2009, AB 918 was approved by the California State Assembly. This bill is currently in the California State Senate Local Government Committee.

Many California 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

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

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 Definitions.

“City manager” means the city manager of the city of Sacramento or designee.

“Operator” means a person who utilizes or maintains unattended donation box(es) to solicit donations of salvageable personal property.

“Permittee” means the property owner who is issued a permit authorizing placement of unattended donation box(es).

“Property owner” means the person who owns the real property where the unattended donation box(es) are or are proposed to be located.

“Residential district” means RE, R-1, R-1A, R-1B, R-2, R-2A, R-2B, R-3, R-3A, R-4, R4-A, R5, 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.

5.152.020 Permits.

A. It is unlawful and a public nuisance for any property owner or other person to place, operate, maintain or allow unattended donation boxes on real property unless the property owner first obtains a permit pursuant to this chapter and the donation box is placed, operated and maintained in accordance with all provisions in this chapter.

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 operator who will utilize the unattended donation box is qualified to solicit donations of salvageable personal property pursuant to California Welfare and Institutions Code section 148.3, as amended;

3. The text of the disclosures that will be made on the unattended donation box as required by Section 5.152.040(A)(3); and

4. The physical address of the property owner's real property and a drawing sufficient to indicate the proposed location of the unattended donation box on the property owner's real property and the size of the proposed unattended donation box.

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;

2. The operator who will utilize the unattended donation box is qualified to solicit donations of salvageable personal property pursuant to California Welfare and Institutions Code Section 148.3, as amended;

3. The proposed location of the unattended donation box on the property owner's real property is in compliance with all applicable laws.

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

H. The term of the permit shall expire one year from the date of issuance.

I. No person to whom a permit has been issued shall transfer, assign, or convey such permit to another person.

J. Prior to expiration of the permit, the permittee may voluntarily cancel the permit by notifying the city manager in writing of the intent to cancel the permit. The permit shall become void upon the city manager's receipt of a written notice of intent to cancel the permit.

5.152.030 Renewal of permits.

A. A permittee may apply for permit renewal by submitting to the city manager before the expiration of the permit, a renewal application and a non-refundable renewal fee in an amount set by resolution of the city council.

B. The city manager shall either approve or deny the renewal of a permit within sixty (60) days of receipt of the complete renewal application and payment of the renewal fee. The failure of the city manager to timely act shall constitute approval of the renewal of the permit.

B. The city manager shall approve the renewal of a permit if he or she finds that no circumstances existed during the term of the permit, existed at the time of submission of an application for renewal, or existed at any time during the review of the application for renewal that are inconsistent with any finding required for approval of a new permit as specified in Section 5.152.020 or that would justify the revocation of the permit as specified in Section 5.152.050.

5.152.040 Requirements and Maintenance.

A. A permittee shall operate and maintain or cause to be operated and maintained all unattended donation boxes located in the city as follows:

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

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

3. Unattended donation boxes shall contain the following contact information in two inch type visible from the front of each unattended donation box: the name, address, email, and phone number of both the permittee and operator;

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

5. Unattended donation boxes shall be no more than 82" high, 56" wide and 49" deep.

B. The permittee shall maintain or cause to be maintained the area surrounding the unattended donation box(es) free of any junk, debris or other material and shall be responsible to the extent provided by law for the cost to abate any violation.

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

D. Notwithstanding any other provision of this code, it is unlawful to locate any unattended donation box less than 400 feet from any other unattended donation box.

E. Notwithstanding any other provision of this code, it is unlawful to locate more than one unattended donation box on each parcel of real property.

F. Notwithstanding any other provision of this code, it is unlawful to locate any unattended donation box on required parking spaces.

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

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 shall also constitute grounds for revocation of the permit. The city manager shall provide a written notification to the permittee stating the specific grounds for revocation. Upon revocation, the unattended donation box shall be removed from the permittee's real property within thirty (30) days and if not removed within this time period, the city may remove, store and dispose of 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. Any violation of the provisions of this chapter is a public nuisance subject to abatement pursuant to Chapter 8.04 of this code.

5.152.060 Violation—Penalty.

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

5.152.070 Appeals to city council.

Any person aggrieved by the decision rendered by the city manager in granting or denying an application for a permit under this chapter or in 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. The hearing examiner's decision shall be in writing. The hearing officer's decision shall have the effect specified in Section 1.24.090 of this code, and judicial review shall be governed by Section 1.24.110 of this code.

SECTION 2.

Section 8.04.100 of the Sacramento City Code is amended to read as follows:

8.04.100 Generally.

It is unlawful and a misdemeanor and hereby declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this city to maintain such premises in such a manner that any one or more of the conditions or activities described in the following subsections are found to exist and allowed to continue:

A. The keeping, storage, depositing, or accumulation on the premises of any personal property which is within the view of persons on adjacent or nearby real property or the public right-of-way when such personal property constitutes visual blight, reduces the aesthetic appearance of the neighborhood, is offensive to the senses, or is detrimental to nearby property or property values. Personal property includes, but is not limited to, junk as defined in Section 8.04.090 of this chapter, abandoned, wrecked, or dismantled automobiles or unseaworthy boats or vessels, automotive parts and equipment, appliances, furniture, containers, packing materials, scrap metal, wood, building materials, rubbish and debris.

Wood and building materials being used, or to be used, for a project of repair or renovation and for which an active building permit is in existence may be stored for as long as is necessary to complete the project expeditiously. Upon expiration or cancellation of the permit, wood and building materials for the project must be immediately removed;

B. The keeping, storage, depositing or accumulation of dirt, sand, gravel, concrete or other similar materials that constitute visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to nearby property or property values;

C. The operation of a junk yard or automobile dismantling yard, except in an industrial zone pursuant to a special use permit;

D. Any abandoned drive-in enterprise;

E. Any dangerous, unsightly, or blighted condition which is detrimental to the health, safety or welfare of the public;

F. Any condition in violation of the city building code, set forth in Title 15 of this code;

G. Any condition in violation of Chapter 9.44 of this code (animal control law);

H. Any condition in violation of Title 17 of this code (zoning ordinance);

I. Any condition in violation of the city fire code, set forth in Title 15 of this code;

J. Any condition in violation of Chapter 5.152 of this code (regulation of unattended donation boxes);

K. Any condition recognized in law or in equity as constituting a public nuisance;

L. The maintenance of the exterior of any vacant or unoccupied building or the interior of any such building which is readily visible from any public street or adjacent parcel of property in a state of unsightliness so as to constitute a blighted condition detrimental to the property values in the neighborhood or otherwise detrimental to the public welfare;

M. Any condition in violation of Chapter 18.12 of this code (employer transportation systems management for the city of Sacramento);

N. Any unimproved real property which has become a dumping ground for litter, garbage, junk, debris, or discarded vehicles, vehicle parts and/or vehicle hulks, and which real property has been subject to abatement action on one or more occasions by the city;

O. Any illegal activity occurring on the property which is detrimental to the life, health, safety and welfare of the residents, neighbors or public. For purposes of this chapter, illegal activity is defined as any violation of state or federal law, rules or regulations, or local ordinance.

Once proceedings have been commenced pursuant to this title to declare a building or property to be a public nuisance under this subsection, no such building or property shall be deemed to be in compliance with this title solely because such building or property thereafter becomes occupied.

SECTION 3.

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 who have one or more unattended donation boxes located on their real property 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 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.

SECTION 4.

If any part or provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder of this ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this ordinance are severable.

Adopted by the City of Sacramento City Council on _____ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Attest:

MAYOR

City Clerk

Passed for Publication:

Published:

Effective: