

**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY  
PLANNING DEPARTMENT**



**STAFF REPORT**

**TO** Members of the Castro Valley Municipal Advisory Council  
**RE** Unattended (Donation) Collection Boxes  
**HEARING DATE** November 26, 2012

**GENERAL INFORMATION**

The following is an overview of issues pertaining to unattended collection boxes within unincorporated Alameda County.

**STAFF RECOMMENDATION**

Staff requests that the Committee hear the staff presentation and provide comments on regulations pertaining to unattended collection boxes.

**STAFF ANALYSIS**

Unattended collection boxes may be found throughout unincorporated Alameda County. Based upon data from the websites of the most prevalent solicitors for used items (Campus California, USagain, and Discover Books) there are more than 60 collection sites within the unincorporated areas. The lack of regulation for these boxes has resulted in many negative impacts affecting County residents. Code Enforcement staff has noted that unattended collection boxes have become a target for illegal dumping and scavenging, thereby creating a health and safety concern. While collection boxes provide residents with a convenient means to donate unused items for reuse, and diverts many items from the waste stream, the County wants to ensure that the collection boxes are maintained in a manner that minimizes the risk of blight.

In response to these concerns, staff recommends that the County adopt a permitting process for collection boxes with the following requirements:

- Owner consent
- The collection box must contain contact information of the organization/persons maintaining the box
- The collection box must remain in good order (i.e. free of graffiti, no litter present, etc.)
- The box must not affect the flow of traffic or pedestrians
- No collection box must be within 400 feet of another box (to avoid overconcentration)

*Ordinance Development*

On October 15, the Planning Commission heard a presentation from staff describing the process that would be employed to develop the proposed Ordinance. The Commission concurred with staff's recommendations, and since that time staff has been engaged in the development of the proposed amendment. In preparing the proposed amendments staff has consulted various sources. The most useful of these resources was the California State Association of Counties (CSAC) which compiled a number of model ordinances to assist jurisdictions in preparing ordinance amendments (found in the Planning Commission staff report). Staff has also sought or will seek comments from County Counsel and the Public Works Agency.

On October 24, 2012, staff met with representatives from Campus California, Usagain, Discover Books and

the Salvation Army to discuss their operations within unincorporated Alameda County and to gather their input on how other jurisdictions have regulated unattended collection boxes. In addition, on November 5, 2012 the Planning Commission provided comments on staff's initial draft, and their recommendations have been incorporated into the draft before you today.

Upon completion of this referral process, the matter will be forwarded to the Planning Commission for consideration.

#### *Permitting Process*

Staff believes that applications for unattended collection boxes could be effectively and efficiently managed under the County's existing Administrative Conditional Use Permit (ACUP) process. Staff does not believe that this type of land use would necessitate a Conditional Use Permit (CUP) or Site Development Review (SDR) as the standards provided in the draft Ordinance are clear and should ensure that the use would not adversely impact surrounding properties or persons. Furthermore, staff believes that the review and permitting of unattended collection boxes could be managed in a manner similar to tents and canopies. Permits for tents and/or canopies may be approved for up to one year, and are subject to specific guidelines. Moreover, an ACUP process would also allow the County to recoup the costs associated with review and enforcement of the permits. Staff believes that the \$500.00 fee required for an ACUP will be sufficient to cover staff time and materials. The permit would be valid for a period of one year, with the following exceptions: the Planning Director has revoked his approval due to lack of compliance with the Ordinance; the collection box has been moved to another location on the property; or there has been a change in the organization soliciting the items.

#### *Existing Collection Boxes*

The number and location of all collection boxes in unincorporated Alameda County is unknown, furthermore, staff is unaware if each of these boxes has been placed in a manner consistent with the draft Ordinance. In addition, existing collection boxes fail to identify a responsible party for contact. The proposed Ordinance requires permitting of all collection boxes that will require a tracking mechanism for Code Enforcement staff to monitor the placement and upkeep of the boxes. The lack of available data on the location and placement of collection boxes has led staff to conclude that collection boxes placed prior to the enactment of the Ordinance should be subject to its provisions.

#### *Enforcement*

Enforcement of these regulations shall be carried out by the County's Code Enforcement staff. Consistent with existing practice, staff shall respond to complaints from the public regarding nuisances arising from the collection box. Code Enforcement is the appropriate entity in the County to handle these cases as they currently respond to nuisance complaints.

### **CONCLUSION**

The attached ordinance amendments will establish regulations for unattended collection boxes within unincorporated Alameda County. In preparing these amendments, the County wishes to reduce or eliminate harmful impacts associated with their use. The amendments create a permitting process, and ongoing performance standards to ensure that the boxes do not become a public nuisance.

### **ATTACHMENTS**

- A. Planning Commission Staff Report, October 15, 2012
- B. Proposed Ordinance Amendments

<b>PREPARED BY:</b>	Angela C. Robinson Piñon, Planner
<b>REVIEWED BY:</b>	Sonia Urzua, Senior Planner

**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY  
PLANNING DEPARTMENT**



**STAFF REPORT**

**TO** Members of the Alameda County Planning Commission  
**RE** Unattended Donation Boxes  
**HEARING DATE** October 15, 2012

**GENERAL INFORMATION**

The following is an overview of issues pertaining to unattended donation boxes within unincorporated Alameda County.

**STAFF RECOMMENDATION**

Staff requests that the Commission hear the staff presentation and provide comments on regulations pertaining to unattended donation boxes.

**STAFF ANALYSIS**

Unattended donation boxes may be found throughout unincorporated Alameda County. The lack of regulation for these boxes has resulted in many negative impacts affecting County residents. Code Enforcement staff has noted that unattended donation boxes have become a target for illegal dumping and scavenging, thereby creating a health and safety concern. Members of both the West County Board of Zoning Adjustments and the Castro Valley Municipal Advisory Council have requested that staff develop an ordinance to address unattended donation boxes.

In response to these concerns, staff recommends that the County adopt a permitting process for donation boxes with the following requirements:

- Owner consent
- The donation box must contain contact information of the organization/persons maintaining the box
- The donation box must remain in good order (i.e. free of graffiti, no litter present, etc.)
- The box must not affect the flow of traffic or pedestrians
- No donation box must be within 400 feet of another box (to avoid overconcentration)

Statutory Basis

In July 2010, the state enacted Assembly Bill (AB) 918 which amended portions of the Welfare and Institutions Code (See Attachment B) in an effort to regulate unattended donation boxes, and to provide consumers information regarding how their donations would be used. The law required, among other disclosures, that unattended donation boxes provide a written display of the organization which benefits from the donation and whether or not it is a non-profit entity. Importantly, the law did not limit the ability of local municipalities to place further restrictions

on the bins. Locally, the cities of Berkeley, San Rafael, West Sacramento and Sacramento require permits for the placement of donation boxes.

#### Ordinance Development

In preparing the proposed amendments staff has consulted various sources. The most useful of these resources was the California State Association of Counties (CSAC) which compiled a number of model ordinances to assist jurisdictions in preparing ordinance amendments (Attachment A). Staff has also sought or will seek comments from the following departments/agencies within Alameda County: County Counsel, the Public Works Agency, the Castro Valley Municipal Advisory Council (CV MAC), and the Sunol Citizens Advisory Committee (SCAC). This matter will be brought back to the Commission upon completion of this review. A proposed workplan is provided as “Attachment C”

#### Ordinance Implementation

Staff recommends that within a time period to be specified in the Ordinance, all persons having an unattended donation box on their property apply for a permit. Unattended donation boxes not having the required permit would be cited for action by Code Enforcement. Staff recommends this approach as the precise number and location of the boxes is unknown; therefore, allowing pre-existing uses to continue would make enforcement nearly impossible as the County would not be able to determine which donation boxes were placed prior to the adoption of the Ordinance.

### **CONCLUSION**

Staff will prepare an ordinance to establish regulations for unattended donation boxes in an attempt to reduce or eliminate the negative impacts of their use. The matter will be remanded to the Planning Commission once it has undergone a thorough internal and external review.

### **ATTACHMENTS**

- A. Ordinances Compiled by the California State Association of Counties
- B. Sections 150-153 of the Welfare and Institutions Code
- C. Ordinance Development Workplan

<b>PREPARED BY:</b>	Angela C. Robinson Piñon, Planner
<b>REVIEWED BY:</b>	Sonia Urzua, Senior Planner

## MEMORANDUM



**DATE:** September 20, 2010

**TO:** Honorable Mayor and Council Members

**FROM:** Adam U. Lindgren, City Attorney

**SUBJECT:** ORDINANCE ADDING CHAPTER 6.140 TO TITLE 6 OF THE RANCHO CORDOVA MUNICIPAL CODE RELATING TO UNATTENDED DONATION BOXES

### **RECOMMENDATION**

Waive first reading and introduce Ordinance No. 21-2010, adding Chapter 6.140 to Title 6 of the Rancho Cordova Municipal Code, relating to unattended donation boxes.

### **RESULT OF RECOMMENDED ACTION**

Adoption of this ordinance will add Chapter 6.140 to the City's Municipal Code regulating unattended donation boxes. This Ordinance will promote the community's health, safety, and welfare by regulating unattended donation boxes in order to minimize their potential negative impacts, such as illegal dumping.

### **BACKGROUND**

Mayor Cooley requested that the City Attorney's Office prepare an ordinance regulating unattended donation boxes. The Mayor discussed his request with the full City Council at a prior City Council meeting. The Mayor's request for the ordinance was in response to several complaints from residents, businesses, and local non-profit organizations regarding the negative impacts resulting from the proliferation of donation boxes that has been occurring in the Sacramento region.

The lack of regulations on unattended donation boxes has resulted in many unwanted impacts affecting the community of Rancho Cordova. Code Enforcement Staff has reported that unattended donation boxes have also become a target for scavengers and for illegal dumping, which is harmful to surrounding businesses. The mess resulting from scavenging and illegal dumping can cause many businesses to lose customers and lower interest for potential businesses to establish near the drop off locations. It has also come to the attention of the City that donation boxes may be placed in areas without the property owner's consent.

Surrounding jurisdictions, such as the Cities of Folsom, Sacramento, and Elk Grove have adopted ordinances to address the rise of donation boxes in the region.

## **ANALYSIS**

The attached ordinance will establish regulations on unattended donation boxes in an attempt to reduce their harmful impacts. The ordinance creates a permitting process requiring the owner of the property where the box will be located to apply for an unattended donation box permit. The property owners will need to pay an administrative fee to be set by the City Manager to defray the cost of any permit.

During the permitting process, the owner of the property will be required to provide proof that the entity operating and maintaining the donation box is qualified to solicit donations of salvageable personal property pursuant to State law, provide a diagram showing where the box will be located on the property and provide the exact text that will be located on the box. The text shall include the contact information for both the property owner and operator. The permit will be valid for one year with the ability to renew the permit as long as the Planning Director finds that the donation box has been operated and maintained pursuant to the Ordinance.

The ordinance will establish requirements for the maintenance of unattended donation boxes. The property owner and operator of the donation box will be responsible for maintaining the boxes in good condition and appearance, including free of graffiti. The owner and operator will be also be required to maintain the area surrounding the unattended donation boxes to be free of any junk, garbage, trash, debris or other refuse materials. Violations of the ordinance will be subject to any remedy legally available, including, but not limited to, the fines and penalties under Section 16.18.205 of the City's Municipal Code. This will allow the City to issue administrative citations or infractions for violations.

The Planning Director will have the right to revoke the permit if the property owner or operator fails to adhere to the requirements of the ordinance. All decisions by the Planning Director shall be appealable to the City Manager.

## **ATTACHMENT**

Proposed Ordinance No. 21-2010.

**CITY OF RANCHO CORDOVA**

**ORDINANCE NO. 21-2010**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA ADDING  
CHAPTER 6.140 TO TITLE 6 OF THE RANCHO CORDOVA MUNICIPAL CODE RELATING  
TO UNATTENDED DONATION BOXES**

**THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA DOES ORDAIN AS FOLLOWS:**

**Section 1.** Chapter 6.140, "Regulation of Unattended Donation Boxes," is hereby added to Title 6 of the Rancho Cordova Municipal Code to read as follows:

**CHAPTER 6.140**

**REGULATION OF UNATTENDED DONATION BOXES**

<b>6.140.010</b>	<b>Purpose and Intent.</b>
<b>6.140.020</b>	<b>Definitions.</b>
<b>6.140.030</b>	<b>Permits.</b>
<b>6.140.040</b>	<b>Renewal of Permits.</b>
<b>6.140.050</b>	<b>Requirements and Maintenance.</b>
<b>6.140.060</b>	<b>Revocation of Permits, Removal of Unattended Donation Boxes and Liability.</b>
<b>6.140.070</b>	<b>Violation – Penalty.</b>
<b>6.140.080</b>	<b>Appeal to City Manager.</b>
<b>6.140.090</b>	<b>Administrative Fees.</b>
<b>6.140.100</b>	<b>Exemption.</b>

**6.140.010 Purpose and Intent.**

The purpose of this Chapter is to regulate the placement of Unattended Donation Boxes within the City. The procedures and requirements of this Chapter are enacted to:

- A. Promote the community's health, safety, and welfare by regulating Unattended Donation Boxes for clothing or other salvageable personal property within the City;
- B. Ensure that Unattended Donation Boxes do not pose a hazard to pedestrian and vehicular traffic;
- C. Ensure that material is not allowed to accumulate outside of the Unattended Donation Boxes where it can be scattered by adverse weather conditions, animal contacts or human activities; and
- D. Establish criteria that avoids attracting vermin, unsightliness, and public health hazard.

#### **6.140.020 Definitions.**

A. "Director" means Director of the Planning Department of the City of Rancho Cordova or designee.

B. "Operator" means a person, entity, association or organization who places, maintains or operates Unattended Donation Box(es) to solicit donations of salvageable personal property.

C. "Permittee" means the Property Owner who is issued a permit authorizing placement of unattended donations box(es).

D. "Property Owner" means the person, entity, association or organization who owns the real property where the Unattended Donation Box(es) are or are proposed to be located.

E. "Residential District" includes residential zoning districts as established pursuant to Title 23 of this Code, and adopted Specific Plans with applicable residential zoning districts.

F. "Unattended Donation Box" means any unattended container, receptacle, or similar device that is located on any property within the City 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 materials governed or regulated by this Code.

#### **6.140.030 Permits.**

A. Unless otherwise exempt, it shall be unlawful and a public nuisance for any Property Owner or Operator 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 Unattended 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 Director 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 6.140.050A(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, as well as the size of the proposed Unattended Donation Box.

C. Each application shall be accompanied by a nonrefundable fee in the amount established by the City Manager. 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 Director.
- E. Within thirty (30) days of receiving a completed application, the Director shall issue a permit or deny the issuance of a permit.
- F. The Director shall not issue a permit unless:
  - 1. The Property Owner has submitted a complete and accurate application accompanied by the applicable fee;
  - 2. The Operator who will maintain or operate 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 and placement of the Unattended Donation Box on the Property Owner's real property is in compliance with all applicable laws and will not impede pedestrian, bicycle, site distances on to adjacent streets or vehicular traffic.
- G. If the Director denies an application the Director shall provide the Property Owner, in writing, the specific reasons for denial.
- H. Permit issued hereunder shall be valid for one Unattended Donation Box. Each Unattended Donation Box shall have its own individual permit.
- I. The term of the permit shall expire one year from the date of issuance.
- J. No person or Operator to whom a permit has been issued shall transfer, assign, or convey such permit to another person or Operator.
- K. Prior to expiration of the permit, the Permittee may voluntarily cancel the permit by notifying the Director in writing of the intent to cancel the permit. The permit shall become void upon the Director's receipt of a written notice of intent to cancel the permit.

**6.140.040 Renewal of Permits.**

- A. A Permittee may apply for permit renewal by submitting to the Director, before the expiration of the permit, a renewal application and a non-refundable renewal fee in an amount set by the City Manager.
- B. The Director shall either approve or deny the renewal of a permit within thirty (30) days of receipt of the complete renewal application and payment of the renewal fee.
- C. The Director 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 6.140.030, or that would justify the revocation of the permit as specified in Section 6.140.060.

**6.140.050 Requirements and Maintenance.**

A. The Permittee and Operator shall be individually and severally responsible for operating and maintaining, or causing 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. The Permittee and Operator shall place a copy of the permit in a prominent and visible location in the front of the box in plain view for inspection by the public and City officials.
5. Unattended Donation Boxes shall be serviced and emptied as needed, but at least once per month, or within five (5) business days of a request by the Director.

B. The Permittee and Operator shall be individually and severally responsible for maintaining, or causing to be maintained, the area surrounding the Unattended Donation Boxes free of any junk, garbage, trash, debris or other refuse material.

C. The Permittee and Operator shall be individually and severally responsible for abating and removing all junk, garbage, trash, debris and other refuse material in the area surrounding the Unattended Donation Boxes within 24 hours of written or verbal notice from the City.

D. The Permittee and Operator shall be individually and severally responsible for all costs for abating and removing any junk, garbage, trash, debris and other refuse material from the area surrounding the Unattended Donation Boxes.

E. It shall be unlawful for any Property Owner or Operator to place an Unattended Donation Box in any Residential District.

F. No Unattended Donation Box shall be placed within 400 feet from another Unattended Donation Box.

G. No Unattended Donation Box shall be placed on required parking spaces or within the "Clear Vision Triangle" as defined in Title 21 of the City's Municipal Code.

H. No more than one Unattended Donation Box shall be placed on each parcel of real property.

**6.140.060      Revocation of Permit, Removal of Unattended Donation Boxes and Liability.**

The Director shall have the right to revoke any permit issued hereunder if any of the grounds to refuse issuance of the initial permit exists. 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 Director 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) calendar days and, if not removed within this time period, the City may remove, store and dispose of the Unattended Donation Box at the Permittee's sole cost and expense. 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 this Code or as otherwise permitted by law.

**6.140.070      Violation - Penalty.**

Nothing in this Chapter shall limit the City from using any remedy legally available for violations of this Chapter, including, but not limited to, the fines and penalties under Section 16.18.205 of this Code.

**6.140.080      Appeal to City Manager.**

Any person aggrieved by the decision rendered by the Director in granting or denying an application for a permit under this Chapter, or in revoking or refusing to renew a permit issued hereunder, may appeal the decision to the City Manager. 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 Director. The City Manager shall hold a hearing on the appeal within thirty (30) calendar days. The City Manager's decision shall be final.

**6.140.090      Administrative Fees.**

The City Manager may establish reasonable fees and deposits to defray the cost of processing applications, proposals and for the administration of this Ordinance.

**6.140.100      Exemption.**

Unattended Donation Boxes located entirely within the interior of a building are exempt from the requirements of this Chapter.

**Section 2.      Severability.**

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

**Section 3.      Effective Date.**

Within fifteen (15) days after adoption, a Summary of this Ordinance shall be published once in the Grapevine Independent, or the Sacramento Bee, a newspaper of general circulation printed and published in Sacramento County and circulated in the City of Rancho Cordova, in

accordance with Government Code section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its inception.

**PASSED AND ADOPTED** by the City Council of the City of Rancho Cordova on the \_\_\_\_ day of \_\_\_\_ 2010 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
Ken Cooley, Mayor

**ATTEST:**

\_\_\_\_\_  
Mindy Cuppy, CMC, City Clerk

DATE: July 8, 2010  
TO: Mayor and Council Members  
FROM: Community Development Department  
SUBJECT: **ADDING CHAPTER 8.80 TO FOLSOM MUNICIPAL CODE  
PERTAINING TO DONATION BOXES**

**ORDINANCE NO. 1130 - AN ORDINANCE OF THE CITY OF FOLSOM  
ADDING CHAPTER 8.80 TO TITLE 8 OF THE FOLSOM MUNICIPAL  
CODE PERTAINING TO UNATTENDED DONATION BOXES  
(Second Reading and Adoption)**

**RESOLUTION NO. 8698 - A RESOLUTION ADOPTING UNATTENDED  
DONATION BOX PERMIT FEES PER CHAPTER 8.80 OF THE FOLSOM  
MUNICIPAL CODE**

**BACKGROUND/ISSUE**

At its June 22, 2010, City Council meeting, the City Council introduced and conducted the first reading of Ordinance No. 1130 - An Ordinance adding Chapter 8.80 to Title 8 of the Folsom Municipal Code, pertaining to Unattended Donation Boxes. No changes were made to Ordinance No. 1130.

Chapter 8.80 of the Folsom Municipal Code requires property owners of unattended donation boxes to obtain a Permit from the City of Folsom to operate and maintain all unattended donation boxes within the City. Chapter 8.80 of the Folsom Municipal Code also establishes and requires compliance with regulatory and operational standards by the applicant in order to legally operate an unattended donation box. The City Council may establish, by Resolution, a fee to recover costs for the required permits pursuant to Chapter 8.80.

**POLICY/RULE**

Amendments to the Folsom Municipal Code require review and approval by the City Council pursuant to Section 2.12 of the City of Folsom Charter. Also, pursuant to Article XI, §7 of the California Constitution, the City may impose fees, charges and rates pursuant to its police power in order to recover the reasonable costs of providing the services.

**ANALYSIS**

The proliferation of donation boxes has been occurring within the greater Sacramento region. The Cities of Elk Grove and Sacramento have adopted similar ordinances to address the rise of such boxes in the region. Staff is aware of one donation box at 501 East Bidwell Street.

Although the donation boxes appear that they are for charitable purposes, many organizations that install such boxes are for-profit. In addition, the boxes may be placed in areas where the property owner did not know about the box or grant consent or permission to have them placed

on the property. The boxes can be a target for scavengers or for illegal dumping creating a health, safety and welfare problem.

Ordinance No. 1130 creates a permitting process for donation boxes. In order to receive a permit, the following will be required:

- Property owner consent
- Written proof that the organization is a qualifying non-profit organization
- Donation box contains contact information
- Location of the box will not impact parking or block line of sight or be within 400 feet of another donation box
- Donation box is operated and maintained in good order

The ordinance allows for an administrative fee to be set by City Council Resolution to defray the cost of any permit. The majority of the costs associated for the regulating an unattended donation box is borne by the Community Development Department. Staff has estimated the amount of staff time necessary to assist applicants to complete an application and then evaluate it for completeness and performance. The permit process also includes reviewing plans and conducting a minimum of one site visit after the donation box is installed. The recommended fee for processing a Permit is \$168.00, with an annual renewal fee of \$42.00.

#### **FINANCIAL IMPACT**

With the establishment of the Permit fee, no significant financial impact to the City is anticipated as a result of regulating donation boxes.

#### **ENVIRONMENTAL ANALYSIS**

Staff has determined that this project is categorically exempt from CEQA requirements under Sections 15061(b) (3) "Review for Exemption" and 15273.

#### **ATTACHMENTS**

1. Ordinance No. 1130 - An Ordinance of the City of Folsom Adding Chapter 8.80 to Title 8 of the Folsom Municipal Code Pertaining to Unattended Donation Boxes
2. Resolution No. 8698 - A Resolution Adopting Unattended Donation Box Permit Fees Per Chapter 8.80 of the Folsom Municipal Code

#### **RECOMMENDATION/CITY COUNCIL ACTION**

MOVE TO ADOPT ORDINANCE NO. 1130 AN ORDINANCE OF THE CITY OF FOLSOM ADDING CHAPTER 8.80 TO TITLE 8 OF THE FOLSOM MUNICIPAL CODE PERTAINING TO UNATTENDED DONATION BOXES (Second Reading and Adoption)

AND

MOVE TO ADOPT RESOLUTION NO. 8698 - A RESOLUTION ADOPTING UNATTENDED DONATION BOX PERMIT FEES PER CHAPTER 8.80 OF THE FOLSOM MUNICIPAL CODE

Submitted,



David E. Miller, AICP  
Community Development Director

# Attachment 1

**ORDINANCE NO. 1130**

**AN ORDINANCE OF THE CITY OF FOLSOM ADDING  
CHAPTER 8.80 TO TITLE 8 OF THE  
FOLSOM MUNICIPAL CODE PERTAINING TO  
UNATTENDED DONATION BOXES**

The City Council of the City of Folsom does ordain as follows:

**SECTION 1: REGULATION OF UNATTENDED DONATION BOXES**

Chapter 8.80 is hereby added to Title 8 the Folsom Municipal Code to read as follows:

**CHAPTER 8.80**

**REGULATION OF UNATTENDED DONATION BOXES**

Sections:

8.80.010	Purpose and intent
8.80.020	Definitions
8.80.030	Permits
8.80.040	Renewal of permits
8.80.050	Requirements and maintenance
8.80.060	Revocation of permits, removal of unattended donation boxes and liability
8.80.070	Violation – penalty
8.80.080	Appeal to city manager
8.80.090	Administrative fees
8.80.100	Exemption

**8.80.010 Purpose and intent.**

The purpose of this Chapter is to regulate the placement of unattended donation boxes within the City. The procedures and requirements of this Chapter are enacted to:

A. Promote the community's health, safety, and welfare by regulating unattended donation boxes for clothing or other salvageable personal property within the City;

B. Ensure that unattended donation boxes do not pose a hazard to pedestrian and vehicular traffic;

C. Ensure that material is not allowed to accumulate outside of the unattended donation boxes where it can be scattered by adverse weather conditions, animal contacts and human activities; and

D. Establish criteria that avoids attracting vermin, unsightliness, and public health hazard.



**8.80.020 Definitions.**

A. "Director" means Director of the Community Development Department of the City of Folsom or designee.

B. "Operator" means a person, entity, association or organization who places, maintains or operates unattended donation box(es) to solicit donations of salvageable personal property.

C. "Permittee" means the property owner who is issued a permit authorizing placement of unattended donations box(es).

D. "Property owner" means the person, entity, association or organization who owns the real property where the unattended donation box(es) are or are proposed to be located.

E. "Residential district" includes residential zoning districts as established pursuant to Title 17 of this code, including but not limited to R-1-L, R-1-ML, R-1-M, R-2, R-3, RM, R-4, PD, and adopted Specific Plans with applicable residential zoning districts.

F. "Unattended donation box" means any unattended container, receptacle, or similar device that is located on any property within the City 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 materials governed or regulated by the zoning code.

**8.80.030 Permits.**

A. Unless otherwise exempt, it shall be unlawful and a public nuisance for any property owner or operator 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 Director 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 8.80.050A(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, as well as the size of the proposed unattended donation box.

C. Each application shall be accompanied by a nonrefundable fee in the amount established by City Council resolution. 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 Director.

E. Within thirty (30) days of receiving a completed application, the Director shall issue a permit or deny the issuance of a permit.

F. The Director 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 maintain or operate 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 and placement of the unattended donation box on the property owner's real property is in compliance with all applicable laws and will not impede pedestrian, bicycle, site distances on to adjacent streets or vehicular traffic.

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

H. Permit issued hereunder shall be valid for one unattended donation box. Multiple unattended donation boxes shall have their own individual permit.

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

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

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

#### **8.80.040      Renewal of permits.**

A. A permittee may apply for permit renewal by submitting to the Director, 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 Director shall either approve or deny the renewal of a permit within thirty (30) days of receipt of the complete renewal application and payment of the renewal fee.

C. The Director 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 8.80.030 or that would justify the revocation of the permit as specified in Section 8.80.060.

**8.80.050 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 once per month, or within five (5) business days of a request by the Director.

B. The permittee shall maintain or cause to be maintained the area surrounding the unattended donation boxes free of any junk, garbage, trash, debris or other refuse material.

C. The permittee and operator shall be individually and severally responsible for abating and removing all junk, garbage, trash, debris and other refuse material in the area surrounding the unattended donation boxes within 24 hours of written or verbal notice from the City.

D. The permittee and operator shall be individually and severally responsible for all costs for abating and removing any junk, garbage, trash, debris and other refuse material from the area surrounding the unattended donation boxes.

E. It shall be unlawful for any property owner or operator to place an unattended donation box in any residential district.

F. No unattended donation box shall be placed within 400 feet from another unattended donation box.

G. No unattended donation box shall be placed on required parking spaces or within the site triangle as defined in FMC 17.57070H (2).

H. No more than one unattended donation box shall be placed on each parcel of real property.

**8.80.060 Revocation of permit, removal of unattended donation boxes and liability.**

The Director shall have the right to revoke any permit issued hereunder if any of the grounds upon which he or she may refuse to issue an initial permit exists. 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 Director 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) calendar days and, if not removed within this time period, the City may remove, store and dispose of the unattended donation box at the permittee's sole cost and expense. 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 this code or as otherwise permitted by law.

**8.80.070 Violation – penalty.**

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

**8.80.080 Appeal to city manager.**

Any person aggrieved by the decision rendered by the Director in granting or denying an application for a permit under this Chapter or in revoking or refusing to renew a permit issued hereunder may appeal the decision to the City Manager in accordance with section 2.08.060 of this Code. 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 Director. The City Manager shall hold a hearing on the appeal within 30 calendar days and, notwithstanding other provisions in section 2.08.060 the decision of the City Manager shall be final.

**8.80.090 Administrative fees.**

The City Council may, by resolution, establish reasonable fees and deposits to defray the cost of processing applications, proposals and for the administration of this ordinance.

**8.80.100 Exemption.**

Unattended donation boxes located entirely within the interior of a building are exempt from the requirements of this Chapter.

**SECTION 2. SCOPE**

Except as set forth in this ordinance, all other provisions of Title 8 shall remain in full force and effect.

**SECTION 3. SEVERABILITY**

If any section, subsection, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection,

sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

#### SECTION 4. EFFECTIVE DATE

This ordinance shall become effective thirty (30) days from and after its passage and adoption. In lieu of publication of the full text of the Ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to Government Code section 36933(c)(1).

This ordinance was introduced and the title thereof read at the regular meeting of the City Council on June 22, 2010, and the second reading occurred at the regular meeting of the City Council on \_\_\_\_\_, 2010.

On a motion by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the foregoing ordinance was passed and adopted by the City Council of the City of Folsom, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by the following vote, to wit:

AYES: Council Member(s)

NOES: Council Member(s)

ABSTAIN: Council Member(s)

ABSENT: Council Member(s)

\_\_\_\_\_  
Jeffrey M. Starsky, MAYOR

ATTEST:

\_\_\_\_\_  
Christa Freemantle, CITY CLERK

# Attachment 2

**RESOLUTION NO. 8698**

**A RESOLUTION ADOPTING UNATTENDED DONATION BOX PERMIT FEES  
PER CHAPTER 8.80 OF THE FOLSOM MUNICIPAL CODE**

**WHEREAS**, Chapter 8.80 of the Folsom Municipal Code will require property owners of unattended donation boxes to obtain a Permit from the City of Folsom to operate and maintain all unattended donation boxes within the City; and

**WHEREAS**, Chapter 8.80 of the Folsom Municipal Code establishes and requires compliance with regulatory and operational standards by the applicant in order to legally operate an unattended donation box; and

**WHEREAS**, Chapter 8.80 of the Folsom Municipal Code will require permitted property owners of unattended donation boxes to annually renew said Permit; and

**WHEREAS**, Chapter 8.80 of the Folsom Municipal Code provides that the City Council may establish, by Resolution, a fee for the costs of regulating an unattended donation box Permit.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council as follows:

1. The fee schedule to permit unattended donation box under Chapter 8.80 of the Folsom Municipal Code is established as follows:

Permit	\$168.00
Renewal fee	\$42.00

**PASSED AND ADOPTED** on this 13<sup>th</sup> day of July, 2010, by the following roll-call vote:

**AYES:** Council Member(s)

**NOES:** Council Member(s)

**ABSTAIN:** Council Member(s)

**ABSENT:** Council Member(s)

\_\_\_\_\_  
Jeffrey M. Starsky, MAYOR

**ATTEST:**

\_\_\_\_\_  
Christa Freemantle, CITY CLERK

0000011

SCC No. \_\_\_\_\_

**AN ORDINANCE OF THE SACRAMENTO COUNTY CODE  
TO REGULATE UNATTENDED DONATION BOXES**

The Board of Supervisors of the County of Sacramento, State of California,  
ordains as follows:

SECTION 1. Chapter 5.70, Sections 5.70.005 through 5.70.045, is added to Title  
5 of the Sacramento County Code to read as follows:

**5.70.005 Title.**

This Ordinance shall be known as "Regulation of Unattended Donation Boxes."

**5.70.010 Purpose.**

The County of Sacramento supports charities and their efforts to ensure that all people have adequate resources through donations and other means. However, unattended donation boxes have begun to proliferate in the unincorporated territory of the County, 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 provide the public with information about how their donations will be used, and to ensure the boxes do not become a nuisance.

**5.70.015 Definitions.**

"Department" means the Department of Neighborhood Services or successor department charged with enforcement of the Sacramento County Nuisance Code.

"Director" means the Director, or his designee, of the Department of Neighborhood Services, or director, or his designee, of a successor department charged with enforcement of the Sacramento County Nuisance Code.

"Donation box" means any unattended container, receptacle, or similar device that is located at or on the exterior property areas of any premise or lot within the County's unincorporated territory 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 materials such as glass, paper, plastics, or aluminum.



#### **5.70.020 Permits.**

A. No donation box shall be placed or maintained within the unincorporated territory of the County without the property owner for the parcel first obtaining a permit. A permit may be issued only if the donation box is operated by an organization that is eligible to solicit donations of salvageable personal property pursuant to Welfare and Institutions Code section 148.3.

B. One (1) permit application per parcel shall be completed and filed, listing all donation box locations on the parcel. Application forms shall be available from the Department. A permit application shall contain the following information:

1. The name, address, email (if available), website (if available) and telephone number of the operator of the donation box;
2. The name, address, email (if available), website (if available) and telephone number of the property owner of the parcel on which each donation box is located;
3. The name, address, email (if available), and telephone number of the person who is responsible for maintaining each donation box;
4. As precisely as possible, the proposed location of each donation box on the parcel;
5. A signed, notarized statement from the property owner of the parcel consenting to the placement of the donation box on the property;
6. The manner in which donated items will be used, sold, or disposed of; whether the donated items will be used for charitable purposes and if so, a description of those charitable purposes.

C. Permits must be renewed on an annual basis. Renewal shall be sought by the same application and process as an original permit. A new permit shall be required for placement of donation boxes in locations other than those identified and approved in a valid permit. The property owner of the parcel at which a donation box is removed from a permitted location shall notify the Department of removal within thirty (30) days.

D. Applications must be filed with the Department. Payment of a permit application fee is required at the time of application. An application is not complete, and will not be considered by the Department, until all information required by this section is furnished and the required fee amount is paid in full. Fees included in this section shall be established by resolution of the Board of Supervisors, and shall be based on the estimated annual costs of administering this Ordinance. Moneys collected pursuant to this section shall be used to fund the administration of this permit program, including costs associated with the provision and maintenance of public records as required by this Chapter.

E. Upon receiving a completed application, the Director shall grant or deny the application within forty-five (45) days. If no action is taken within forty-five (45) days, the application shall be deemed approved in full. Should the Director deny an application or individual donation box location, he or she shall issue a written statement setting forth the reasons for the denial. This statement shall be delivered by regular U.S. mail to the address provided in the application for the property owner and to the address provided for the operator of the donation box.

F. The Director must approve a completed application unless:

1. The property owner has failed to maintain the parcel subject to application free of any nuisance activity within the last five (5) years; or

2. The requested location of a particular donation box poses a threat to public safety, or does not comply with this code, County zoning, or County building regulations.

G. An applicant shall have a right to appeal any adverse decision of the Director to the Board of Supervisors by filing a Notice of Appeal with the Clerk of the Board of Supervisors no more than ten (10) days from the date of the Director's decision. A fee for such an appeal shall be established by resolution of the Board of Supervisors. The Board of Supervisors shall consider the appeal at a regularly scheduled meeting. Notice of the date and time of the hearing shall be provided to the applicant and Director by the Clerk of the Board of Supervisors.

H. Fees for the administration of this section shall be set from time to time by resolution of the Board of Supervisors.

#### **5.70.025 Requirements and Maintenance.**

A. All donation boxes located in the unincorporated territory of the County shall:

1. be maintained and in good condition and appearance with no structural damage, holes, visible rust, or graffiti;
2. be locked or otherwise secured;
3. contain the following information in a visible manner on the outside front of each box:

a. in two-inch (2) type, the name, address, email, and phone number of the property owner, the charitable organization operating the donation box, and the specific person responsible for maintaining the donation box;

b. in two-inch (2) type, a statement that reads "this collection box is owned and operated by a non-profit organization";

c. in one-inch (1) type in an area directly above or below the slot or door in which items are to be deposited, and in contrasting color a statement, consistent with the information provided to the County pursuant to Section 5.70.020, describing the manner in which deposited donations will be used, sold, or disposed of, and the percentage of the total gift or purchase price that may be deducted as a charitable contribution under both federal and state law;

4. be serviced and emptied at least every seven (7) days;

5. be no more than eighty-two inches (82") high, fifty-six inches (56") wide, and forty-nine inches (49") deep.

B. No donation box may be placed or permitted in a location less than four hundred (400) feet from any other donation box.

C. Failure to maintain a donation box in accordance with this section is a public nuisance.

#### **5.70.030 Maintenance of Permit Applications and Records.**

The Department shall maintain, in a manner easily accessible to the public, a copy of all completed applications, and a list of all approved permits, including, but not limited to, the location of all donation boxes subject to approved permits.

**5.70.035 Liability and Penalty.**

The Director may enforce this ordinance pursuant to Chapter 16.18 of the Sacramento County Code and the liability, penalties, and cost recovery provided for in said Chapter shall apply.

**5.70.040 Implementation and Construction.**

A. The provisions of this Chapter shall apply to all unattended donation boxes located within unincorporated territory of the County as of the effective date of this Ordinance. All property owners of parcels on which unattended donation boxes exist as of the effective date of this Ordinance shall have sixty (60) days from that date to file a permit application as provided for in this Chapter.

B. Any property owner or anyone else aggrieved by the provisions of this Ordinance may seek an administrative appeal to the Board of Supervisors in the same manner as an applicant may appeal a denial of a permit pursuant to Section 5.70.020. A Notice of Appeal must be filed no later than ten (10) days from the action giving rise to the grievance; provided, however, that no such appeal is permitted from a decision of the Hearing Officer pursuant to enforcement proceedings brought pursuant to Section 5.70.035.

C. Nothing in this Ordinance is intended to diminish or otherwise alter the requirements of any other federal, state or municipal law governing regulation of donation boxes.

**5.70.045 Severability.**

If any provision of this Ordinance or the application thereof is held invalid by a court, that invalidity shall not affect other provisions or applications of the Ordinance that can be given effect without the invalid provision, and to this end the provisions of this Ordinance are severable.

SECTION 2. This ordinance was introduced and the title thereof read at the regular meeting of the Board of Supervisors on \_\_\_\_\_ and on \_\_\_\_\_ further reading was waived by the unanimous vote of the Supervisors present.

This ordinance shall take effect and be in full force on and after thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days from the date of its passage it shall be published once with the names of the members of the Board of Supervisors voting for and against the same, said publication to be made in a newspaper of general circulation published in the County of Sacramento.

On a motion by Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, the foregoing ordinance was passed and adopted by the Board of Supervisors of the County of Sacramento, State of California, this \_\_\_\_ day of \_\_\_\_\_ 2010, by the following vote:

AYES: Supervisors,

NOES: Supervisors,

ABSENT: Supervisors,

ABSTAIN: Supervisors,

\_\_\_\_\_  
Chair of the Board of Supervisors  
of Sacramento County, California

(SEAL)

ATTEST: \_\_\_\_\_  
Clerk, Board of Supervisors



**CITY OF ELK GROVE  
CITY COUNCIL STAFF REPORT**

**AGENDA TITLE:** Introduce ordinance, by title only, adding  
Elk Grove Municipal Code Chapter 4.13  
Relating To Unattended Donation Boxes

**MEETING DATE:** May 12, 2010

**PREPARED BY/  
DEPARTMENT HEAD:** Susan Cochran, City Attorney

---

**RECOMMENDED ACTION**

Staff recommends the City Council of the City of Elk Grove introduce and waive the full reading, by substitution of title only, an Ordinance of the City Council of the City of Elk Grove adding chapter 4.13 to the Elk Grove Municipal Code relating to unattended donation boxes

**BACKGROUND INFORMATION**

At the April 14, 2010, City Council meeting, Council Member Davis requested that the City of Elk Grove consider joining the City of Sacramento and other jurisdictions in the area to regulate unattended donation boxes. Other local non-profits also seek regulation of these boxes, which divert contributions from them.

Unattended donation boxes have begun springing up in locations in the City of Elk Grove. Many people place items in such boxes believing that their donations are for charitable purposes. However, many organizations that place such boxes in well-traveled areas of the public are for-profit concerns. In addition, the boxes may be placed in areas where the property owner did not know about the box nor grant any consent or permission to have them placed on private property.

The boxes themselves frequently become a target for scavengers and for illegal dumping, causing additional issues for property owners who may not have consented to the boxes in the first place.

The attached ordinance creates a permitting process of the boxes. The issuance of a permit requires filing a request, which includes the written consent or permission of the private property owner. The ordinance further requires that the boxes be maintained according to the standards set forth in the ordinance. If a box is not properly maintained, or if a permit is not issued, the box constitutes a nuisance and can be abated. The ordinance also provides for civil and criminal penalties.

The permit to locate a box is issued by the City Manager. The City Manager can also revoke a permit. Those decisions are appealable to the City Council.

The boxes themselves are not allowed in any of the City's residential districts, including the agricultural zones. This provision will encourage better monitoring and maintenance of the boxes once permits are granted.

### **FISCAL IMPACT**

There are no immediate fiscal impacts to the General Fund from this action. The ordinance includes the ability of the City Council to set fees to recoup the costs of processing the application. These fees can be set by resolution at a later date.

### **ATTACHMENTS:**

1. Ordinance

## ATTACHMENT 1

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE ADDING ELK GROVE MUNICIPAL CODE CHAPTER 4.13 RELATING TO UNATTENDED DONATION BOXES

**WHEREAS**, the City is responsible for protection of public health and the environment; and

**WHEREAS**, numerous cities in the region have noticed a proliferation of unattended donation boxes; and

**WHEREAS**, many of these boxes are placed without the written consent or permission of the property owner, attract illegal dumping and scavenging from their contents, and are not operated by charities but by for-profit entities, thus reducing the contributions available to other non-profit organizations.

**NOW THEREFORE**, the City Council of the City of Elk Grove does hereby ordain as follows:

#### Section 1: Purpose and Authority

Under California Constitution Article XI, Section 7, the City of Elk Grove may enact ordinances to preserve and protect public safety, health and welfare. To this end, the City Council of the City of Elk Grove adopts Chapter 4.13 in order to regulate unattended donations boxes to avoid illegal dumping and scavenging, as well as requiring the consent or permission of the property owner prior to such boxes being placed on private property. For public property, other provisions of the municipal code and state law already provide protection and the ability to remove these boxes.

#### Section 2: Adoption of Chapter 4.13.

Chapter 4.13 is added to the Elk Grove Municipal Code to read as follows:

#### **Chapter 4.13**

#### **REGULATION OF UNATTENDED DONATION BOXES**

##### Sections:

- 4.13.010 Definitions.
- 4.13.020 Permits.
- 4.13.030 Renewal of Permits.
- 4.13.040 Requirements and Maintenance.
- 4.13.050 Revocation of Permit, Removal of Unattended Donation Boxes and Liability.
- 4.13.060 Violation-Penalty.
- 4.13.070 Appeals to City Council.

4.13.080 Violations, enforcement, actions and remedies.

**4.13.010 Definitions.**

"City Manager" means the City Manager of the City of Elk Grove 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 RD-1, RD-2, RD-3, RD-4, RD-5, RD-6, RD-7, RD-10, RD-15, RD-25, RD-30, AR-1, AR-2, AR-5, AR-10, AG-20, and AG-80 zoning districts as established pursuant to Title 23 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.

**4.13.020 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: 1) the person placing the box on first obtains a permit pursuant to this chapter, and 2) 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 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 EGMC Section 4.13.040(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.
  5. The written consent of the property owner on which the box will be placed is expressly given by the permittee.
- 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 (1) 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.

#### **4.13.030      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 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.

C. 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 EGMC Section 4.13.020 or that would justify the revocation of the permit as specified in EGMC Section 4.13.050.

#### **4.13.040 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 (2") 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.

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 four hundred (400' 0") feet from any other unattended donation box.

E. Notwithstanding any other provision of this code, it is unlawful to locate more than one (1) 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.

#### **4.13.050      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 (1) year. Any violation of the provisions of this chapter is a public nuisance subject to abatement pursuant to EGMC Chapter 16.18.

#### **4.13.060      Violation-Penalty.**

Any person violating any provision of this Chapter is guilty of a misdemeanor.

#### **4.13.070      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 EGMC Chapter 1.11. The appeal shall be made by filing a written notice thereof with the City Clerk not later than ten (10) 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 EGMC Chapter 1.11. The hearing examiner's decision shall be in writing. The hearing officer's decision shall have the effect specified in EGMC Section 1.11.130, and judicial review shall be governed by EGMC Section 1.11.150.

#### **4.13.080      Violations, enforcement, actions and remedies.**

Each failure to comply with any provision of this Title or any regulation promulgated under this Title is unlawful and constitutes a public nuisance and shall be enforced in accordance with procedures set out in EGMC Chapters 1.04 and 16.18.

#### **Section 3:**

The provisions of EGMC Chapter 4.13 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: No Mandatory Duty of Care.

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 5: Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 6: Effective Date and Publication

This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

INTRODUCED: May 12, 2010

ADOPTED:

EFFECTIVE:

\_\_\_\_\_  
SOPHIA SCHERMAN, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
JASON LINDGREN, ASSISTANT CITY CLERK

\_\_\_\_\_  
SUSAN COCHRAN, CITY ATTORNEY

Date signed: \_\_\_\_\_

## **ORDINANCE NO. 2010-001**

Adopted by the Sacramento City Council

February 9, 2010

### **AN ORDINANCE ADDING CHAPTER 5.152 TO THE SACRAMENTO CITY CODE RELATING TO UNATTENDED DONATION BOXES AND AMENDING SECTION 8.04.100 RELATING TO SPECIFIED NUICANCES**

**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.
- C. 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 February 9, 2010 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy,  
Tretheway, Waters, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: None.

Attest:

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Mayor Kevin Johnson

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Shirley Concolino, City Clerk

Passed for Publication: February 2, 2010

Published: February 5, 2010

Effective: March 4, 2010

**SENATE LOCAL GOVERNMENT COMMITTEE**  
**Senator Gloria Negrete McLeod, Chair**

**BILL NO:** AB 2610

**AUTHOR:** Davis

**VERSION:** 6/19/08

**HEARING:** 6/25/08

**FISCAL:** No

**CONSULTANT:** Ali-Sullivan

**LOCAL REGULATION OF COLLECTION BOXES**

**Background and Existing Law**

The California Constitution allows cities and counties to adopt local police, sanitary, and other ordinances that don't conflict with the state's general laws. Further, the California Constitution gives charter cities control over their own "municipal affairs." The courts must decide what's a municipal affair, and what's an issue of statewide concern.

Salvageable property centers collect public donations for resale and distribution to the poor. Salvageable property (clothing) drop boxes allow patrons to deposit shoes and clothes in large, unmanned receptacles. Both for-profit and non-profit entities operate the collection boxes, which are often indistinguishable from each other.

Some cities regulate clothes drop-boxes, some charge license fees, while others do nothing. Cities may not be aware of the location and number of these boxes, and collection frequency varies from box to box. Further, these boxes often appear overnight with little or no public notice about their location or placement. Because of the collection boxes' unregulated status, donors have little knowledge about the background of the collection box operator, and whether their donations will go to charity or be sold for profit.

**Proposed Law**

**I. Local regulation.** Assembly Bill 2610 allows cities and counties to prohibit a person or an "eligible organization" from using collection boxes for solicitation purposes. If a city or county institutes a collection box program, AB 2610 prohibits a person or an eligible organization from using collection boxes without a local permit. The bill declares that it does not invalidate or prohibit the adoption of local ordinances that address the place, use, or employment of collection boxes. Local collection box permits must meet the bill's requirements:

- Cities and counties may impose annual fees that do not exceed the estimated reasonable cost of administering the program.
- Cities and counties can't grant permits if they determine the collection box constitutes a safety hazard, considering its proximity to schools or public

buildings, public sidewalks, or facilities that store large amounts of flammable liquids or gases.

- An eligible organization must submit an application, including the permit fee with specific identifying information. Similar information must be on any permit renewal application.
- Each permit may be numbered.
- Local officials may consider current land use ordinances and conditions in considering whether to approve permits.

The bill declares that unattended collection boxes are an issue of statewide concern and not a municipal affair that is subject to charter cities' control. AB 2610 declares that its provisions apply to all cities and counties, including charter cities.

AB 2610 defines an "eligible organization" as either an *nonprofit organization* that is incorporated in California (or a foreign corporation registered to do business in California), current in reporting to the Secretary of State, registered with the Attorney General's Registry of Charitable Trusts, and exempt from taxation under Section 501 (c) (3) or Section 501 (c) (4), or a *for-profit organization* that is incorporated in California (or a foreign corporation registered to do business in California), and current in reporting to the Secretary of State.

The bill declares it does not limit the State Department of Justice's authority over commercial fundraisers for charitable purposes.

**II. Maintenance.** The exterior of each permitted collection box must conspicuously display:

- The name, address, and web address of the organization that owns the box.
- Whether the box is owned by a for-profit or a non-profit organization.
- The non-profit organization's charitable trust registration number, if applicable.
- The telephone number of the organization's office.
- The permit number and its expiration date.
- A statement that describes how the donations will be used and the percentage of donated good's value that may be deducted as a charitable contribution under both federal and state law.

**III. Enforcement.** Cities and counties must require collection box owners to keep their boxes neat, clean, locked, and free of graffiti. Owners must respond to complaints or requests within 24 hours.

Cities and counties may investigate complaints about collection boxes within 30 days and may issue warnings by certified mail. Owners have 45 days from the

time of notification to rectify the violation or request an administrative hearing. If the violation is not rectified or a hearing is not requested, the operator is subject to a civil penalty not to exceed \$500, and is ineligible to use collection boxes. The penalties must be used to fund enforcement. An organization may have its permit reinstated only if the city or county deems it in the public interest, and the operator demonstrates a good faith effort to comply with the law.

AB 2610 does not limit a city or county from adopting ordinances or regulations of collection boxes that are more stringent than its provisions.

### Comments

1. Welcomed oversight. Recycling, whether for profit or charity, is admirable, but collection boxes need some local oversight. By authorizing cities and counties to prohibit or regulate collection boxes, AB 2610 spells out how local officials can control these otherwise unattended and unregulated businesses. Further, AB 2610 lists the specific steps to obtain local permits, and lays out the consequences for boxes which become public health and safety problems. AB 2610 provides local officials with a statutory tool + to regulate and maintain these worthy business causes, while also creating a self funded enforcement mechanism.

2. Skirting the issue. By statutorily specifying the *who, what, where, when, and how* of local permit programs, AB 2610 actually restricts local control. The California Constitution grants cities and counties the power to make and enforce local ordinances. Local officials already have the authority to regulate collection boxes. Further, charter cities can constitutionally control their own "municipal affairs," including permit programs for collection boxes. If local officials find that local collection boxes are a problem, they already have enough power to write their own ordinance and create their own enforcement mechanisms. AB 2610 restricts local autonomy and legislates where unnecessary.

3. Unsafe ambiguity? AB 2610 allows a local city or county to prohibit collection boxes, institute a permit program, or have no permit program. While the choice is a local decision, once a program is instituted, the bill creates ambiguous requirements for findings of denial of a permit under health and safety hazards. AB 2610 allows a local jurisdiction to consider *proximity* to a school, sidewalk, or site that stores large amounts of flammable liquids or gas. While these are appropriate considerations, proximity can mean 10 or 10,000 feet; ambiguity creates the possibility of abuse. The Committee may wish to consider amendments that use more specific language.

4. Violation enforcement. Local officials say that they need up to 30 days to investigate a complaint against a collection box; this delay seems excessive. If a box is in an inappropriate site, lacks a permit, or is a hazard to residents and

businesses, it should be addressed promptly. The Committee may wish to consider an amendment that requires local officials to investigate complaints within 10 days.

5. Other states? Unattended collection boxes are just now appearing in California, but they have a longer track record on the East Coast. Other state legislatures have seen the need for regulation in the form of permit programs. Connecticut and New Jersey have enacted legislation which regulates unattended collection boxes, including their placement and reporting of final intent and destination of donated goods.

6. Legislative history. When the Committee heard AB 2610 on June 18, the bill failed by a vote of 2-3. Because the Committee granted reconsideration, it will hear the bill again on June 25. The June 19 amendments strike out language which allowed cities and counties to disregard the provisions of the bill, and adds language which declares that the bill does not limit a city or county from adopting more stringent requirements.

#### Assembly Actions

Assembly Judiciary Committee	9-1
Assembly Floor	50-21

#### Support and Opposition (6/19/08)

Support: Goodwill Industries, Salvation Army, Society of St. Vincent DePaul Los Angeles Council.

Opposition: California Association of Nonprofits, League of California Cities, Planet Aid, U'SAgain





CALIFORNIA CODES  
WELFARE AND INSTITUTIONS CODE  
SECTION 150-153

150. For purposes of this chapter, the following definitions shall apply:

- (a) "**Collection box**" means an unattended cannister, **box**, receptacle, or similar device, used for soliciting and collecting donations of salvageable personal property.
- (b) "Commercial fundraiser" shall have the same meaning as in subdivision (a) of Section 12599 of the Government Code.
- (c) "Nonprofit organization" means an organization that is exempt from taxation pursuant to Section 501(c)(3) or 501(c)(4) of the United States Internal Revenue Code.
- (d) "Salvageable personal property" has the same meaning as in subdivision (b) of Section 148.

151. (a) The front of every **collection box** shall conspicuously display both of the following:

- (1) The name, address, telephone number, and, if available, the Internet Web address of the owner and operator of the **collection box**.
- (2) A statement, in at least two-inch typeface, that either reads, "this **collection box** is owned and operated by a for-profit organization" or "this **collection box** is owned and operated by a nonprofit organization." For purposes of this chapter, a commercial fundraiser shall be classified as a for-profit organization.
- (b) If the **collection box** is owned by a nonprofit organization, the front of the **collection box** shall also conspicuously display a statement describing the charitable cause that will benefit from the donations.
- (c) If the **collection box** is owned by a for-profit entity, the front of the **collection box** shall also conspicuously display a statement that reads "this donation is not tax deductible." If the **collection box** is owned and operated by a commercial fundraiser, the commercial fundraiser may post notice of donations to a charitable cause only on the sides of the **box**. This notice shall always be smaller in size than the for-profit entity's name and address and shall constitute only 25 percent of the notice space of the **box**.

152. A city, county, or city and county shall have the authority to declare a **box** that is in violation of this chapter to be a public nuisance and to abate that nuisance accordingly.

153. Nothing in this chapter shall be construed to do either of the following:

- (a) Supersede or in any way limit existing authority of the Department of Justice over fundraising for charitable purposes.
- (b) Limit or infringe upon the powers of a city, county, or city and county to impose additional requirements upon the solicitation and sale of salvageable personal property within its jurisdiction.

## PROPOSED UNATTENDED DONATION BOX ORDINANCE WORKPLAN

STAFF TASKS	SCHEDULE	DOCUMENT	MEETINGS	MEETING OBJECTIVES
Kick off meeting	October 2012	Staff Report	Planning Commission October 15, 2012	Provide overview of project and its parameters.
Ordinance amendment preparation	October 2012	Draft Amendment	Planning Commission November 5, 2012	Present draft Ordinance amendment
Meeting	November 2012	Staff Report and Ordinance amendments	Castro Valley MAC November 26, 2012	Provide project information and present draft Ordinance amendment.
Meeting	November 2012	Staff Report and Ordinance amendments	Sunol CAC TBD	Provide project information and present draft Ordinance amendment.
Revise Ordinance amendment	December 2012	Revised Ordinance amendments	N/A	N/A
Meeting	December 2012 or January 2013	Staff Report and revised Ordinance amendments	Planning Commission TBD	Discuss proposed amendment
Draft CEQA Document	December 2012	CEQA Document	Planning Commission TBD	Discuss the draft CEQA document
Circulate CEQA Document and Draft Element	January 2013	N/A	N/A	N/A
Review Ordinance amendment and CEQA document	January 2013	Ordinance amendments and CEQA documents	Planning Commission TBD	Discuss proposed amendment and CEQA document

# UNATTENDED COLLECTION BOXES

## Chapter ### Unattended Collection Box Ordinance

### ###.010 Title

This chapter shall be known as the Unattended Collection Box Ordinance of Alameda County.

### ###.020 Purpose and Intent.

The purpose of this chapter is to regulate the placement of Unattended Collection Boxes within unincorporated Alameda County. The procedures and requirements of this chapter are enacted to:

- A. Promote the community's health, safety, and welfare by regulating Unattended Collection Boxes for clothing or other salvageable personal property within the County;
- B. Ensure that Unattended Collection Boxes do not pose a hazard to pedestrian and vehicular traffic;
- C. Ensure that material is not allowed to accumulate outside of the Unattended Collection Boxes where it can be scattered by adverse weather conditions, animal contact, or human activities; and,
- D. Establish criteria that avoid attracting vermin, unsightliness, and public health or safety hazards.

### ###.030 Definitions.

- A. "Department" means the Alameda County Planning Department.
- B. "Director" means the Alameda County Planning Director or designee.
- C. "Permittee" means the Property Owner or their agent who has been issued a permit authorizing the placement of an Unattended Collection Box.
- D. "Property Owner" means the person, entity, association or organization who owns the real property where the Unattended Collection Box is proposed to be located.
- E. "Residential District" includes residential zoning districts as established pursuant to Title 17 of the Alameda County General Ordinance Code, and adopted specific plans with applicable residential zoning districts.
- F. "Unattended Collection Box" means any unattended container, receptacle, or similar device that is located on any property within unincorporated Alameda County, used for soliciting and collecting items of clothing or other salvageable personal property. This term does not include recycle bins for the collection of recyclable materials governed or regulated pursuant to the Alameda County General Ordinance Code.

### ###.040 Permits.

- A. It shall be unlawful and a public nuisance to place, operate, maintain or allow Unattended Collection Boxes on real property unless the Property Owner first obtains a permit pursuant to this chapter and the Unattended Collection 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 Director and shall include the following information:
  - 1. The name, address, e-mail, website (if available) and telephone number of the Operator;
  - 2. The text of the disclosures that will be made on the Unattended Collection Box as required in section ###.070; and,
  - 3. The physical address of the Property Owner's real property and a drawing sufficient to indicate the proposed location of the Unattended Collection Box on the Property Owner's real property, as well as the size of the proposed Unattended Collection Box, and consent of the Property Owner to place the Unattended Collection Box(es) on its real property.
- C. Each application shall be accompanied by a deposit in an amount established by resolution by the Board of Supervisors. This deposit shall be in addition to any fee or tax imposed by the County pursuant to any other provision of this code.
- D. Applications shall be filed with the Department.
- F. Within forty-five (45) days of receiving a completed application, the Director shall issue a permit or deny the issuance of a permit.
- G. The Director shall not issue a permit unless:
  - 1. The applicant has submitted a complete and accurate application accompanied by the applicable fee.
  - 2. Written consent of the Property Owner is provided.
  - 4. The proposed location and placement of the Unattended Collection Box on the

## UNATTENDED COLLECTION BOXES

Property Owner's real property is in compliance with all applicable laws.

G. If the Director denies an application, the Director shall provide the Property Owner, in writing, the specific reasons for the denial.

H. A permit issued hereunder shall be valid for one Unattended Collection Box. Each Unattended Collection Box shall have its own individual permit.

I. The term of the permit shall expire one (1) year from the date of issuance.

J. No Permittee shall transfer, assign, or convey such permit to another party..

K. Prior to expiration of the permit, the Permittee may voluntarily cancel the permit by notifying the Director in writing of the intent to cancel the permit. The permit shall become void upon the Director's receipt of a written notice of intent to cancel the permit.

### **###.050 Renewal of Permits.**

A. A Permittee may apply for permit renewal by submitting to the Director, before the expiration of the permit, a renewal application and a deposit in an amount set by resolution of the Board of Supervisors.

B. The Director shall either approve or deny the renewal of a permit within forty-five (45) days of receipt of the complete renewal application and payment of the application deposit.

C. The Director 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 ###.040 or that would justify the revocation of the permit as specified in Section ###.080.

### **###.060 Modification of Permits.**

A. If during the term of the permit, a Permittee would like to change the operator of the Collection box, and/or would like to change the location of the Collection box, the Permittee may request a modification to their permit by submitting to the Director an application and a deposit in an amount set by resolution of the Board of Supervisors.

B. The Director shall either approve or deny the modification of a permit within forty-five (45) days of receipt of the complete application and payment of the deposit.

C. The Director shall approve the modification if the Director finds that no circumstances existed during the term of the existing permit, existed at the time of submission of an application for modification, or existed at any time during the review of the application for modification, that are inconsistent with any finding required for approval of a new permit as specified in section ###.040 or that would justify the revocation of the permit as specified in Section ###.080.

D. The in-kind replacement of a Collection box, which is operated by the same vendor and is positioned at the same location on the parcel as the previous Collection box placed in accordance with this chapter, shall not constitute a modification of a permit.

### **###.070 Requirements and Maintenance.**

A. The Permittee shall be responsible for operating and maintaining, or causing to be operated and maintained, all Unattended Collection Boxes located in the unincorporated Alameda County as follows:

1. Unattended Collection 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 Collection Boxes shall be locked or otherwise secured;

3. Unattended Collection Boxes shall contain the following contact information in two-inch (2) type visible from the front of each Unattended Collection Box: the name, address, e-mail, and phone number of the person(s) responsible for maintaining the Unattended Collection Box;

4. The front of every collection box shall conspicuously display a statement, in at least two-inch (2) typeface, that either reads, "this collection box is owned and operated by a for-profit organization" or "this collection box is owned and operated by a nonprofit organization." For purposes of this chapter, a commercial fundraiser shall be classified as a for-profit organization.

(a) If the collection box is owned by a nonprofit organization, the front of the collection box shall also conspicuously display a statement describing the charitable cause that will benefit from the items collected.

## UNATTENDED COLLECTION BOXES

(b) If the collection box is owned by a for-profit entity, the front of the collection box shall also conspicuously display a statement that reads "this Collection is not tax deductible." If the collection box is owned and operated by a commercial fundraiser, the commercial fundraiser may post notice of Collections to a charitable cause only on the sides of the box. This notice shall always be smaller in size than the for-profit entity's name and address and shall constitute only 25 percent of the notice space of the box.

5. Unattended Collection Boxes shall be serviced and emptied as needed, but at least every seven (7) days.

6. Unattended Collection boxes shall be no more than eighty-two (82) inches high, fifty-six (56) inches wide and forty-nine (49) inches deep.

7. Unattended Collection Boxes shall be clearly marked to identify the type of material to be deposited.

B. The Permittee shall be responsible for maintaining, or causing to be maintained, the area surrounding the Unattended Collection Boxes free of any junk, garbage, trash, debris or other refuse material.

C. The Permittee shall be responsible for abating and removing all junk, garbage, trash, debris and other refuse material in the area surrounding the Unattended Collection Boxes within 24 hours of written notice from the County.

D. The Permittee shall be responsible for all costs for abating and removing any junk, garbage, trash, debris and other refuse material from the area surrounding the Unattended Collection Boxes.

E. It shall be unlawful for any party to place an Unattended Collection Box in any Residential District. However, a permit for an Unattended Collection Box may be approved on a parcel with a community facility as defined in Chapter 17.04 of the Alameda County General Ordinance Code.

F. No Unattended Collection Box shall be placed within four hundred (400) feet from another Unattended Collection Box.

G. No Unattended Collection Box shall be placed on required parking spaces, required landscaping, setbacks, or the public right of way as defined in Title 17 of the Alameda County General Ordinance Code.

H. No more than one Unattended Collection Box shall be placed on each parcel of real property.

### **###.080 Revocation of Permit, Removal of Unattended Collection Boxes and Liability.**

The Director shall have the right to revoke any permit issued hereunder if any of the grounds to refuse issuance of the initial permit exists. 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 Director shall provide a written notification to the Permittee stating the specific grounds for revocation. Upon revocation, the Unattended Collection Box shall be removed from the Permittee's real property within thirty (30) calendar days and if not removed within this time period the County may remove store and dispose of the Unattended Collection Box at the Permittee's sole cost and expense. Upon revocation, a Permittee shall be prohibited from applying for a permit for a period of one year.

### **###.090 Appeals.**

A property owner or other aggrieved person shall have a right to appeal any decision of the Director to the Board of Supervisors by filing a Notice of Appeal specifying the grounds for such appeal with the Clerk of the Board of Supervisors or the planning department no more than ten (10) days from the date of the Director's decision. The planning department is designated as an agent of the clerk of the board for purposes of receiving a notice of appeal. Filing such notice shall stay all proceedings in furtherance of the order appealed from. A fee for such an appeal shall be established by resolution of the Board of Supervisors. The Board of Supervisors shall consider the appeal at a regularly scheduled meeting. Notice of the date and time of the hearing shall be provided to the applicant and Director by the Clerk of the Board of Supervisors.

### **###.100 Violations.**

Any violation of the provisions of this section is a public nuisance and shall be subject to enforcement remedies, penalties and abatement provided by Title 6 and 17 of the Alameda County General Ordinance Code.

### **###.110 Implementation and Construction.**

## UNATTENDED COLLECTION BOXES

A. The provisions of this Chapter shall apply to all Unattended Collection Boxes located within unincorporated territory of the County as of the effective date of this Ordinance. All property owners of parcels on which Unattended Collection Boxes exist as of the effective date of this Ordinance shall have sixty (60) days from that date to file a permit application as provided for in this Chapter.

B. Nothing in this Ordinance is intended to diminish or otherwise alter the requirements of any other federal, state or municipal law governing regulation of Unattended Collection boxes.

### **##.##.120 Exemption.**

Unattended Collection Boxes located entirely within the interior of a building are exempt from the requirements of this chapter.

## RELATED SECTIONS TO BE AMENDED

### **17.52.490 Temporary uses—Administrative conditional uses.**

In any district minor temporary uses of land of a duration of sixty (60) days or less, except as otherwise provided herein, having negligible or no permanent effects on the environment that are categorically exempt from the requirements of an environmental impact report under the provisions of the county guidelines for implementation of the California Environmental Quality Act of 1970 including, but not limited to: grand opening sales and displays, Christmas tree lots, neighborhood and church festivals, firewood sales lots in the A district (but no such permit shall be approved for a period to exceed one year), mobilehome occupancy for a period of one year during construction of permanent living quarters on the same premises in any A or R district, occupancy of a commercial office trailer for a period not to exceed one year in any C or M district, tract and sales office with accessory signs and directional tract signs during the period of construction and original sale of the buildings or lots in a new subdivision, shall be permitted only if an administrative conditional use permit is approved by the planning director. In addition to the above, the planning director may grant an administrative conditional use permit for a tent or canopy subject to the provisions of Sections 17.52.1110 through 17.52.1160. The planning director may also grant an administrative conditional use permit for an unattended collection box subject to the provisions of Chapter ##.## of the Alameda County General Ordinance Code. The planning director shall make such investigations as are necessary to determine whether or not the proposed use conforms or may be conditioned to conform to the requirements and intent of this title. If from the information submitted or developed upon investigation, the planning director finds that compliance with the requirements and intent of this title would be secured, the administrative conditional use permit shall be approved. If it is found that such compliance is not secure, the permit shall be denied or approved subject to such specified conditions, changes or additions as will assure such compliance. The order approving or disapproving an administrative conditional use permit shall become effective five days after the date of such action unless a written appeal is filed pursuant to and in compliance with Section 17.54.670.

### **17.52.495 Temporary uses—Modification.** [To be added]

The planning director may approve a modification of an administrative conditional use permit subject to the provisions of Section ##.##.060 of the Alameda County General Ordinance Code.