



City of Long Beach
Working Together to Serve

R-23

Date: March 7, 2017

To: Honorable Mayor Garcia and Members of the City Council

From: Daryl Supernaw, Councilman, Fourth District DS
Suzie Price, Councilwoman, Third District SP
Roberto Uranga, Councilman, Seventh District R

Subject: **Moratorium on Unattended Donation/Recycling Boxes**

RECOMMENDATION:

Adopt a Minute Order declaring a moratorium against the establishment, placement, construction, expansion, or issuance of any permits, for the placement of unattended donation/recycling collection boxes or bins on any public or private lot in the City; and request the City Attorney, in cooperation with the Department of Development Services, to prepare an interim (moratorium) ordinance pursuant to Chapter 21.50 of the Long Beach Municipal Code for notice and placement on the City Council agenda for hearing at its third meeting following adoption of this Minute Order.

DISCUSSION

Unattended donation boxes (UDBs) are typically up to seven feet in width and height that are designed to accept textiles, clothing, shoes, books or other salvageable personal property to be used by the operator for distribution, resale, or re-cycling. Generally, UDBs are placed outside at grocery stores, gas stations, schools, in strip mall parking lots, or near various other types of businesses. They are placed by a variety of organizations, including non-profit organizations that operate locally, as well as non-local organizations that may resell donations for a profit. UDBs are not specifically addressed in the Long Beach Zoning Code and are therefore not a permitted use under the City's permissive zoning regulation structure (i.e., unless a land use is specifically permitted as a matter of right, or permitted with a discretionary permit, it is considered an unlawful use).

Other cities have reported that unmonitored UDB's can become a public nuisance as they create visual blight, trash, attract graffiti, scavenging and illegal dumping in the vicinity of a UDB. Sometimes they are placed in required business parking spaces or vehicle maneuvering areas, which can affect vehicle and pedestrian circulation and safety. In some instances, UDBs are placed so that donated items spill over into setbacks, parking areas, or adjacent city sidewalk or public right of way areas. In short, without appropriate regulations, UDBs can have an adverse impact on the aesthetic character and usability of the City's commercial corridors. Code Enforcement staff in the Department of Development Services have reported similar nuisance related conditions when UDBs and related type uses have been illegally placed in the City of Long Beach in the past. When staff have encountered these uses it has required considerable expenditure of time, effort, and resources to have them removed.

City staff has recently been approached by various organizations desiring to place UDBs within the City. Some of those organizations have argued that Section 5.28.150 of the LBMC currently allows an organization to place a UDB simply by filing a "notice of intention" with the Police Department. Although City staff have determined that LBMC Section 5.28.150 is not applicable to the large type of donation or solicitation boxes discussed in this Agenda Item, the existence of this section of the LBMC dealing with the "Regulation of Businesses" has caused some confusion. The same organizations arguing for the placement of UDBs have also argued that the United States and California Constitutions, as well as certain reported legal decisions, allow the unfettered placement of UDBs within a City. The arguments used are similar to the First Amendment rationale that makes it difficult for a City to regulate panhandling.

It is critical to impose a temporary moratorium on the placement of UDBs until the City Council can adopt permanent, constitutionally appropriate regulations regarding the orderly placement and maintenance of UDBs. Such a moratorium will insure that future regulations are internally consistent within the Municipal Code, consistent with the City's General Plan, and that they are adequately designed to protect the public health, safety, and welfare of those living and working in the City. Other California jurisdictions have already begun, or currently are, regulating the placement of UDBs, making Long Beach a more attractive site for UDB placement until appropriate permanent regulations are enacted.

CONCLUSION

If a Minute Order is adopted, the City Attorney, together with the Development Services Department, will prepare and place on the City Council's agenda a formal interim (moratorium) ordinance. That ordinance will refer the matter to the Planning Commission and Planning staff for study and a recommendation to the City Council as to appropriate zoning and Municipal Code regulations for the placement and maintenance of UDBs in the City.

FISCAL IMPACT

There is no fiscal impact at this time.