



Legislation Text

File #: 18-0115, **Version:** 2

WITHDRAWN

~~Recommendation to declare ordinance amending the Long Beach Municipal Code by amending Table 21.32 in Chapter 21.32, and Table 34-1 in Chapter 21.34; and by adding Sections 21.15.3155 and 21.51.294, all related to unattended storage boxes, read and adopted as read. (Citywide)~~

On April 11, 2017, the City Council adopted an Ordinance establishing a one-year moratorium relating to the establishment, installation, placement, construction, expansion, or issuance of permits for the use of unattended donation/recycling collection boxes in or on any private or public property in the City, pursuant to the provisions of Chapter 21.50 of the Long Beach Municipal Code (LBMC), "Interim Prohibition of Uses." The Development Services Department and the Planning Commission were directed to study potential amendments to the LBMC relating to non-permanent, unattended donation boxes in the City.

Unattended donation boxes (UDBs) are receptacles that typically accept donations of textiles, clothing, shoes, books and/or other salvageable personal property to be used by an operator for distribution, resale, or recycling. These receptacles are typically brightly colored and stand up to seven feet high. Generally, UDBs are placed outside at grocery stores, gas stations, schools, commercial parking lots, and various other types of businesses. UDB operators include both non-profit organizations that operate locally, as well as non-local organizations that may resell donations for a profit. Currently, UDBs are not specifically addressed in the Long Beach Zoning Code and are, therefore, not a permitted use under the City's zoning code structure.

On January 4, 2017, the Planning Commission (Exhibit A - Planning Commission Report) held a public hearing on UDBs. The Planning Commission received a staff presentation, closed the public hearing, deliberated, and in its advisory capacity to the City Council, found the amendment consistent with the General Plan. The Planning Commission unanimously recommended that City Council approve the Zoning Code Amendment. The following provides an overview of the proposed regulations in the draft Ordinance as recommended by the Planning Commission (Exhibit B - Draft Zoning Code Amendment - Unattended Donation Boxes (UDBs)).

Unmonitored UDBs can become a public nuisance as they can create visual blight, attract trash, debris, graffiti, impede circulation, public safety and aesthetic standards. The intent of the proposed Zoning Code Amendment is to recognize UDBs as a permitted accessory use, and to establish development standards to regulate their use in a manner that minimizes

potential impacts.

UDBs would be allowed as an accessory use to an existing primary commercial or institutional use. This would allow UDBs to be permitted in all commercial zoning districts, all Planned Development (PD) districts, and Specific Plan (SP) areas that allow commercial uses, and in Institutional zoning districts. UDBs would not be allowed on vacant lots, regardless of the underlying zoning.

New development standards are proposed to guide the appropriate location, placement, operation, and maintenance of donation receptacles to reduce potential public nuisance repercussions from unmonitored UDBs. To avoid proliferation of UDBs, only one UDB shall be permitted within 1,000 feet of an existing UDB. A second UDB for the same parcel could be approved if, after 90 days of operation with a daily pick-up schedule, the UDB was experiencing a consistent overflow of donated items.

A UDB permit would require both the property owner and box operator to acknowledge and accept the Guidelines for the establishment and operation of a UDB. No UDB permit is required if the UDB is located within an enclosed building, or if it is accessory to a principal activity on the site that is owned or operated by the collection box operator, such as the administrative office of a non-profit organization. The development standards, however, are applicable to all UDBs.

The development standards include location requirements to ensure proper placement of a UDB while maintaining a zone's underlying setback, and not causing interference with other requirements, such as landscaping, parking spaces, drive aisles, walkways, ingress and egress, etc. Visibility is a critical component for the safe operation of the UDB, so adequate lighting shall be provided with the use of dusk to dawn photocell-controlled light source for the collection area, as well as having a clear line of sight from a building on site or the public right-of-way.

To avoid visual blight, containers shall be constructed of durable material and be kept in good operating condition. For safety and security purposes, a UDB shall have a maximum height of 6 feet with a maximum floor area of 25 square feet and include a tamper-resistant locking mechanism for all collection openings to discourage scavenging.

Essential signage shall be required with each UDB. Important facts shall be posted on the box in a conspicuous location, for both informational and emergency purposes. This information shall include contact information for both the operator and property owner, the type of material that may be deposited, and a pick-up schedule. Both non-profit and for-profit organizations may have a UDB. If applicable, a statement shall be included describing the nature of the donation (e.g., charitable cause), and a Federal Tax identification number if the donation is tax deductible. To discourage illegal dumping, signage adjacent to the UDB shall state "No material shall be left outside of the Unattended Donation Box."

To encourage minimal environmental impacts, the site shall be maintained free of blight. Consistent maintenance of the UDB container shall be required, including graffiti abatement, and adequate pick-up service per the schedule posted on the box, with additional pick-ups required if overflow or blight conditions are found to exist. To minimize noise impacts to adjacent properties, hours of servicing UDBs shall be between 7:00 a.m. and 7:00 p.m., Monday through Friday, and between 10:00 a.m. and 6:00 p.m. on weekends. The UDB operator shall also be required to maintain an active email address, and a 24-hour telephone service with recording capability for the public to register complaints.

The proposed Ordinance was crafted in consideration of First Amendment rights in accordance with the Sixth Circuit of the Federal Court of Appeals findings that UDBs are entitled to First Amendment protection. A ministerial UDB approval would be required to operate a UDB. Ministerial applications are based on established regulations, with no discretion and do not require a public hearing. The use of a ministerial process is consistent with protection of First Amendment rights, because the regulations provide clarity and certainty as to the time, place, and manner in which UDBs can be permitted.

This recommendation is consistent with the General Plan, specifically upholding the Land Use Element's emphasis on maintaining and improving the quality of life and the Public Safety Element's emphasis on creating safer physical environments.

Public hearing notices were published in the Long Beach Press-Telegram and distributed on January 30, 2018, and no responses were received as of the date of preparation of this report. Any responses and comments received will be conveyed to the City Council prior to the public hearing.

In accordance with the Guidelines for implementation of the California Environmental Quality Act (CEQA), a Negative Declaration (ND 10-17) was prepared for the proposed UDB Ordinance (Exhibit C). The Negative Declaration was made available for a 30-day public review and comment period that began on November 14, 2017, and ended on December 13, 2017. No comment letters were received.

This matter was reviewed by Assistant City Attorney Michael J. Mais on January 25, 2018 and by Budget Analysis Officer Julissa José-Murray on January 25, 2018.

City Council action is requested on February 13, 2018. Section 21.25.103 of the Zoning Regulations requires presentation of this request to the City Council within 60 days of the Planning Commission hearing, which took place on January 4, 2018. The City Council-initiated one-year moratorium for UDBs will expire in April 2018.

There are no fiscal or local job impact associated with this recommendation.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING TABLE 21.32 IN CHAPTER 21.32,

AND TABLE 34-1 IN CHAPTER 21.34; AND BY ADDING SECTIONS 21.15.3155 AND 21.51.294, ALL RELATED TO UNATTENDED STORAGE BOXES

Approve recommendation.

TOM MODICA
INTERIM DIRECTOR OF DEVELOPMENT SERVICES

APPROVED:

PATRICK H. WEST
CITY MANAGER