

ORDINANCE NO. 2840

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.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the ____ day of _____.

ATTEST:

MAYOR

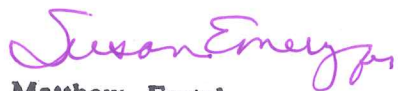
CITY CLERK

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

I, KATHLEEN BAILOR, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced for first reading and passed to second reading on May 27, 2014, with a vote as follows:

AYES:	COUNCIL MEMBERS:	(4)	BEARD, JONES, NGUYEN, BROADWATER
NOES:	COUNCIL MEMBERS:	(0)	NONE
ABSENT:	COUNCIL MEMBERS:	(1)	PHAN

Approved for Agenda Listing



Matthew Fertal
City Manager