

**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY  
PLANNING DEPARTMENT**



**STAFF REPORT**

**TO** Members of the Alameda County Planning Commission  
**RE** Unattended Donation (Collection) Boxes  
**HEARING DATE** November 5, 2012

**GENERAL INFORMATION**

The following is an overview of issues pertaining to unattended donation (collection) 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, hereinafter referred to as unattended collection boxes. Staff has chosen to use the term “collection box” as some of the operators are for-profit enterprises and so the use of the term “donation box” incorrectly implies that all items collected are used for charitable purposes.

**STAFF ANALYSIS**

*Introduction*

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 donation 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. Staff has analyzed approaches from within Alameda County and throughout the state to determine the appropriate approach to regulating collection boxes in Alameda County.

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.

Following this meeting, the matter will be forwarded to the Castro Valley Municipal Advisory Council and Sunol Citizen's Advisory Committee for their consideration. Staff has also sought or will seek comments from County Counsel and the Public Works Agency. Upon completion of this referral process, the matter will be brought back to the Planning Commission for approval.

#### *Statutory Authority*

On June 15, 2010, former Governor Arnold Schwarzenegger signed Assembly Bill (AB) 918 into law. The legislation amended Sections 150 through 153 of the Welfare and Institutions Code (included in the Planning Commission Staff report), and, among many things, requires that boxes display the name, address, telephone number, of the organization soliciting the items, and a statement as to whether or not the organization is a for profit or not-for-profit entity. The legislation is also quite explicit in stating that local jurisdictions may develop more regulations for collection boxes; therefore, the proposed Ordinance is consistent with state law.

#### *Alameda County Ordinances*

Of the fourteen incorporated cities in Alameda County, Berkeley is the only city known to regulate unattended collection boxes. The City of Berkeley currently charges an \$878.00 fee for such applications. Four other jurisdictions (Fremont, Pleasanton, San Leandro, and Union City) have regulations which in theory could apply to unattended donation boxes. A summary of Ordinances within Alameda County is included as Attachment B.

#### *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 deposit 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 exact 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, some of the existing collection boxes fail to identify a responsible party for contact. 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. 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.

### *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.

### *California Environmental Quality Act (CEQA)*

Section 15061(b)(3), the general rule exemption, states "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment that the activity is not subject to CEQA." Staff believes that the proposed amendment would qualify for an exemption on the grounds that they would place limitations on an activity that is presently unregulated -- the placement and quantity of unattended collection boxes within unincorporated Alameda County. The amendments accomplish that goal by prohibiting the placement of unattended collection boxes in residential zones, limiting the overconcentration of such boxes, ensuring their ongoing maintenance and upkeep, and bars their placement from areas that would affect vehicular and/or pedestrian circulation. Moreover, the Alameda County General Plan contains numerous policies and standards that are designed to protect environmental resources and prohibit or limit activities that might cause significant, adverse effect on the environment. Therefore, any development determined to be consistent with the development standards of the Alameda County General Plan and Zoning Ordinance will not result in any significant environmental impacts.

Therefore, no significant environmental impacts are expected to result as a consequence of this Ordinance amendment.

## **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. At this time staff requests that the Planning Commission consider the proposed amendments and provide comments and additional direction to staff.

## **ATTACHMENT**

- A. Proposed Ordinance Amendments
- B. Summary of Alameda County Ordinances

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

# 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. "Operator" means a person, entity, association or organization that places, maintains or operates Unattended Collection Box(es) to collect items of clothing or other salvageable personal property.
- D. "Permittee" means the Property Owner or their agent who has been issued a permit authorizing the placement of an Unattended Collection Box.
- E. "Property Owner" means the person, entity, association or organization who owns the real property where the Unattended Collection Box is proposed to be located.
- F. "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.
- G. "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 for any Property Owner or Operator 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.
- F. The Director shall not issue a permit unless:

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1. The Property Owner 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 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 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.

### **###.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 ###.030 or that would justify the revocation of the permit as specified in section ###.060.

### **###.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 he or she 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 ###.030 or that would justify the revocation of the permit as specified in section ###.060.
- 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

## UNATTENDED COLLECTION BOXES

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.

(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 Property Owner or Operator 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, or setbacks 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.**

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.

### **###.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.

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

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 a 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.

**Summary of Unattended Donation Box and Related Ordinances in Alameda County**

City	Ordinance?	Comments	Permit Type	Fee
Alameda	Yes	Not regulated in the Zoning Ordinance, persons wishing to collect donated items must apply for a Solicitaion permit or receive a franchise agreement with the City.	Solicitation Permit or Franchisee Agreement	Varies
Albany	No	May be defined as a "Mobile Recycling Unit"; however, there are no specific regulations.	N/A	N/A
Berkeley	Yes	"Recycling Redemption Center" term is used, subject to an administrative use permit	Administrative Use Permit	\$ 878.00
Dublin	No	No specific regulations; however, the may be regulated as a temporary use per Chapter 8.108 of the Municipal Code	N/A	N/A
Emeryville	No	Not addressed.	N/A	N/A
Fremont	Possibly	Section 8-22154.5, Recycling facilities, may be used to regulate donation boxes. Includes performance standards for recycling facilities that could be applied to unattended donation boxes.	Recycling Permit	Not known
Hayward	No	Addresses beverage/food recycling facilities only	N/A	N/A
Livermore	No	Not addressed.	N/A	N/A
Newark	No	Not addressed.	N/A	N/A
Oakland	No	Addresses beverage/food recycling facilities only	N/A	N/A
Piedmont	No	Not addressed.	N/A	N/A
Pleasanton	Possibly	Section 18.124.175, Administrative use permit for small recycling collection facilities, may be used to regulate donation boxes. There are no detailed performance standards.	Administrative Use Permit	\$ 25.00
San Leandro	Possibly	Section 4-1646, Recycling Facilities, may be used to regulate donation boxes. Includes performance standards for recycling facilities that could be applied to unattended donation boxes.	Zoning Permit	\$ 104.00
Union City	Possibly	May be regulated as "Recycling Facilities"; however, the ordinance does not specifically address unattended donation boxes. It is possible that an Administrative Use Permit could be required for the placement of donation boxes. There are no specific performance standards.	Conditional Use Permit or Administrative Use Permit	Varies based on application type and district \$548.00 - \$1,560.00