

SENT TO COUNCIL:

Distributed on:  
FEB 21 2012  
City Manager's Office




# Memorandum

**TO: HONORABLE MAYOR AND  
CITY COUNCIL**

**FROM: Joseph Horwedel**

**SUBJECT: DONATION COLLECTION BOXES    DATE: February 16, 2012**

Approved  Date 2/17/12

## INFORMATION

At the January 25, 2012, Rules Committee meeting, the Committee requested that information be provided to the City Council regarding the City's processes for review and permitting of Donation Collection Boxes or Bins (referred to as Small Collection Facilities within the City's Zoning Ordinance) (see original request, attached).

Per the City's Zoning Ordinance (Title 20), the placement of Small Collection Facilities may be permitted on private property through an Administrative Permit in the CO-Commercial Office, CP-Commercial Pedestrian, CN-Commercial Neighborhood, CG-Commercial General, LI-Light Industrial, and/or HI-Heavy Industrial zoning districts and in the PD (Planned Development) zoning district unless specifically not allowed by the pertaining Planned Development Zoning. The Zoning Ordinance establishes specific criteria for the placement and operation of Small Collection Facilities (see attached).

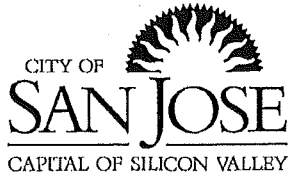
Administrative Permits are issued by staff in the City's Development Services Permit Center without a public hearing. In the previous five-year period (CY 2007-2011) the City issued 29 single-site Administrative Permits as follows:

2007	2 Permits
2008	0 Permits
2009	5 Permits
2010	15 Permits
2011	7 Permits

/s/  
JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

Should you have further questions, please contact Andrew Crabtree at (408) 535-7893.

Attachments:  
Rules memorandum  
Zoning Ordinance (Title 20) Excerpts



## Memorandum

**TO:** RULES COMMITTEE

**FROM:** Vice Mayor Madison Nguyen  
Councilmember Donald Rocha  
Councilmember Nancy Pyle

**SUBJECT:** Regulation of Unattended Donation  
Boxes

**DATE:** January 19, 2012

Approved

**RECOMMENDATION:**

1. Direct Staff to provide an informational memo detailing the City's current ordinance and regulations relating to unattended donation boxes and the number of administrative permits on file.
2. Direct Staff to place the item on the City Council/Senior Staff Budget Priority Setting Session in February 2012 to be added to staff's significant ordinances and referrals Workplan.

**DISCUSSION:**

The City of San Jose supports charities and their efforts to ensure that all people have adequate resources through donations and other means. However, in recent years, there appears to have been a proliferation of unattended donation boxes in the City of San Jose, often in unlawful locations, without the approval of the City or the 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, especially near residential areas, the unattended donation boxes can become nuisances by attracting graffiti, trash, toxic materials, and rodents (see attached pictures taken from boxes within the City). 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. Given the common perception that donated items are for charitable causes, unattended donation boxes should be regulated in order to provide the public with information about how their donations will be used, and to ensure the boxes do not become a nuisance.

Currently, it is our understanding that the City's existing ordinances (e.g., 20.80.1100) broadly requires such donation boxes to obtain an administrative permit. Other jurisdictions, such as, the

City of Sacramento, are more restrictive and establish specific procedures and guidelines tailored for the regulation of unattended boxes including:

- requiring written proof sufficient to establish that the operator who owns the unattended donation box is qualified to solicit donations of personal property per California Welfare and Institutions Code section 148.3, which requires a demonstration of tax exempt status;
- requiring unattended boxes to be serviced and emptied as needed but at least every thirty (30) days;
- requiring that the unattended boxes be no more than 82" high, 56" wide and 49" deep and contain in two (2) inch type visible from the front of each unattended box the name, address, email, and phone numbers of both the property owner permittee and the operator; and
- requiring the area surrounding the unattended boxes to be free of any junk, debris, or other materials including holding responsible the owner for the cost to abate any violations.

As in other jurisdictions, the costs incurred by the City will be recovered by enforcement actions and/or permitting fees.

Placing the item on the City Council/Senior Staff Budget Priority Setting Session in February 2012 would give Staff the opportunity to address the issue and provide input to council as to potential amendments to the current city ordinance.

# Clothes Shoes

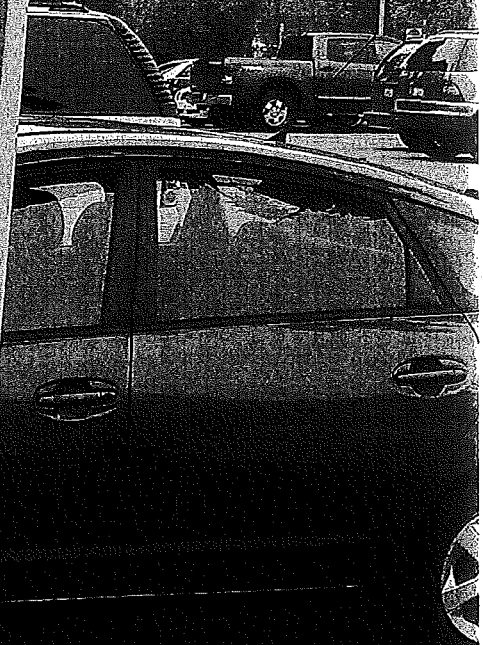


**Our Mission**  
"Recycle Clothing, Shoes & Household Textiles"

<b>Help those in Need</b> The clothing and shoes you donate are given to people in need. They are sold at a discount to help them get on their feet.	<b>Save the Planet</b> Recycling clothing and shoes saves energy and reduces the amount of waste that ends up in landfills.	<b>Be a Good Samaritan</b> Recycling clothing and shoes is a simple way to help the environment and make a difference in the lives of others.
---	--	--

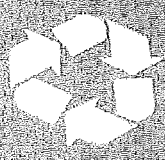
**7g GENERATION Recycling**

"Protecting the Planet for Future Generations"  
[www.7gRecycling.com](http://www.7gRecycling.com)  
Tel: 1-866-606-5192 Email: [info@7gRecycling.com](mailto:info@7gRecycling.com)





Recycle



Clothes

Clothes



Recycling information sheet

12

## COLLECTION FACILITY, ZONING CODE EXCERPTS

### 20.200.200 Collection facility.

A "collection facility" is a facility for the deposit or drop-off of recyclable materials. Such a facility does not do processing except limited baling, batching, and sorting of materials other than glass. Collection facilities include the following:

1. A "small collection facility" is a facility that occupies an area of no more than five hundred square feet and that accepts by donation, redemption, or purchase beverage containers with California redemption value, metals, paper, and other recyclable materials, as defined in this chapter, except for motor oil and other hazardous materials. Acceptable recyclable materials are delivered to the site by the general public; and, such a facility does not accept materials from commercial vehicles. A small collection facility performs minimal preparation of recyclable material prior to transfer to a processing facility. Preparation may include baling, can flattening, or like methods use to reduce the mass of recyclables to facilitate efficient transport of materials.

A small collection facility may include mobile recycling units, unattended containers, boxes, cans, kiosk-type units, bulk reverse vending machines, roll-off bins, and/or other containers or receptacles. Such a facility also may include a properly licensed automobile, truck, trailer, or van.

2. A "large collection facility" has all the characteristics of a small collection facility but may occupy an area greater than five hundred square feet.

### 20.80.1130 Criteria and standards.

A. Those recycling facilities permitted with an administrative permit shall meet all of the applicable criteria and standards listed below. Those recycling facilities permitted with a site development permit, special use permit, or conditional use permit shall meet the applicable criteria and standards listed below, provided that the director, planning commission, or city council, as the case may be, may relax such standards or impose stricter standards as an exercise of discretion, upon a finding that such modifications are reasonably necessary in order to implement the general intent of this part and the purposes of this title. The criteria and standards for recycling facilities are as follows:

#### C. Small collection facilities.

1. The facility shall be established in conjunction with a fixed base host business which is in compliance with the zoning, building and fire codes of the City of San José;
2. All containers shall be constructed and maintained with durable, waterproof and rustproof material and shall be covered;
3. All containers shall be clearly marked to identify the type of recyclable or recyclables which may be deposited;

4. The facility shall be clearly marked to identify the name and telephone number of the facility operator;
5. The site shall be swept and maintained in a dust-free, litter-free condition on a daily basis;
6. The facility shall be placed on a site so as not to obstruct on-site or off-site pedestrian or vehicular circulation;
7. The facility shall be set back at least ten (10) feet from any street line;
8. The facility shall not impair the landscaping required for any concurrent use by this Title or any permit issued pursuant thereto;
9. The noise level shall not at any time exceed 55 dBA as measured at the property line of residentially zoned or occupied property; otherwise shall not exceed 70 dBA;
10. The facility shall not include power-driven sorting and/or consolidation equipment, such as crushers or balers; bulk reverse vending machines may be permitted;
11. Signs may be provided as follows:
  - a. Unattended container not over 50 cubic feet in bulk and not over eight (8) feet in height may have a maximum sign area of four (4) square feet; and
  - b. Other containers or units may have one flat-mounted sign per side of container or wall of enclosure of twenty percent of the surface of the side or six (6) square feet, whichever is greater;
12. The minimum average illumination of the site shall be 1/2 foot-candle;
13. Use of the facility for collection of solid waste or hazardous waste, as defined in Sections 9.10.280 and 9.10.150 of Title 9, is prohibited;
14. The facility shall be removed from site on the day following permit expiration;
15. Attended facilities shall be in operation only during the hours of operation of the host business, and
16. The facility shall conform to all development regulations for the zoning district in which it is located; for an attended facility, a minimum of one (1) parking space per attendant shall be provided.
17. The facility shall be located such that any required parking for the host business is not displaced.

**20.80.1150 Site clean-up required.**

The operator and host business of any recycling collection, transfer, or processing facility shall, on a daily basis, remove any and all recyclable materials or refuse which has accumulated or is deposited outside the container, bins, or enclosures intended as receptacles for such materials. Upon the failure to remove said materials, the city may deem them to be abandoned and may enter the site to remove the materials