

Item #21

Supplemental Material

For

City of Sacramento

**City Council
Financing Authority
Housing Authority
Redevelopment Agency**

Agenda Packet

Submitted: July 20, 2009

For the Meeting of: July 21, 2009

Additional Material

Revised Material

TITLE:

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

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ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

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

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

SECTION 1.

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

Chapter 5.152 Regulation of Unattended Donation Boxes

5.152.010 Findings.

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

5.152.020 Definitions.

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

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

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

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

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

5.152.030 Permits.

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

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

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

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

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

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

D. Applications shall be filed with the city manager.

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

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

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

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

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

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

5.152:040 Registration of Location of Unattended Donation Boxes.

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

1. The address and specific location where the unattended donation box will be located;
2. The name, address, email, website (if available) and telephone number of the owner, lessee or other person or legal entity in control of the property on which the unattended donation box will be located;
3. The name, address, email, and telephone number of the person who is responsible for maintaining the unattended donation box; and
4. A signed declaration from the owner, lessee or other person or legal entity in control of the property on which the unattended donation box will be located, on a form prepared by the city manager including:
 - a. a statement consenting to the placement of the unattended donation box;
 - b. a statement that the owner, lessee or other person or legal entity in control of the property has been informed, by the permittee, of the most recent grade, if any, the permittee has received from the American Institute of Philanthropy;
 - c. a statement that the owner, lessee or other person or legal entity in control of the property has been informed, by the permittee, how the proceeds from the unattended donation box will be utilized; and
 - d. a statement by the owner, lessee or other person or legal entity in control of the property acknowledging that such owner, lessee or other person or legal entity in control of the property, shall be responsible for any abatement costs or fines that may be imposed under this chapter.

B. Each registration form 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.

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

5.152.050 Requirements and Maintenance.

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

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

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

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

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

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

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

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

PUBLIC NOTICE: READ BEFORE DONATING

This entity has received a charity grade of:

[Most Recent Grade, in six-inch type]

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

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

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

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

A. The city manager shall have the right for cause to revoke any permit issued hereunder. Any of the grounds upon which he or she may refuse to issue an initial permit shall also constitute grounds for such revocation. In addition, the failure of the permittee to comply with the provisions of this chapter or other provisions of this code or other law also shall constitute grounds for revocation of the permit. The city manager

shall provide a written notification to permittee stating the specific grounds for revocation. Upon revocation, all of the permittee's unattended donation boxes shall be removed within thirty (30) days and if not removed within this time period the city may remove the unattended donation box at the expense of the permittee. Upon revocation, a permittee shall be prohibited from applying for a permit for a period of one year.

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

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

5.152.070 Violation—Penalty.

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

5.152.080 Appeals to city council.

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

B. The city manager shall provide, within five (5) days of the date of the decision, to the mayor and all councilmembers, a copy of the hearing examiner's decision. Notwithstanding Section 1.24.090, any decision of a hearing examiner may be called up for city council review by the mayor or any councilmember. To initiate a call-up of a decision, the mayor or any councilmember shall file a written request with the city manager within ten (10) days of the date of the decision of the hearing examiner. If the tenth day falls on a non-business day, the last day to call-up is the next business day. If the mayor or any councilmember does not call-up a hearing examiner's decision as provided for in this section, the hearing examiner's decision shall be final. Upon the filing of a request by the mayor or any councilmember, the city council shall notice and set the matter for the hearing before it. The city manager shall provide the applicant

and any appellant, if different from the applicant, ten (10) days notice, by first class mail, of the hearing before the city council. Any hearing before the city council shall be de novo, meaning that the city council shall hear the matter in the same manner that the city manager heard the matter in the first instance.

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

SECTION 2.

The provisions of Chapter 5.152 as enacted by this Ordinance shall apply to all unattended donation boxes located within the City as of the effective date of this Ordinance. All persons owning or operating one or more unattended donation boxes within the City as of the effective date of this Ordinance shall have sixty (60) days from that date to file an application for a permit as provided for in this chapter. Any such person who has filed a timely application for a permit within the sixty (60) day time limit shall not be subject to the provisions of this chapter relating to unattended donation boxes until a permit is issued or denied to the applicant. Upon issuance of a permit, the permittee shall have thirty (30) days to register the location of all unattended donation boxes that were located within the City as of the effective date of this ordinance and comply with all other provisions in this chapter.

SECTION 3.

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.