

**City of Garden Grove**

**INTER-DEPARTMENT MEMORANDUM**

To:	Matthew J. Fertal	From:	Susan Emery
Dept:	City Manager	Dept:	Community Development
Subject:	ADOPTION OF AN ORDINANCE APPROVING AMENDMENT NO. A-007-2014 TO AMEND TITLE 9 OF THE MUNICIPAL CODE TO EXPRESSLY PROHIBIT THE OPERATION OF DONATION COLLECTION BINS LOCATED OUTSIDE OF A BUILDING, IN ALL ZONES THROUGHOUT THE CITY AND TO REQUIRE THE REMOVAL OF EXISTING DONATION COLLECTION BINS		
		Date:	May 27, 2014

OBJECTIVE

To transmit a recommendation from the Planning Commission to the City Council and to request City Council introduce and conduct the first reading of an ordinance approving Amendment No. A-007-2014 to add Chapter 9.50, Donation Collection Bins, in Title 9 of the Municipal Code to expressly prohibit the operation of donation collection bins located outside of a building in all zoning, specific plan, or planned unit development districts throughout the City, and to require the removal of existing donation collection bins.

BACKGROUND

The City has recently experienced a proliferation of non-permitted donation collection bins throughout the City that have resulted in visual blight and property maintenance impacts. This proliferation has resulted in several noticeable and negative property maintenance impacts to the community that include dumping activity adjacent to the bins resulting in unwanted trash and debris; scavenging of the bins or of the items left on the outside of the bins; loitering by transients; graffiti and lack of exterior bin maintenance; placement of the bins in required setbacks, landscaping planters, and parking spaces; and clustering of multiple donation collection bins within the same property.

The City's Code Enforcement Division estimates that since January 2013, they have received and responded to 35 complaints about trash and dumping associated with the donation collection bins.

In November 2013, staff conducted a brief field survey along portions of Valley View Street, Garden Grove Boulevard, and Chapman Avenue, and at the time, 40 bins operated by thirteen (13) different companies were observed.

A donation collection bin is a land use that is not expressly permitted pursuant to Title 9 of the Municipal Code and thus, the use is prohibited. Nevertheless, within the past several months, a number of donation collection bins have been illegally placed on properties throughout the city, mostly on commercial properties.

In addressing the growing concern regarding the donation collection bins and the negative impacts the bins create, the best and most viable option is to adopt an ordinance to expressly prohibit donation collection bins in all zones throughout the city, as well as require the removal of all existing donation collection bins.

On April 17, 2014, the Planning Commission held a Public Hearing to consider Amendment No. A-007-2014. At the Public Hearing, two (2) members of the public spoke in favor of the proposed ordinance, and with no one speaking in opposition. The Planning Commission voted 6-0-1 and adopted Resolution No. 5817-2014 recommending adoption of Amendment No. A-007-2014 with one additional provision to the ordinance to the City Council.

## DISCUSSION

The goal of the proposed amendment is to preserve the visual aesthetic character of the community by eliminating the negative impacts associated with the donation collection bins. By expressly prohibiting the operation of all donation collection bins outside of a building and requiring the removal of existing donation collection bins, staff believes the proposed amendment will promote the public interest, health, safety, and welfare by eliminating the visual blight and property maintenance impacts associated with donation collection bins; eliminating hazards to pedestrians and motorists brought about by the placement of donation collection bins in the public right of way and required setbacks; preserving and improving the appearance of the city as a place in which to live and work; safeguarding and enhancing property values; and protecting public and private investment in buildings and open spaces.

The proposed amendment would add a new, stand-alone chapter (Chapter 9.50) in Title 9 of the Municipal Code addressing donation collection bins. The proposed amendment would provide that it is unlawful for any person or entity to operate a donation collection bin within any zoning, specific plan, or planned unit development district in the city, or for any person or entity to allow any other person or entity to operate a donation collection bin on property he/she/it owns, leases, manages, or controls within the city.

The proposed amendment will prohibit all type of outdoor donation collection bins throughout the City, including attended and unattended donation collection bins. Attended donation collection bins are manned by a staff member or employee from the organization that operates the donation collection bin, while unattended donation collection bins are not staffed. Refuse and recycling receptacles or centers authorized by state or local law, such as the California Redemption Value (CRV) program, would not be considered "donation collection bins" subject to the prohibition.

The proposed ordinance would also require the removal of all existing donation collection bins by the operator(s) and/or property owner(s) within forty-five (45) days from the effective date of the ordinance. The City Code Enforcement Division will notify donation bin operators and property owners requesting the removal of the donation bins within the specified timeframe. The operation or maintenance of any donation collection bin in the City after this period will subject the operators and/or other responsible persons to potential civil or criminal actions, administrative fines, and/or nuisance abatement actions in accordance with the existing provisions of the Municipal Code and state law. The Planning Commission also recommended an additional provision, which staff has included that gives the City the ability to remove donation collection bins from private and public property.

FISCAL IMPACT

No fiscal impact to the City regarding this proposed amendment.

RECOMMENDATION

It is recommended that the City Council:

- Conduct a Public Hearing;
- Determine that the Ordinance is categorically exempt from the California Environmental Quality Act pursuant to Title 14, California Code of Regulations, Section 15061(b)(3);
- Introduce and conduct the first reading of the attached Ordinance approving Amendment No. A-007-2014 to amend Title 9 of the Municipal Code to prohibit the operation of donation collection bins located outside of a building, in all zones throughout the City and to require removal of existing donation collection bins.



SUSAN EMERY  
Community Development Director



By: Maria Parra  
Urban Planner

**Approved for Agenda Listing**



**Matthew Fertal**  
City Manager

- Attachment 1: Planning Commission Staff Report dated April 17, 2014  
Attachment 2: Planning Commission Resolution No. 5817-14  
Attachment 3: Planning Commission Minute Excerpt of April 17, 2014  
Attachment 4: Draft Ordinance for Code Amendment for No. A-007-2014

# COMMUNITY DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

<b>AGENDA ITEM NO.:</b> C.2	<b>SITE LOCATION:</b> Citywide
<b>HEARING DATE:</b> April 17, 2014	<b>GENERAL PLAN:</b> N/A
<b>CASE NO.:</b> Amendment No. A-007-2014	<b>ZONE:</b> N/A
<b>APPLICANT:</b> City of Garden Grove	
<b>OWNER:</b> N/A	<b>CEQA DETERMINATION:</b> Exempt

## **REQUEST:**

An amendment to Title 9 of the City of Garden Grove Municipal Code to expressly prohibit the operation of donation collection bins located outside of a building, in all zones throughout the City and to require the removal of existing donation collection bins.

## **BACKGROUND:**

The City of Garden Grove has recently experienced a proliferation of nonpermitted donation collection bins throughout the City that have resulted in visual blight and property maintenance impacts. The City's Code Enforcement Division estimates that since January 2013 they have received and responded to 35 complaints about trash and dumping associated with the donation collection bins.

A donation collection bin is a land use that is not expressly permitted pursuant to Title 9 of the Municipal Code and, thus, is a prohibited use within all zoning, specific plan, and planned unit development districts. Consequently, City staff has been consistent about explaining to the public that donation collection bins are not permitted in the City since the use is not listed as a permitted use in the zoning code. Nevertheless, within the past several months, a number of donation collection bins have been illegally placed on properties throughout the City, mostly on commercial properties.

Most recently, a donation collection bin was placed on a City-owned parking lot located in the Civic Center area. The City Manager's Office attempted to contact the operator by leaving voicemail and e-mail messages requesting removal of the bin; however, no response was received. Ultimately, the Police Department generated an illegal dumping report for the donation collection bin, and the City subsequently removed and impounded the bin.

The proliferation of donation collection bins has created several noticeable and negative property maintenance impacts to the community (see photographs Exhibit A). Staff has observed dumping activity adjacent to donation collection bins resulting in unwanted trash and debris. Often times the bins or the items left on

the outside of the bins are susceptible to scavenging by individuals that further perpetuate the disarray of existing trash and debris. Staff has also observed that donation collection bins encourage loitering by transients, and that bins are also targets for graffiti.

The placement of the donation collections bins also result in the loss of parking and landscaping as the bins are placed within required parking spaces, within landscape planters, and within required setback areas. Lastly, staff has observed the clustering of multiple donation collection bins within the same shopping centers or on the same property that further contributes to the visual blight.

In November 2013, staff conducted a brief field survey along portions of Valley View Street, Garden Grove Boulevard, and Chapman Avenue, to obtain a count of the number of donation collection bins and the number of bin operators. At the time, staff observed 40 bins operated by thirteen (13) different companies (see Exhibit B). Within a short two-mile stretch along Garden Grove Boulevard, from Magonia Street to Harbor Boulevard, staff observed a total of 22 donation collection bins (see Exhibit C). Staff estimates that there are many more donation collection bins located throughout different areas of the City, and due to limiting staffing, the actual number cannot be determined.

In addressing the growing concern about the donation collection bins and the negative impacts that the bins create, City staff has determined that the best and most viable option is to adopt an ordinance to expressly prohibit donation collection bins in all zones throughout the City, as well as require the removal of all existing donation collection bins.

The donation collection bins have resulted in a larger issue that is also affecting other municipalities throughout Orange County and Los Angeles County. Several municipalities are exploring options to address donation collection bins; however, many cities are moving toward adopting citywide bans on donation collection bins.

The purpose of the proposed amendment is to amend Title 9 of the City of Garden Grove Municipal Code to expressly prohibit the operation of donation collection bins located outside of a building in all zoning, specific plan, or planned unit development districts throughout the City and to require the removal of existing donation collection bins.

### **DISCUSSION:**

The proposed amendment would add a new, stand-alone chapter (Chapter 9.50) in Title 9 of the Municipal Code expressly addressing donation collection bins. The proposed amendment would expressly provide that it is unlawful for any person or entity to operate a donation collection bin within any zoning, specific plan, or planned unit development district in the City, or for any person or entity to allow any other person or entity to operate a donation collection bin on property he/she/it

owns, leases, manages, or controls within the City. A "donation collection bin" would be defined as follows:

"Donation collection bin" means any attended or unattended canister, box, receptacle, bin, container, trailer, accessory structure or similar facility located outside of a building, which is used for the primary purpose of receiving or storing donated items of salvageable personal property, including household goods and clothing. This term does not include bins, receptacles, recycling centers or other facilities used exclusively for the collection of refuse, recyclable material, or California Redemption Value (CRV) beverage containers in conformance with applicable state or local law.

The proposed amendment will prohibit all type of outdoor donation collection bins throughout the City, including attended and unattended donation collection bins. Attended donation collection bins are manned by a staff member or employee from the organization that operates the donation collection bin, while unattended donation collection bins are not staffed.

The proposed amendment will prohibit the typical metal donation collection bins as illustrated in Exhibit A, as well as the typical donation collection "trailers" that are usually associated with nonprofit organizations, such as Goodwill. The purpose to also prohibit attended donation collection bins, such as the Goodwill trailers, is that attended bins also encounter similar maintenance issues as unattended donation collection bins, such as dumping of items after hours when the trailers are not in operation. These trailers are oftentimes placed as a stand-alone use on private property where there is no retail store for the business. At this time, there are no attended donation collection bins in the City, and the proposed amendment will prohibit future attended donation collection bins.

Refuse and recycling receptacles or centers authorized by state or local law, such as the California Redemption Value (CRV) program, would not be considered "donation collection bins" subject to the prohibition.

The proposed ordinance would also require the removal of all existing donation collection bins by the operator(s) and/or property owner(s) within forty-five (45) days from the effective date of the ordinance. The City will notify donation bin operators and property owners and request removal of the donation bins within the specified timeframe. The operation or maintenance of any donation collection bin in the City after this period will subject the operators and/or other responsible persons to potential civil or criminal actions, administrative fines, and/or nuisance abatement actions in accordance with the existing provisions the Municipal Code and state law.

The goal of the proposed amendment is to preserve the visual aesthetic character of community by eliminating the negative impacts associated with the donation collection bins. By expressly prohibiting the operation of all donation collection bins

outside of a building and requiring the removal of existing donation collection bins, Staff believes the proposed amendment will promote the public interest, health, safety, and welfare by eliminating the visual blight and property maintenance impacts associated with donation collection bins; eliminating hazards to pedestrians and motorists brought about by the placement of donation collection bins in the public right of way and required setbacks; preserving and improving the appearance of the City as a place in which to live and work; safeguarding and enhancing property values; and protecting public and private investment in buildings and open spaces.

**RECOMMENDATION:**

Staff recommends that the Planning Commission:

- Adopt the proposed Resolution recommending approval of Amendment No. A-007-2014 to the City Council.



KARL HILL  
Planning Services Manager



By: Maria Parra  
Urban Planner



PROMOTES DUMPING, TRASH, AND SCAVENGING

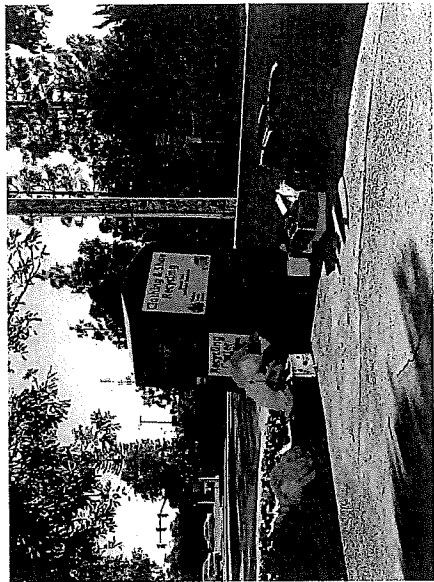
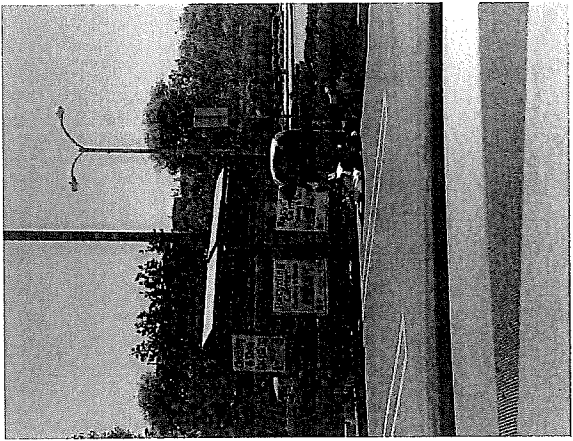
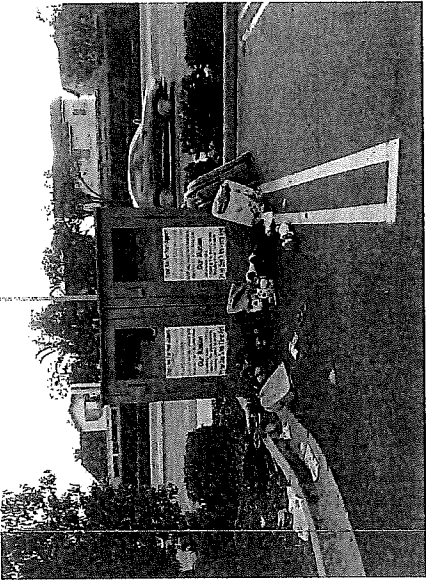
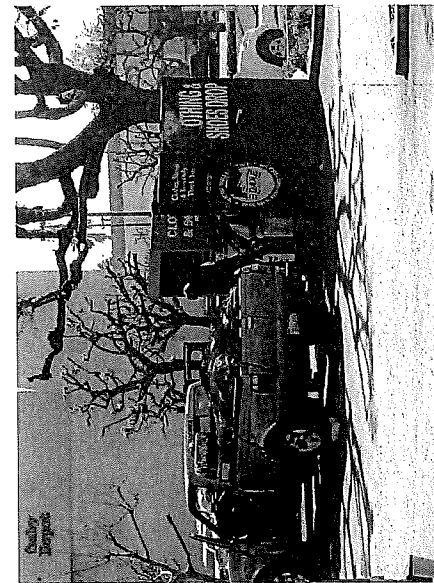
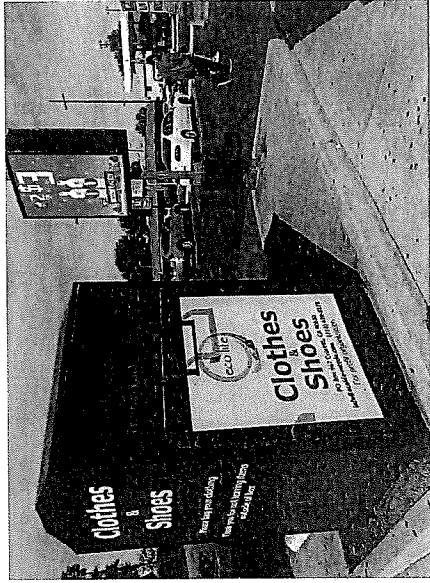
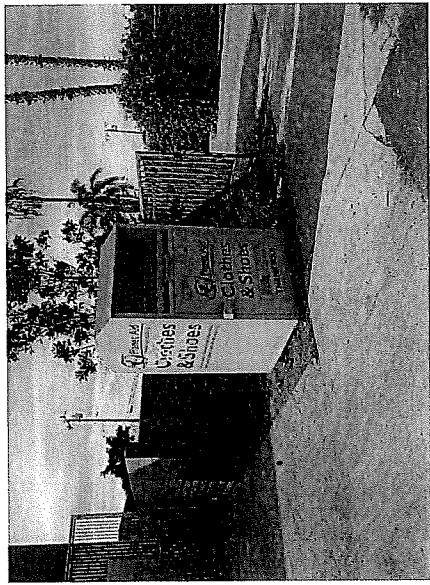


Exhibit A

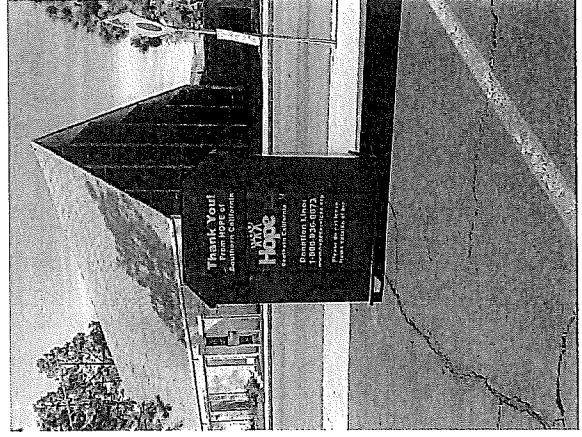
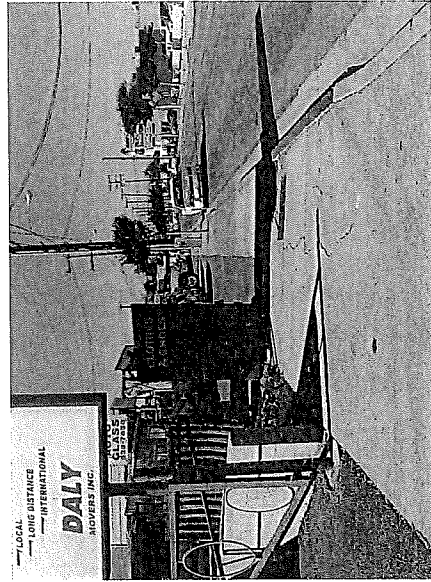
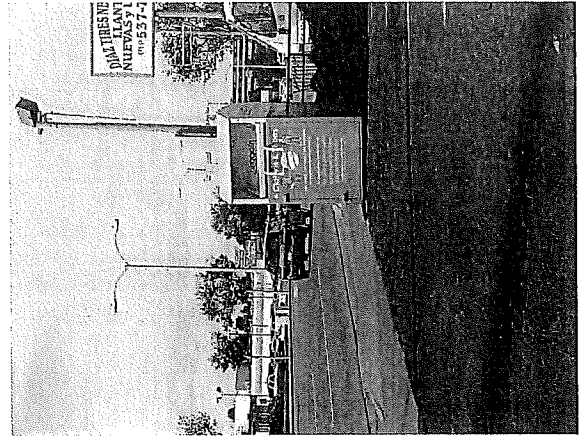
ENCOURAGES LOITERING BY TRANSIENTS



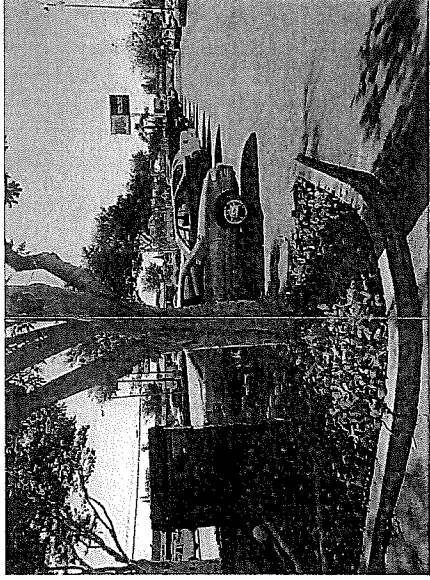
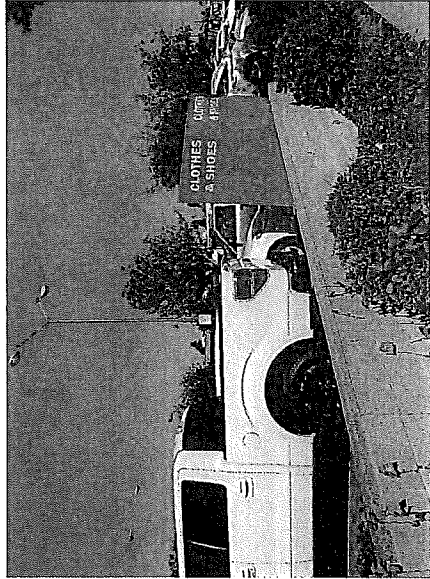
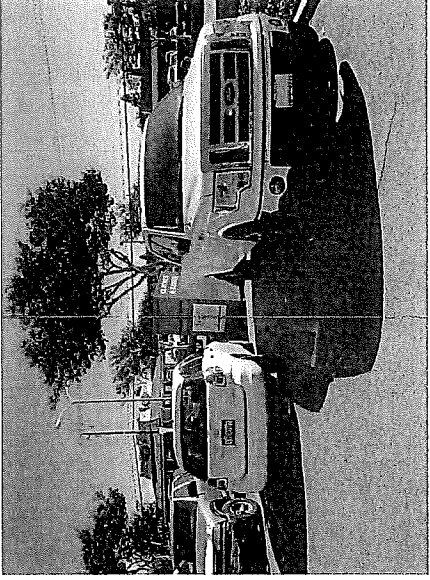
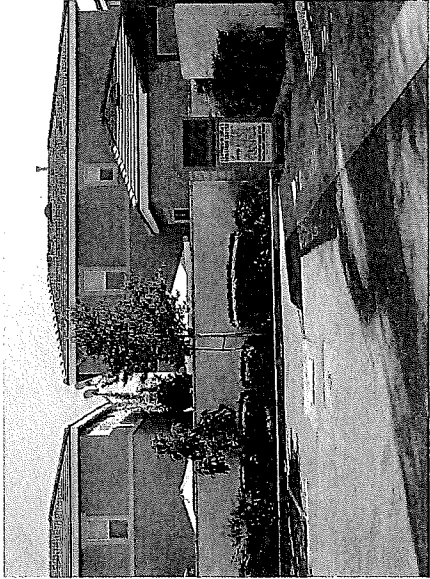
BINS LOCATED IN REQUIRED LANDSCAPE PLANTERS



BINS LOCATED WITHIN REQUIRED SETBACKS AND ADJACENT TO PROPERTY LINES

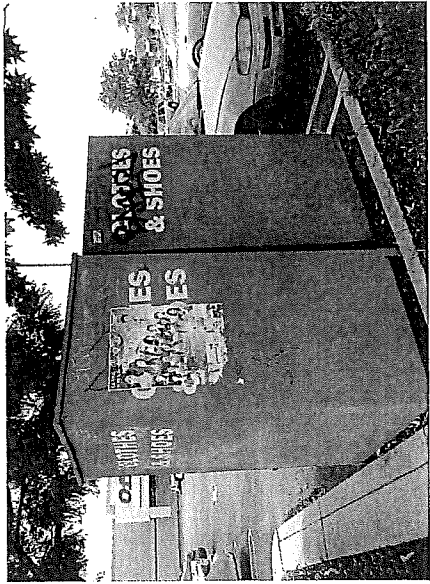
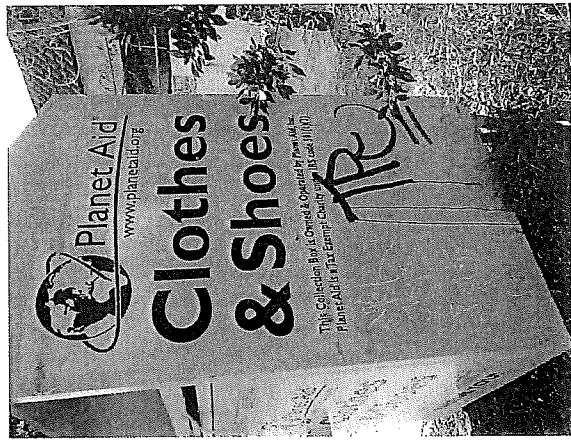


BINS LOCATED IN REQUIRED PARKING SPACES

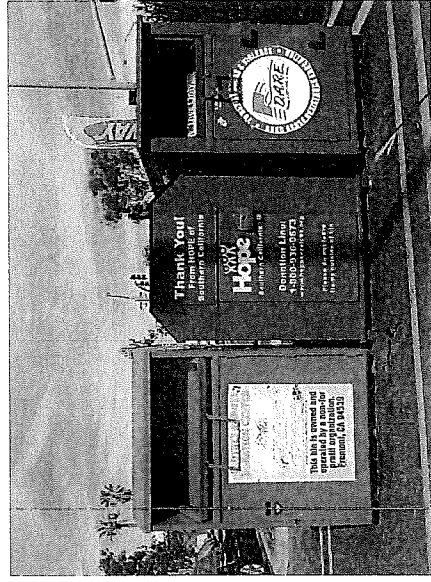




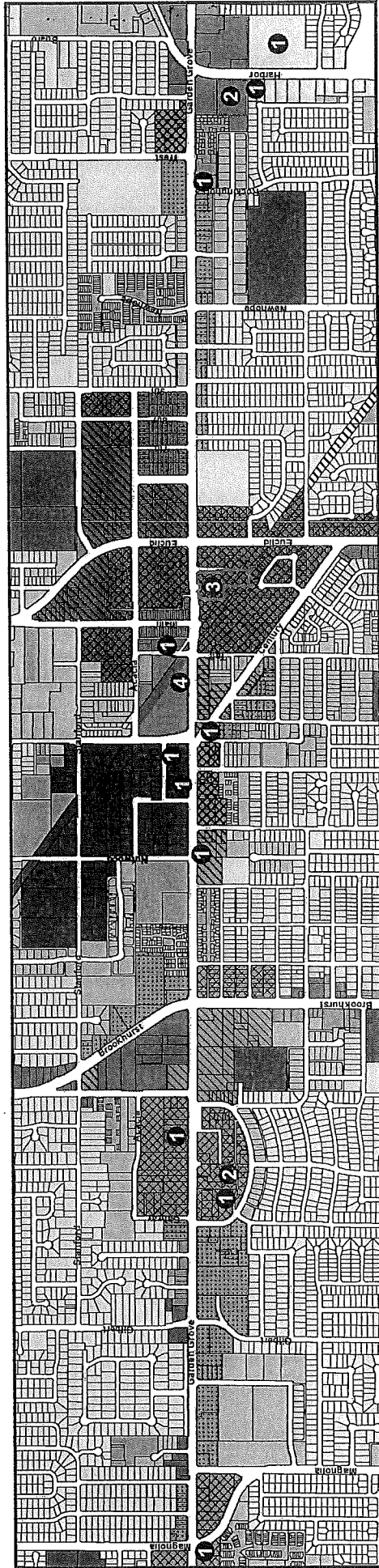
GRAFFITI AND MAINTENANCE OF BINS



CLUSTERING OF MULTIPLE BINS ON THE SAME PROPERTY



# City of Garden Grove Donation Bins & Zoning Map



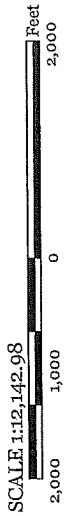
**ZONE**

☐ BCSP-BCC	☐ CCSP-CCR	☐ CCSP-DC	☐ HCSP-SDS	☐ M-1	☐ OS	☐ PUD(O)	☐ PUD(UR)	☐ RR	☐ CC_3
☐ C-1	☐ CCSP-CCT	☐ CCSP-OP	☐ HCSP-TCB	☐ M-P	☐ PUD(C)	☐ PUD(R-1)	R-1	☐ TC	☐ CC_OS
☐ C-2	☐ CCSP-COS	☐ CCSP-PR	☐ HCSP-TZN	☐ O-P	☐ PUD(C-R)	☐ PUD(R-2)	R-2	☐ MAR	☐ GGMU1
☐ C-3	☐ CCSP-CPF	☐ HCSP-DC	☐ HCSP-TZS	☐ O-S	☐ PUD(I)	☐ PUD(R-3)	R-3	☐ CC_1	☐ GGMU2
	☐ CCSP-CR	☐ HCSP-OP	☐ HCSP-TZW	☐ OP	☐ PUD(M)	☐ PUD(RF)	R-3(T)	☐ CC_2	☐ GGMU3



Exhibit B

- DONATION BINS**
- ① ONE DONATION BIN ON PROPERTY
  - ② TWO DONATION BINS ON PROPERTY
  - ③ THREE DONATION BINS ON PROPERTY
  - ④ FOUR DONATION BINS ON PROPERTY



## Exhibit C

### OBSERVED DONATION COLLECTION BINS IN THE CITY OF GARDEN GROVE

COMPANY	LOCATIONS
1) Angels Bins	First Christian Church on Chapman Ave and Euclid St (1)
2) Cancer Federation	9792 Garden Grove Blvd (1)
3) Community of Change	Los Sanchez on Garden Grove Blvd (7) Office Depot on Garden Grove Blvd Home Depot 10592 Stanford Ave Walgreen's on Chapman Ave and Valley View St 13021 Century Ave 10502 Garden Grove Blvd
4) Childhood Disease Research Foundation	Staples on Garden Grove Blvd and Harbor Blvd (4) Office Depot on Garden Grove Blvd. Ralph's on Euclid St and Chapman Ave Rite Aid on Lampson Ave and Valley View St
5) D.A.R.E.	Ralph's on Euclid St and Chapman Ave (5) Pavilion Center on Brookhurst St Home Depot Staples on Harbor Blvd and Garden Grove Blvd 76 Station on Chapman Ave and Valley View St
6) Eco Life	7-11 Store Magnolia St and Chapman Ave (3) West Main Street parking lot 13141 Harbor Blvd
7) Giving Children Hope	Home Depot (4) Office Depot on Garden Grove Blvd Rite Aid on Lampson Ave and Valley View St 13220 Harbor Blvd Ralph's on Euclid St and Chapman Ave
8) Green Out	Home Depot (3) 12032 Gilbert St 9680 Chapman Ave
9) Hope Services	Ralph's on Euclid St and Chapman Ave (5) Rite Aid on Lampson Ave and Valley View St Vons on Chapman Ave and Valley View St (2 bins) Home Depot
10) Plant Aid	Pearl St and Nelson St (1)
11) USAGAIN	76 Station on Lampson Ave and Knott St (1)
12) National Veterans Foundation	6962 Chapman Ave (4) 8990 Chapman Ave 13031 Magnolia St (Mobil Gas) 9891 Garden Grove Blvd
13) 7 <sup>th</sup> Generation Recycling	9792 Garden Grove Blvd (1)

Survey Observed Bin Count: **40**

November 2013 Field Survey

RESOLUTION NO. 5817-14

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE RECOMMENDING THAT THE CITY COUNCIL APPROVE AMENDMENT NO. A-007-2014, AN AMENDMENT TO TITLE 9 OF THE GARDEN GROVE MUNICIPAL CODE TO ADD CHAPTER 9.50, DONATION COLLECTION BINS, TO EXPRESSLY PROHIBIT THE OPERATION OF DONATION COLLECTION BINS LOCATED OUTSIDE OF A BUILDING IN ALL ZONING, SPECIFIC PLAN, AND PLANNED UNIT DEVELOPMENT DISTRICTS IN THE CITY AND TO REQUIRE THE REMOVAL OF EXISTING DONATION COLLECTION BINS.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in a regular session assembled on April 17, 2014, hereby recommends approval of Amendment No. A-007-2014.

BE IT FURTHER RESOLVED in the matter of Amendment No. A-007-2014 the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by the City of Garden Grove.
2. The City of Garden Grove proposes to amend Title 9 of the Garden Grove Municipal Code to add Chapter 9.50, Donation Collection Bins, as shown in Exhibit "A" hereto. The proposed amendment would expressly prohibit the operation of donation collection bins located outside of a building in all zoning, specific plan, or planned unit development districts throughout the City and to require the removal of existing donation collection bins.
3. The Community Development Department has determined that the proposed Code Amendment is not subject to the California Environmental Quality Act ("CEQA"; Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
4. Report submitted by City Staff was reviewed.
5. Pursuant to a legal notice, a public hearing was held on April 17, 2014, and all interested persons were given an opportunity to be heard.
6. The Planning Commission gave due and careful consideration to the matter at its meeting on April 17, 2014, and

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Planning Commission, as required under Municipal Code Sections 9.32.030 are as follows:

FACTS:

The City of Garden Grove has recently experienced a proliferation of nonpermitted donation collection bins throughout the City that have resulted in visual blight and property maintenance problems.

A donation collection bin is a land use that is not currently expressly permitted pursuant to Title 9 of the Municipal Code and, thus, is a prohibited use within all zoning, specific plan, and planned unit development districts in the City. City staff has been consistent with informing the public that donation collection bins are not permitted in the City as the use is not listed as a permitted use in the zoning code. Nevertheless, a number of donation collection bins have been illegally installed throughout the City that have resulted in noticeable property maintenance impacts. These property maintenance impacts include illegal dumping and trash accumulation outside of the donation collection bins; scavenging of the bins or the items left on the outside of the bins; loitering by transients; donation bins placed within landscape planters, required setback areas, and required parking spaces; graffiti on the bins; and clustering of multiple donation collection bins in shopping centers or on the same property.

FINDINGS AND REASONS:

1. The Amendment is internally consistent with the goals, objectives and elements of the City's general plan.

The proposed amendment is consistent with the goals, objectives, and elements of the City's General Plan. Goal LU-4, Land Use Compatibility, of the General Plan seeks to develop uses that are compatible with one another. The operation of a donation collection bin outside of a building is a type of land use that is incompatible with other permitted uses due to the property maintenance impacts associated with donation collection bins. The City's Code Enforcement Division estimates that since January 2013, they have responded to 35 complaints about trash and debris accumulated outside of the donation collection bins. Donation collection bins encourage scavenging of the bins or of the items left on the outside of the bins; loitering by transients; graffiti on the exterior of the bins, and loss of required parking and landscaping due to placement of the bins within these areas. As a result of these negative impacts, the donation collection bins constitute an incompatible use that can ultimately result in on-going property maintenance complaints. Accordingly, the proposed amendment, which will expressly prohibit the operation of donation collection bins throughout the City and require the removal of existing donation collection bins, is consistent with the General Plan.

2. The Amendment is deemed to promote the public interest, health, safety and welfare.



A donation collection bin is a land use that is not expressly permitted pursuant to Title 9 of the Municipal Code and, thus, is a prohibited use within all zoning, specific plan, and planned unit development districts. Nevertheless, this has not deterred operators from illegally placing donation collection bins throughout the City. Staff has documented that donation collection bins have resulted in negative property maintenance impacts to the community. These impacts include dumping and the accumulation of trash and debris adjacent to the donation collection bins; loitering by transients; graffiti on the outside of the bins, and loss of required parking spaces and landscaping due to the placement of the bins within these areas. Furthermore, the City's Code Enforcement Division has received 35 complaints since January 2013 relating to the dumping and trash outside of the donation collection bins. By expressly prohibiting the operation of donation collection bins outside of a building and requiring the removal of existing donation collection bins, the proposed amendment will promote the public interest, health, safety, and welfare by eliminating the visual blight and property maintenance impacts associated with donation collection bins; eliminating hazards to pedestrians and motorists brought about by the placement of donation collection bins in the public right-of-way and required setbacks; preserving and improving the appearance of the City as a place in which to live and work; safeguarding and enhancing property values; and protecting public and private investment in buildings and open spaces.

INCORPORATION OF FACTS AND FINDINGS SET FORTH IN STAFF REPORT:

In addition to the foregoing the Planning Commission incorporates herein by this reference, the facts and reasons set forth in the staff report.

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

1. Amendment No. A-007-2014 possesses characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.32.030.D.1 (Code Amendment).
2. Accordingly, the Planning Commission recommends approval of Amendment No. A-007-2014 to add new Chapter 9.50 to the Title 9 of the Garden Grove Municipal Code as generally set forth in Exhibit "A" to this Resolution:

Adopted this 17th day of April, 2014

ATTEST:

/s/ GARY LAZENBY  
CHAIR

/s/ JUDITH MOORE  
SECRETARY

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS:  
CITY OF GARDEN GROVE )

I, JUDITH MOORE, Secretary of the City of Garden Grove Planning Commission, do hereby certify that the foregoing Resolution was duly adopted by the Planning Commission of the City of Garden Grove, California, at a meeting held on April 17, 2014, by the following vote:

AYES: COMMISSIONERS: (6) ALEJANDRO, BRIETIGAM, LAZENBY,  
MARGOLIN, SILVA, ZAMORA  
NOES: COMMISSIONERS: (0) NONE  
ABSENT: COMMISSIONERS: (1) NGUYEN

/s/ JUDITH MOORE  
SECRETARY

PLEASE NOTE: Any request for court review of this decision must be filed within 90 days of the date this decision was final (See Code of Civil Procedure Section 1094.6).

A decision becomes final if it is not timely appealed to the City Council. Appeal deadline is May 8, 2014.

## **EXHIBIT "A"**

### **CHAPTER 9.50**

#### **DONATION COLLECTION BINS**

##### **9.50.010 Definitions.**

##### **9.50.020 Donation Collection Bins Prohibited.**

##### **9.50.030 Removal of Existing Donation Collection Bins.**

##### **9.50.040 Declaration of Public Nuisance; Penalties.**

##### **9.50.010 Definitions.**

As used in this Chapter, the following terms, words and phrases have the meanings as defined in this section, unless another meaning is clearly apparent from the context:

- A. "Donation collection bin" means any attended or unattended canister, box, receptacle, bin, container, trailer, accessory structure or similar facility located outside of a building, which is used for the primary purpose of receiving or storing donated items of salvageable personal property, including household goods and clothing. This term does not include bins, receptacles, recycling centers or other facilities used exclusively for the collection of refuse, recyclable material, or California Redemption Value (CRV) beverage containers in conformance with applicable state or local law.
- B. "Operate" means to place, operate, maintain, own or otherwise control a donation collection bin.
- C. "Operator" means any person who operates a donation collection bin.
- D. "Person" means that term as defined in Chapter 9.04 of this Code.

##### **9.50.020 Donation Collection Bins Prohibited.**

Subject to Section 9.50.020, no person shall operate a donation collection bin within any zoning, specific plan, or planned unit development district in the City, and no person shall allow any other person to operate a donation collection bin on property he/she/it owns, leases, manages, or controls within any zoning, specific plan, or planned unit development district in the City.

### **9.50.030 Removal of Existing Donation Collection Bins.**

Any person operating a donation collection bin, or any person allowing any other person to operate a donation collection bin on property he/she/it owns, leases, manages, or controls, within any zoning, specific plan, or planned unit development district in the City on the effective date of this Chapter shall have forty-five (45) days from the effective date of this Chapter to remove, or cause the removal of, the donation collection bin. The provisions of Chapter 9.36 of this Code pertaining to nonconforming uses and structures shall not be applicable to donation collection bins.

### **9.50.040 Declaration of Public Nuisance; Penalties.**

It shall be unlawful and is declared a public nuisance for any person to operate, maintain, allow another person to operate or maintain, or fail to remove a donation collection bin in violation of any provision of this Chapter. Any person violating any provision of this Chapter shall be subject to civil action and/or criminal prosecution pursuant to Title 1, Chapter 4 and may be issued administrative citations and be subject to administrative fines in accordance with Title 1, Chapter 22. Each day in which a violation of any provision of this Chapter is committed, continued, or permitted shall constitute a new and separate offense. In addition, the operation or maintenance of a donation collection bin in violation of this Chapter may be abated or summarily abated by the City in any manner authorized in this Code or otherwise by law for the abatement of public nuisances. Pursuant to California Government Code Sections 38773, all expenses incurred by the City in connection with any action to abate a public nuisance arising pursuant to this Chapter shall be chargeable to the persons creating, causing, committing, or maintaining said public nuisance.

MINUTE EXCERPT

GARDEN GROVE PLANNING COMMISSION

---

PUBLIC HEARING - AMENDMENT NO. A-007-2014. City of Garden Grove, Citywide.

Applicant: City of Garden Grove

Date: April 17, 2014

Request: A request to amend Title 9 of the City of Garden Grove Municipal Code to expressly designate donation collection bins located outside of an enclosed building to be a prohibited use in all zones throughout the City and to require the removal of existing donation collection bins. The project is exempt pursuant to CEQA Section 15061 (b) (3) - Review for Exemption.

Action: Public Hearing held. Speakers: Ms. Nellie Hart and Ms. Robin Marcario.

Action: Resolution No. 5817-14 adopted with amendments to Exhibit A.

Motion: Brietigam Second: Margolin

Ayes: (6) Alejandro, Brietigam, Lazenby, Margolin, Silva,  
Zamora

Noes: (0) None

Absent: (1) Nguyen



ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING AMENDMENT NO. A-007-2014 OF THE GARDEN GROVE MUNICIPAL CODE TO ADD CHAPTER 9.50 TO EXPRESSLY PROHIBIT OUTDOOR DONATION COLLECTION BINS THROUGHOUT THE CITY AND TO REQUIRE THE REMOVAL OF ALL EXISTING OUTDOOR DONATION COLLECTION BINS

**City Attorney Summary**

***This Ordinance expressly prohibits the placement, operation, or maintenance of donation collection bins located outside of a building in all zoning, specific plan, or planned unit development districts throughout the City. This Ordinance would also require the removal of existing donation collection bins within forty-five (45) days from the effective date of this Ordinance. This Ordinance also makes it unlawful and declares it to be a public nuisance for any person to operate, maintain, allow another person to operate or maintain, or fail to remove a donation collection bin in violation of any provision of this Ordinance.***

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE FINDS AND DETERMINES AS FOLLOWS:

WHEREAS, the proposed ordinance was initiated by the City of Garden Grove, to Title 9 of the Municipal Code, to adopt Chapter 9.50 to expressly prohibit the operation of donation collection bins located outside of a building in all zoning, specific plan, or planned unit development districts throughout the City and to require the removal of existing donation collection bins;

WHEREAS, a donation collection bin, as defined in this Ordinance, is a land use that is not currently expressly permitted pursuant to Title 9 of the Garden Grove Municipal Code and, thus, is a prohibited use within all zoning, specific plan, and planned unit development districts;

WHEREAS, notwithstanding that a donation collection bin is not a permitted land use, there has been a proliferation of donation bins throughout the City;

WHEREAS, the proliferation of donation collection bins in the City has resulted in significant property maintenance impacts, including illegal dumping and trash accumulation outside of the donation collection bins; scavenging of the bins or the items left on the outside of the bins; loitering by transients; the placement of donation bins within landscape planters, required setback areas, and required parking spaces; graffiti on the bins; and clustering of multiple donation collection bins in shopping centers or on the same property;

WHEREAS, by expressly prohibiting the operation of donation collection bins outside of a building and requiring the removal of existing donation collection bins in accordance with this Ordinance, the City desires to promote the public interest,

health, safety, and welfare by eliminating the visual blight and property maintenance impacts associated with donation collection bins; eliminating hazards to pedestrians and motorists brought about by the placement of donation collection bins in the public right of way and required setbacks; preserving and improving the appearance of the City as a place in which to live and work; safeguarding and enhancing property values; and protecting public and private investment in buildings and open spaces;

WHEREAS, this Ordinance is not intended to, and shall not be construed to, preempt or make inapplicable any provision of state or federal law;

WHEREAS, following a public hearing held on April 17, 2014, the Planning Commission adopted Resolution No. 5817-14 recommending approval of Amendment No. A-007-2014;

WHEREAS, pursuant to legal notice, a Public Hearing regarding the proposed adoption of this Ordinance was held by the City Council on May 27, 2014, and all interested parties were given an opportunity to be heard;

WHEREAS, the City Council gave due and careful consideration to the matter; and

WHEREAS, the City Council hereby makes the following findings regarding Amendment No. A-007-2014:

A. The proposed ordinance internally is consistent with the goals, objectives, and elements of the City's General Plan. Goal LU-4, Land Use Compatibility, of the General Plan seeks to develop uses that are compatible with one another. The operation of a donation collection bin outside of a building is a type of land use that is incompatible with other permitted uses due to the property maintenance impacts associated with donation collection bins. The City's Code Enforcement Division estimates that since January 2013, they have responded to 35 complaints about trash and debris accumulated outside of the donation collection bins. Donation collection bins encourage scavenging of the bins or of the items left on the outside of the bins; loitering by transients; graffiti on the exterior of the bins, and loss of required parking and landscaping due to placement of the bins within these areas. As a result of these negative impacts, the donation collection bins constitute an incompatible use that can ultimately result in on-going property maintenance complaints. Accordingly, the proposed ordinance, which will expressly prohibit the operation of donation collection bins throughout the City and require the removal of existing donation collection bins, is consistent with the General Plan.

B. A donation collection bin is a land use that is not expressly permitted pursuant to Title 9 of the Municipal Code and, thus, is a prohibited use within all zoning, specific plan, and planned unit development districts. Nevertheless, this has not deterred operators from illegally placing donation collection bins throughout



the City. Staff has documented that donation collection bins have resulted in negative property maintenance impacts to the community. These impacts include dumping and the accumulation of trash and debris adjacent to the donation collection bins; loitering by transients; graffiti on the outside of the bins, and loss of required parking spaces and landscaping due to the placement of the bins within these areas. Furthermore, the City's Code Enforcement Division has received 35 complaints since January 2013 relating to the dumping and trash outside of the donation collection bins. By expressly prohibiting the operation of donation collection bins outside of a building and requiring the removal of existing donation collection bins, the proposed ordinance will promote the public interest, health, safety, and welfare by eliminating the visual blight and property maintenance impacts associated with donation collection bins; eliminating hazards to pedestrians and motorists brought about by the placement of donation collection bins in the public right-of-way and required setbacks; preserving and improving the appearance of the City as a place in which to live and work; safeguarding and enhancing property values; and protecting public and private investment in buildings and open spaces.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1: The above recitals are true and correct and hereby incorporated herein by reference.

SECTION 2: The City Council finds that the proposed Ordinance is not subject to the California Environmental Quality Act ("CEQA"; Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. More specifically, the proposed Ordinance would eliminate a certain type of use in the City, and would not expand the permitted uses in the City.

SECTION 3: Amendment No. A-007-2014 is hereby approved, pursuant to the findings set forth herein and the facts and reasons stated in Planning Commission Resolution No. 5817-14, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference with the same force and effect as if set forth in full.

SECTION 4: Chapter 9.50 is hereby added to the Title 9 of the Municipal Code to read as follows:

## **CHAPTER 9.50**

### **DONATION COLLECTION BINS**

#### **9.50.010 Definitions.**

#### **9.50.020 Donation Collection Bins Prohibited.**

#### **9.50.030 Removal of Existing Donation Collection Bins.**

#### **9.50.040 Declaration of Public Nuisance; Penalties.**

#### **9.50.010 Definitions.**

As used in this Chapter, the following terms, words and phrases have the meanings as defined in this section, unless another meaning is clearly apparent from the context:

- A. "Donation collection bin" means any attended or unattended canister, box, receptacle, bin, container, trailer, accessory structure or similar facility located outside of a building, which is used for the primary purpose of receiving or storing donated items of salvageable personal property, including household goods and clothing. This term does not include bins, receptacles, recycling centers or other facilities used exclusively for the collection of refuse, recyclable material, or California Redemption Value (CRV) beverage containers in conformance with applicable state or local law.
- B. "Operate" means to place, operate, maintain, own or otherwise control a donation collection bin.
- C. "Operator" means any person who operates a donation collection bin.
- D. "Person" means that term as defined in Chapter 9.04 of this Code.

#### **9.50.020 Donation Collection Bins Prohibited.**

Subject to Section 9.50.020, no person shall operate a donation collection bin within any zoning, specific plan, or planned unit development district in the City, and no person shall allow any other person to operate a donation collection bin on property he/she/it owns, leases, manages, or controls within any zoning, specific plan, or planned unit development district in the City.

#### **9.50.030 Removal of Existing Donation Collection Bins.**

Any person operating a donation collection bin, or any person allowing any other person to operate a donation collection bin on property he/she/it owns, leases, manages, or controls, within any zoning, specific plan, or planned unit development

district in the City on the effective date of this Chapter shall have forty-five (45) days from the effective date of this Chapter to remove, or cause the removal of, the donation collection bin. The provisions of Chapter 9.36 of this Code pertaining to nonconforming uses and structures shall not be applicable to donation collection bins.

**9.50.040 Declaration of Public Nuisance; Penalties.**

It shall be unlawful and is declared a public nuisance for any person to operate, maintain, allow another person to operate or maintain, or fail to remove a donation collection bin in violation of any provision of this Chapter. Any person violating any provision of this Chapter shall be subject to civil action and/or criminal prosecution pursuant to Title 1, Chapter 4 and may be issued administrative citations and be subject to administrative fines in accordance with Title 1, Chapter 22. Each day in which a violation of any provision of this Chapter is committed, continued, or permitted shall constitute a new and separate offense. In addition, the operation or maintenance of a donation collection bin in violation of this Chapter may be abated or summarily abated by the City in any manner authorized in this Code or otherwise by law for the abatement of public nuisances. Pursuant to California Government Code Sections 38773, all expenses incurred by the City in connection with any action to abate a public nuisance arising pursuant to this Chapter shall be chargeable to the persons creating, causing, committing, or maintaining said public nuisance.

SECTION 5: If any section, subsection, subdivision, sentence, clause, phrase, word, 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, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 6: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.