



Legislation Text

File #: 21-2021, Version: 1

TO: Mayor and Members of City Council

THRU: Telly C. Whitfield, Ph.D. - Assistant City Manager
Dr. Gerald Newton, AICP - Development Services Director

FROM: Taurus Freeman, MPA - Planning & Zoning Division Manager

DATE: June 7, 2021

RE:
TA21-005: Text Amendments to Article 30 of the Unified Development Ordinance regarding Donation Boxes.

COUNCIL DISTRICT(S):
All

Relationship To Strategic Plan:

Strategic Operating Plan FY 2021
Goals 2026

Goal 3: City Investment in Today and Tomorrow

- Objective 3.4 - Revitalize neighborhood with effective code enforcement and violation abatement.

Executive Summary:

Development Services staff provided research on donation boxes sporadically placed throughout the city on September 8, 2020 at the City Council Work Session.

Per the Unified Development Ordinance (UDO) definition, a recycling drop-off center is *“a small collection facility where recyclable materials are purchased or accepted from the public. Typical uses include neighborhood recycling stations and thrift store collection trucks.”*

Recycling Drop-Off Centers a.k.a. “donation boxes” are allowed by land use in Office and Institutional (OI), Neighborhood Commercial (NC), Limited Commercial (LC), Community Commercial (CC), Mixed-Use (MU), Downtown (DT), Limited Industrial (LI), and Heavy Industrial (HI) zoning districts. A Special Use Permit is required in Single-Family 6 (SF-6), Mixed Residential 5 (MR-5), and Manufactured Home (MH) district, according to Table 30-4.A.2. Yet, there is no permitting process under the current City Code.

The following additional requirements must be met for a recycling drop-off center:

Section 30-4.C.5.f.5. Recycling Drop-Off Centers

A recycling drop-off center shall comply with the following standards:

- a. The collection bin shall be located in or adjacent to an off-street parking area, and shall not occupy more than five percent of the total on-site parking spaces. The mobility of the collection bin shall be retained.*
- b. The bin and adjacent area shall be maintained in good appearance and free from trash.*
- c. There shall be no collection or storage of hazardous or biodegradable wastes on the site.*

On May 18, 2021, the Planning Commission heard the request for text amendments to Article 30 of the UDO. They unanimously recommended approval of the combination of options 2 and 3 (listed below) by a vote of 5-0. Staff is requesting City Council provide policy direction on the potential text amendments to the UDO regarding donation boxes.

Background:

In 2005, the City researched screening the donation boxes or requiring them to be located in the rear of the property. After discussion, it was determined that those actions would render the donation boxes inaccessible, create additional trash, and not feasible.

Over the past several months, City Council has discussed the abatement of donation or “drop boxes” within the city. On numerous occasions, the boxes have become a nuisance due to “dumpster divers” leaving the donated items over sites.

Council is interested in addressing the aesthetic appearance of discarded debris around the perimeter of the boxes. This typically happens because of the following:

- The donation box is at capacity causing items to be dropped off outside the designated box;
- The boxes are not secure and easily accessible to the public;
- Items are pulled out of the box and not adequately replaced into the bin; and/or
- Donation boxes are not utilized for the intended recycling use.

In such cases, Code Enforcement will send a Notice of Violation to the property owner for illegal dumping, per Section 22-16, as show below:

Section 22-16. Illegal Dumping; Owners and Occupants Required to Keep Premises Free from Public Health and Safety Nuisances.

- a. Every person owning or occupying any premises in the city shall keep such premises free from the following enumerated and described conditions which are hereby found, deemed and declared to constitute a hazard or detriment to the health and safety of the inhabitants of the city:
 1. Any condition which constitutes a breeding ground or harbor for rats, mosquitoes, harmful insects or other pests;
 2. Open wells and open basements or structures where construction of such structure has been abandoned or the structure has been razed by fire, demolition or other casualty;
 3. An open place of concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags, or any other combustible material or object of a like nature;
 4. An open place of collection of garbage, food waste, animal waste, or any other rotten or

putrescible matter of any kind which is subject to decay or shall otherwise be a menace to health or cleanliness;

5. Hides, dried or green, provided such hides may be kept when thoroughly cured and odorless; or
6. Any furniture, appliances or other metal products of any kind or nature openly kept which have jagged edges of metal or glass where such furniture, appliances or other metal products poses a source of danger for children through entrapment in areas of confinement that cannot be opened from the inside.

This is the same process used when a dumpster becomes unsightly. The processing time to notify the property owner, and have it cleaned, has been challenging, and “success” dramatically relies on the business/property owner to keep the area and container clean more than the regulatory process of abatement.

Issues/Analysis:

In Fayetteville, recycling drop-off centers or donation boxes are automatically allowed in commercial and industrial zoning districts with no zoning permit. Also, they are only permitted with a Special Use Permit in some of the residential zones. Currently, other municipalities treat donation boxes similarly as here in Fayetteville.

Winston-Salem allows boxes as an accessory use. If the area around the boxes becomes cluttered with donated items, the owner of the property and the owner of the box receive a Notice of Violation. After two notices within 12-months, the donation box is no longer permitted on that property for two years.

Greensboro allows recycling collection points in all districts as an incidental use. Still, per the definition, the collection point would be found in a shopping center parking lot or a public/quasi-public parking area such as a church or school.

There are several approaches that can be taken to address the aesthetic appearance of discarded debris around the perimeter of the boxes. All of the approaches or policy decisions have associated community impacts to consider regarding this item:

- *Boxes are not allowed in the City* (as there are many other options to donate throughout the City).
 - This action will affect all faith-based, non-profit, and for-profit organizations, i.e. Salvation Army, Habitat for Humanity, Goodwill, churches, private businesses, etc.
- *Boxes are allowed, but would not be permitted if the site is consistently kept unclean.*
 - Increased code enforcement action allows the City to remove donation boxes if two violations occur within a six (6) month time period. Then, the boxes will have to be removed for two-year time period. However, maintaining a database would be cumbersome.
- *Boxes from third-party vendors would be prohibited from operating within the city.*
 - Companies that operate the boxes are not always faith-based or non-profits. Some are regular for-profit organizations, and few are locally managed. Fayetteville has

numerous agencies that provide these services.

- The existing bins would be removed in an allotted timeframe after the adoption of this amendment.

Budget Impact:

NA

Options:

Staff is requesting City Council provide policy direction on the potential text amendments to the UDO regarding Recycling Drop-Off Boxes.

- 1) Recommend to prohibit Recycling Drop-Off Box in all applicable zoning districts;
- 2) Recommend to establish a new city standard (similar to the City of Winston-Salem) where they are allowed but then no longer permitted when boxes are not kept in good, clean order;
- 3) Recommend to prohibit third-party vendors from operating within the City and all to be removed after a designated time;
- 4) Recommend a combination of options 2 and 3 to establish a new city standard (similar to the City of Winston-Salem) where they are allowed but then no longer permitted when boxes are not kept in good, clean order and prohibit third-party vendors from operating within the city and all to be removed after a designated time;
- 5) Recommend remanding of the proposed text amendments to Staff for further consideration; or
- 6) Take no action.

Recommended Action:

N/A

Attachments:

- Ordinance Option Summary - PC Revised
- Peer Cities Ordinances