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OFFICE OF THE CITY CLERK
OAKLAND

2015 OCT -8 PM 4:45

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Rachel Flynn
Director, Planning and
Building Department

SUBJECT: Supplemental Report Regarding
Unattended Donation/Collection Box
Regulations

DATE: October 7, 2015

City Administrator Approval

Date:

10/8/15

RECOMMENDATION

Staff Recommends That The City Council Adopt An Ordinance 1) Establishing Oakland Municipal Code (OMC) Chapter 5.19 "Unattended Donation/Collection Boxes (UDCBs)" Regulating UDCBs; 2) Amending The Master Fee Schedule (Ordinance No. 13171 C.M.S., As Amended) To Establish Fees Related To Applications, Inspection And Appeals For UDCBs; And 3) Amending OMC Sections 1.12.020a And 1.12.060 And Other OMC Provisions To Establish Administrative Citations And Make Other Conforming Changes Relating To UDCBs.

SUMMARY

On October 6, 2015, the City Council unanimously introduced amendments to the Oakland Municipal Code to create new requirements for Unattended Donation/Collection Boxes with the following two minor changes, which are reflected in the accompanying legislation:

- 1) In Subsection 17.080(C) of Exhibit A of the ordinance, allow the Planning Division 60 days to make a decision regarding an application to renew a UDCB Permit, instead of proposed 30 days. This is considered a correction of a clerical error because staff intended to increase the allowed decision time after the proposal was changed to require an inspection with each renewal application.
- 2) Add following language to the ordinance recitals:

"WHEREAS, The City Council recommends that operators of Unattended Donation/Collection Boxes maintain their bins on a daily basis and regularly monitor their bins in order to deter blight and to encourage operators to proactively manage their property;"

This new text has been placed at the end of the list of "WHEREAS" statements in the ordinance.

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ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the City Council approve final passage of the ordinance.

For questions regarding this report, please contact Neil Gray, Planner III, at (510) 238-3878.

Respectfully submitted,



RACHEL FLYNN
Director, Planning and Building Department

Reviewed by:
Scott Miller, Zoning Manager

Prepared by:
Neil Gray, Planner III
Strategic Planning Division

Item: _____
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October 20, 2015

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OAKLAND

REVISED @ COUNCIL 10/6/15

APPROVED AS TO FORM AND LEGALITY

Mark F. Wald

City Attorney

2015 OCT -8 PM 4:45
INTRODUCED BY COUNCILMEMBER _____

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE 1) ESTABLISHING OAKLAND MUNICIPAL CODE (OMC) CHAPTER 5.19 "UNATTENDED DONATION/COLLECTION BOXES (UDCBs)" REGULATING UDCBS; 2) AMENDING THE MASTER FEE SCHEDULE (ORDINANCE NO. 13171 C.M.S., AS AMENDED) TO ESTABLISH FEES RELATED TO APPLICATIONS, INSPECTION AND APPEALS FOR UDCBS; AND 3) AMENDING OMC SECTIONS 1.12.020A AND 1.12.060 AND OTHER OMC PROVISIONS TO ESTABLISH ADMINISTRATIVE CITATIONS AND MAKE OTHER CONFORMING CHANGES RELATING TO UDCBS.

WHEREAS, the City of Oakland has an overriding interest in planning and regulating the use of property within the City. Implicit in any plan or regulation is the City's interest in maintaining the quality of urban life and the character of the City's neighborhoods; and

WHEREAS, blighted areas can quickly deteriorate, with terrible consequences to social, environmental and economic values; and

WHEREAS, it is the City's intent to limit nuisance-related and blighted conditions; and

WHEREAS, the recent proliferation and concentration of portable, unattended boxes for the reverse vending of salvageable personal property including, but not limited to, clothing and books (Unattended Donation/Collection Boxes or UDCBs) has resulted in nuisance-related conditions, including, but not limited to trash, debris, illegal dumping and graffiti on and around the UDCBs; and

WHEREAS, many of the UDCBs and the areas around the UDCBs have not been properly or consistently maintained and this has resulted in blighted conditions in many areas of the City; and

WHEREAS, an updated Land Use and Transportation Element of the Oakland General Plan was adopted by the Oakland City Council in March, 1998 to guide future land use and development in the city; and

WHEREAS, the Land Use and Transportation Element defines several goals and objectives to promote the quality of the City's neighborhoods and contains specific policies regarding

reviewing potential nuisance activities (Policy N1.7) and alleviating public nuisances (Policy N1 1.4); and

WHEREAS, the continued unregulated establishment, installation, placement, construction, and/or expansion of UDCBs may result in potential conflict with some of the policies and objectives of the Land Use and Transportation Element of the General Plan; and

WHEREAS, the placement of UDCBs has proliferated in recent years and has not been expressly regulated by the City; and

WHEREAS, although UDCBs can become a public nuisance, as described above, they also provide a convenient way to reuse goods rather than place them in the waste stream; and

WHEREAS, recognizing that UDCBs must be regulated, at its April 22, 2014 meeting, the City Council adopted Ordinance No. 13225 C.M.S., an emergency ordinance that placed a 45-day moratorium on the placement of UDCBs in Oakland and directed staff to return with a permanent set of regulations directly to the full Council; and

WHEREAS, at its June 17, 2014 meeting, the City Council extended the moratorium to March 3, 2015 (via Ordinance No. 13232 C.M.S.); and

WHEREAS, prior to the UDCB moratorium UDCBs have not been expressly regulated by the City of Oakland; and

WHEREAS, as part of its efforts to develop a permanent set of regulations, staff undertook a public outreach effort since adoption of the moratorium and met with UDCB operators and citizens concerned with the nuisances associated with UDCBs and have exchanged numerous drafts of the summary of the proposed regulations and the regulations themselves; and

WHEREAS, on February 3, 2015 a duly noticed public hearing was held before the City Council to consider the proposed regulations and all interested parties were provided an ample opportunity to participate in said hearing and express their views and the Council directed Planning Staff to further explore its regulatory options and report back at a later date; and

WHEREAS, at its February 17, 2015 meeting, the City Council further extended the moratorium to December 30, 2015 (via Ordinance No. 13295 C.M.S.) to enable Planning Staff the time to conduct the necessary research and stakeholder/interested party outreach; and

WHEREAS, on October 6, 2015 a duly noticed public hearing was held before the City Council to consider the proposed regulations and all interested parties were provided an ample opportunity to participate in said hearing and express their views; and

WHEREAS, The City Council recommends that operators of Unattended Donation/Collection Boxes maintain their bins on a daily basis and regularly monitor their bins in order to deter blight and to encourage operators to proactively manage their property; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. The City Council finds and determines the forgoing recitals to be true and correct and hereby makes them a part of this Ordinance.

Section 2. The Oakland Municipal Code is hereby amended to create Chapter 15.19, which will regulate the placement, appearance, operation and maintenance of UDCBs, as detailed in *Exhibit A*, hereby incorporated by reference as fully set forth herein.

Section 3. The Master Fee Schedule (Ordinance No. 13171 C.M.S., as amended) is amended to establish new fees as detailed in *Exhibit B*, hereby incorporated by reference as fully set forth herein. Amounts collected from these fees shall be deposited and appropriated in the Planning Organization (84211) fund.

Section 4. The City Council expressly finds and determines: (a) the sole purpose of this Ordinance is to promote the public health, safety and/or welfare by reducing and/or eliminating the secondary, nuisance-related conditions that have become associated with UDCBs in a content neutral manner, based upon reasonable time, place and manner restrictions; (b) this Ordinance is **not** intended to, nor does it operate to, discriminate against any particular viewpoint, content, and/or UDCB operators/operations; (c) this Ordinance is the least restrictive means to regulate UDCBs; (d) this Ordinance is intended to, and does, function without regard to a UDCB, or UDCB Operator's charitable purpose, or lack thereof; and (e) UDCBs are deserving of regulatory treatment because UDCBs are not currently regulated in the Municipal Code as they are not considered accessory structures, they can attract dumping, graffiti, and/or blight and existing regulations for other box/container-type facilities are either not appropriate or insufficient for UDCBs.

Section 5. The following process/procedures shall be utilized to initially regulate UDCBs:

- A) UDCBs that existed prior to the adoption of the 45-day moratorium of UDCBs on April 22, 2014 (Ordinance No. 13225 CMS) and are in the zoning designations that permit UDCBs as described in this ordinance are considered "Existing" for the purpose of this ordinance.
- B) Applications to permit Existing UCDBs can only be submitted after 30 calendar days from the date of final passage/adoption of this Ordinance. Any UDCB that does not have a complete application on file with the City within 90 calendar days of the final adoption date of this ordinance will no longer be considered an existing UDCB and must be removed in accordance with Section C below.
- C) All UDCBs that are not in a zoning designation that allows UDCBs, and that have not applied for permits, shall be removed within 120 calendar days of the final adoption date of this ordinance.
- D) The following process shall be used when two or more existing UDCBs apply for permits, are within 1,000 feet of each other, and each meet all other applicable requirements. Ninety days after adoption of the ordinance, staff will compile all the

permit applications for existing UDCBs that are within 1,000 feet of one another. An email from staff will request that the operators of these UDCBs attempt to negotiate with each other and reach an agreement regarding which facilities will remain and which will be removed. For instance, if Operator A has a UDCB within 1,000 feet of a UDCB owned by Operator B, then Operator A may agree to withdraw its application at this location in return for Operator B withdrawing its application in another part of the City that is within 1,000 feet of a UDCB owned by Operator A.

UDCB operators shall notify the City in writing as soon as possible, but not later than 30 days after ordinance adoption if (a) an agreement is not reached or (b) an agreement is reached. If an agreement is reached between different operators both operators will inform the Bureau of Planning in writing and permits will be issued if the applicable criteria are met. If no agreement is reached after 30 days, staff will conduct a “draft” to determine which of the remaining UDCBs will be allowed to remain at their current locations. The order of the draft will be chosen at random using a lottery or raffle system.

- 1) Each operator will submit a list of their existing UDCBs in order of their most to least preferred sites.
 - 2) Staff will allow the most preferred UDCB site of the first operator choosing to stay at its current location.
 - 3) The next operator will be allowed to retain its first choice of sites unless it is within 1,000 feet of the UDCB chosen in Step 1. In this case, the operator will not be allowed to retain this UDCB, but will be allowed to retain the next UDCB on their preference list that is more than 1,000 feet from the UDCB chosen in Step 2.
 - 4) The next operator will be allowed to retain its first choice of sites, unless it is within 1,000 feet of the UDCB chosen either in Step 2 or 3. In this case, the operator will not be allowed to retain this UDCB, but will be allowed to retain the next UDCB on their preference list that is more than 1,000 feet from the UDCB chosen in Step 2 or 3.
 - 5) After each operator has one UDCB chosen (“Round 1”), the pattern will repeat, except the order of operators that chose in Round 1 will be reversed. In other words, if three operators, A, B, and C, chose in alphabetical order in Round 1, the order of operators choosing in the Round 2 will be C, B, A.
 - 6) This system will continue until there are no more UDCBs within 1,000 feet of one another.
- E. Applications for new UDCBs submitted between 150 – 170 days of ordinance adoption will be chosen using a “draft” system similar to that described in Section 5(D), above. Applications for new UDCBs submitted after 170 days of ordinance adoption, will not be chosen under the “draft” system described in Section 5(D), but will have to be located more than 1,000 feet from a UDCB and meet all other applicable standards.
- F. The zoning manager shall have the authority to refine/clarify any of the procedures in this Section to better implement/effectuate this ordinance.

Section 6. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

Section 7. The provisions of this Ordinance are severable. If a court of competent jurisdiction determines that a word, phrase, clause, sentence, paragraph, subsection, section, Chapter or other provision is invalid, or that the application of any part of the provision to any person or circumstance is invalid, the remaining provisions of this Ordinance that can be given effect without the invalid provision or application and the application of those provisions to other persons or circumstances are not affected by that decision. The City Council declares that the City Council would have adopted this Ordinance irrespective of the invalidity of any particular portion of this Ordinance.

Section 8. That the record before this Council relating to this Ordinance includes, without limitation, the following:

1. all final staff reports, and other final documentation and information produced by or on behalf of the City, including without limitation supporting technical studies and all related/supporting final materials, and all final notices relating to the UDCB regulations and attendant hearings;
2. all oral and written evidence received by the CED Committee and City Council during the public hearings on the UDCB regulations; and all written evidence received by the relevant City Staff before and during the public hearings on the UDCB regulations;
3. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations and Oakland Fire Code; (c) other applicable City policies and regulations; and (d) all applicable state and federal laws, rules and regulations;

Section 9. That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based, are respectively: (a) Planning and Building Department –Bureau of Planning, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California; and (b) Office of the City Clerk, One Frank H. Ogawa Plaza, 1st Floor, Oakland California.

Section 10. This Ordinance is exempt from CEQA under CEQA Guidelines Section 15061(b)(3) (general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment); CEQA Guidelines section 15183 (projects consistent with general and community plans); and/or section 15308 of the CEQA Guidelines (Actions by Regulatory Agencies for Protection of the Environment), each of which provides a separate and independent basis for CEQA compliance. The Environmental Review Officer, or designee, is directed to cause to be filed a Notice of Exemption with the appropriate agencies.

Section 11. The City Council hereby authorizes the City Administrator or designee to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors), prior to formal publication of the Amendments in the Oakland Municipal Code, as well as develop any implementing regulations, forms and/or other materials that may be necessary and which are consistent with the Ordinance and its purposes and intent.

Section 12. Pursuant to Oakland City Charter section 216, this Ordinance shall be become effective immediately upon receiving the affirmative vote of at least six members of the Council, otherwise, it shall be effective upon the seventh day after final adoption; provided, that within three days after said date of final adoption, the Mayor may file in the Office of the City Clerk written notice to the Council that he has suspended the taking effect of the ordinance.

Section 13. If a court of competent jurisdiction issues a temporary restraining order and/or a preliminary injunction prohibiting enforcement of this Ordinance, the moratorium extended by Ordinance No. 13295 C.M.S. is hereby automatically readopted and further extended until April 22, 2016, or until such time the court otherwise permits.

Section 14. This Ordinance is enacted pursuant to the City of Oakland's general police powers, Sections 106 of the Charter of the City of Oakland and Article XI of the California Constitution.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GUILLEN, KALB, KAPLAN, REID, CAMPBELL-WASHINGTON, and PRESIDENT GIBSON MCELHANEY

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

EXHIBIT A

PART 1

Chapter 5.19 is added to the O.M.C. as follows:

CHAPTER 5.19: UNATTENDED DONATION/COLLECTION BOXES

Article I – General Provisions

- 5.19.010 – Purpose.
- 5.19.020 – Conflicting Provisions.
- 5.19.030 – Violation.
- 5.19.040 – Responsibility.
- 5.19.050 – Definitions.

Article II – UDCB Permit Requirement and Process

- 5.19.060 – Permit required for UDCBs.
- 5.19.070 – Application Requirements.
- 5.19.080 – UDCB permit Expiration and Renewal.
- 5.19.090 – Requirements for the approval and renewal of a UDCB permit.
- 5.19.100 – Time Limit for Final Decision.
- 5.19.110 – Appeal and Petition Processes.

Article III – Standards and Requirements

- 5.19.120 – Location.
- 5.19.130 – Physical Attributes.
- 5.19.140 – Maintenance.
- 5.19.150 – Liability Insurance.
- 5.19.160 – AB 939 Reporting.

Article IV – Code Enforcement

- 5.19.170 – Compliance Process.
- 5.19.180 Private Rights of Action.

Article V – Noticing Procedure for Removal

- 5.17.190 Notice Required for Removal.

Article I – General Provisions

5.19.010 – Purpose.

The purpose of these regulations is to promote the health, safety, and/or welfare of the public by providing minimum blight-related performance standards for the operation of Unattended Donation/Collection Boxes (UDCBs). This includes establishing criteria to ensure that material is not allowed to accumulate outside of the UDCBs, the UDCBs remain free of graffiti and blight, UDCBs are maintained in sanitary conditions, and residents and/or users are fully informed of those who operate the UDCBs so that they can be contacted if there are any blight-related questions or concerns.

5.19.020 – Conflicting Provisions.

Where a conflict exists between the regulations or requirements in this Chapter and applicable regulations or requirements contained in other Chapters of the OMC, the applicable regulations or requirements of this Chapter shall prevail.

5.19.030 – Violation.

Failure to comply with any of the provisions of this Chapter is declared to be prima facie evidence of an existing violation, a continuing blight and a declared public nuisance and shall be abated by the Director in accordance with the provisions of this Chapter. Any person in violation will be subject to administrative penalties, citations, civil action and/or other legal remedies.

15.19.040 – Responsibility.

The parcel owner and the UDCB operator (operator) have joint and several liability for blight-related conditions and/or compliance with this Ordinance, including fees, administrative citations, civil actions, and/or legal remedies relating to a UDCB. The parcel owner remains liable for any violation of duties imposed by this Chapter even if the parcel owner has, by agreement, imposed on the operator the duty of complying with the provisions of this Chapter.

5.19.050 – Definitions.

“Accessory Activity” means an activity that is incidental to, and customarily associated with, a specified principal activity.

“Agent” means a person who is authorized by the parcel owner to act on their behalf to be the applicant for a UDCB permit. To be considered an agent, a person must be given express written authorization from the parcel owner on a form provided by the City to apply specifically for a UDCB permit. For the purpose of this chapter, a person who is only given general authorization to act on the behalf of a parcel owner for various activities and transactions in regards to a property is not considered an agent.

“Blight” or “nuisance” means the conditions as set forth in Oakland Municipal Code Section 8.24.020.

“Building Official” means the Director of the Bureau of Building and his or her successor in title and his or her designees.

“Bureau of Building” and “Bureau of Planning” includes their successors in title, if any.

“Director” means the Director of the Bureau of Planning and Building and his or her successor in title and his or her designees.

“Donated/Collected Material” means salvageable personal property, such as clothing and books and household items that is collected for periodic transport off-site for processing or redistribution or both.

“Parcel Owner” or “Property Owner” means the owner of real property on which a UDCB is or is proposed to be placed.

"Principal Activity" means an activity that fulfills a primary function of an establishment, institution, household, or other entity.

"Principal Building" means a main building that is occupied a principal activity.

“UDCB Operator” or “Operator” means a person or entity who utilizes or maintains a UDCB to solicit donations/collections of salvageable personal property.

“UDCB Permit” means the City of Oakland’s annually renewable permit required to place, operate, maintain, or allow a UDCB within the Oakland City limits.

“Unattended Donation/Collection Boxes” or “UDCBs” means unstaffed drop-off boxes, containers, receptacles, or similar facility that accept textiles, shoes, books and/or other salvageable personal property items to be used by the operator for distribution, resale, or recycling.

“Unpermitted UDCB” means a UDCB established either without a UDCB permit or with a UDCB permit that was issued in error or on the basis of incorrect or incomplete information supplied, or in violation of any law, ordinance, rule, or regulation.

Article II – UDCB Permit Requirement and Process

5.19.060 – Permit required for UDCBs.

- A. With the exception of UDCBs described in Subsection B, below, it is unlawful to place, operate, maintain or allow a UDCB on any real property unless the parcel owner/agent and/or operator first obtain an annually renewable UDCB permit from the City. A separate UDCB permit is required for each UDCB unless a second UDCB is required for overflow items per Subsection 5.19.120 (H), in which case the permit for the first UDCB can include the second UDCB on a parcel.
- B. UDCBs that are either enclosed within a principal building or are accessory to a principal activity on a property owned or leased by the bin operator shall not require a UDCB permit. However, UDCBs that are accessory to a principal activity on a property owned or leased by the bin operator shall meet all other requirements of this Chapter except the requirements contained in 5.19.120(A), (B) and/or (C).
- C. The UDCB permit applicant shall be the UDCB operator and the permit may not be transferred, conveyed or otherwise assigned to another person or entity.
- D. Decisions regarding UDCB permit applications shall be made by the Director and the Director shall be considered the investigating official acting for the City Administrator.

5.19.070 – Application Requirements.

The UDCB permit application shall be made on a form provided by the Bureau of Planning and Zoning. All applications shall be filed with the Bureau of Planning and Zoning and shall include:

- A. A signed agreement stating that the parcel owner/agent and operator will abide by all the processes and requirements described in this Chapter and an expedited code enforcement process;
- B. A non-refundable application fee in an amount set by the Master Fee Schedule;
- C. For permit applications for existing UDCBs, a signed affidavit, under penalty of perjury, stating that the UDCB existed at the proposed location prior to the adoption of Ordinance No. 13225 C.M.S. on April 22, 2014;
- D. A signed authorization from the parcel owner/agent to allow placement of the UDCB;

- E. A signed acknowledgement of responsibility from the parcel owner/agent and the operator for joint and several liability for violations of conditions or regulations, and/or blight relating to the UDCB;
- F. Proof of general liability insurance of at least one million dollars (\$1,000,000) covering the applicant's UDCB and naming the City of Oakland as an additional insured;
- G. For nonprofit operators, evidence that the nonprofit has been registered as a non-profit organization with the City of Oakland, is recognized by the Internal Revenue Service as such, and complies with California Welfare and Institutions Code section 148 et. seq. as it may be amended;
- H. For for-profit operators, proof of an active business tax certificate with the City of Oakland;
- I. The name, address, email, website (if available) and telephone number of the UDCB operator and parcel owner, including 24-hour contact information;
- J. A vicinity map showing 1) the proposed location of the UDCB; and 2) the distance between the site and all existing UDCBs within 1,000 feet of the proposed UDCB location;
- K. Photographs of the location and adjacent properties;
- L. A site plan containing:
 - 1. Location and dimensions of all parcel boundaries;
 - 2. Location of all buildings;
 - 3. Proposed UDCB location;
 - 4. Distance between the proposed UDCB and parcel lines buildings; and
 - 5. Location and dimension of all existing and proposed driveways, garages, carports, parking spaces, maneuvering aisles, pavement and striping/markings;
- M. Elevations showing the appearance, materials, and dimensions of the UDCB, including the information required in this Chapter to be placed on the UDCB and notice sign;
- N. A description and/or diagram of the proposed locking mechanism of the UDCB;
- O. A maintenance plan (including graffiti removal, pick-up schedule, and litter and trash removal on and around the UDCB) that is sufficient to prevent/eliminate blight-related conditions; and
- P. Any other reasonable information regarding time, place, and manner of UDB operation, placement, and/or maintenance that the Director requires to evaluate the proposal consistent with the requirements of this Chapter.

5.19.080 – UDCB permit Expiration and Renewal.

- A. Unless renewed as described in Subsection B, below, each UDCB permit shall expire and become null and void annually on the anniversary of its date of issuance.
- B. A UDCB operator may apply for permit renewal by submitting to the Bureau of Planning at least one month prior to the expiration of the active UDCB permit. The UDCB permit renewal application shall be made on a form provided by the Bureau of Planning and Zoning. All applications shall be filed with the Bureau of Planning and Zoning and shall include:
 - 1. A signed agreement stating that the parcel owner/agent and operator will abide by all the processes and requirements described in this Chapter and an expedited code enforcement process;
 - 2. Photographs of the existing UDCB;
 - 3. A non-refundable application fee in an amount set by the Master Fee Schedule;
 - 4. A signed authorization from the parcel owner/agent to allow placement of the UDCB;
 - 5. A signed acknowledgement of responsibility from the parcel owner/agent and the operator for joint and several liability for violations of conditions or regulations, and/or blight relating to the UDCB;

6. Proof of general liability insurance of at least \$1,000,000 (one million dollars) covering the applicant's UDCB and naming the City of Oakland as an additional insured;
 7. For nonprofit operators, evidence that the nonprofit has been registered as a non-profit organization with the City of Oakland, is recognized by the Internal Revenue Service as such, and complies with California Welfare and Institutions Code section 148 et. seq. as it may be amended;
 8. For for-profit operators, proof of an active business tax certificate with the City of Oakland;
 9. Name and telephone number of any entity that may share or profit from items collected via the UDCB;
 10. The name, address, email, website (if available) and telephone number of the UDCB operator and parcel owner, including 24-hour contact information; and
 11. Any other reasonable information regarding time, place, and manner of UDB operation, placement, and/or maintenance that the Director requires to evaluate the proposal consistent with the requirements of this Chapter.
- C. The Director shall either approve or deny the renewal of a UDCB permit within sixty (60) days of receipt of the complete renewal application and payment of the renewal fee. The failure of the Bureau of Planning to act within this timeframe shall constitute approval of the UDCB permit renewal.
- D. The Director shall approve the renewal of a UDCB permit if he or she finds that no circumstances existed during the term of the UDCB permit or existed at any time during the review of the application for renewal that are inconsistent with any criteria required for approval of a new UDCB permit as specified in Section 5.19.090 or that would justify the revocation of the UDCB permit as specified in Section 5.19.170(G).
- E. See Section 5.19.110 for the appeal and petition processes for UDCB permit decisions, including decisions regarding renewal.

5.19.090 – Requirements for the approval and renewal of a UDCB permit.

The Director shall not issue a UDCB permit or renewal unless each of the following is true:

- A. The applicant has submitted a complete and accurate application accompanied by the applicable fee;
- B. There are no open citations, unpaid fines or unresolved violations or complaints related to any UDCB managed by the proposed operator;
- C. All existing unpermitted UDCBs that are managed by the proposed operator have been removed;
- E. Any verified blight on the subject property has been abated and any case of a complaint to the City regarding blighted conditions on the subject property has been closed; and
- F. The proposal is consistent with all the requirements of this Chapter.
- G. For renewals, the site does not have a history of being an attractive nuisance even if incidents of blight were abated. For the purpose of this subsection, "history of attractive nuisance" means three (3) verified blight complaints in the previous twelve (12) months.

5.19.100 – Time Limit for Final Decision.

The Director shall provide a written decision regarding the placement of a UDCB within sixty (60) days of the submission of a complete application for a UDCB permit.

5.19.110 – Appeal and Petition Processes.

- A. Within ten (10) calendar days after the date of a decision by the Director on an application for a UDCB permit or a renewal of such, an appeal from said decision must be filed by the applicant or any other interested party. The appeal shall be submitted to the Bureau of Planning at 250 Frank H. Ogawa Plaza, 2nd Floor, Oakland, CA 94612. In the event the last

date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Bureau of Planning and shall be filed with such Department, along with the appropriate fees required by the City's Master Fee Schedule. The appeal application must be complete and shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues during the appeal and/or in court.

If a hearing is held on the appeal, then during such hearing, the appellant will be limited to issues and/or evidence previously raised in the appeal itself. The appellant shall not be permitted to present any other issues and/or oral, written and/or documentary evidence during the appeal process.

In considering the appeal, the City Administrator shall determine whether the proposal conforms to the requirements of this Chapter, and may grant or deny a permit or require such changes in the proposed use or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The written decision of the City Administrator shall be final and shall be made within sixty (60) days of the submission of the appeal.

- B. The applicant seeking placement of a UDCB which would be affected by this ordinance and who contends that the ordinance as applied to him or her would be unlawful under and/or conflict with Federal, State, or local law or regulation, must submit a Petition to the City Administrator requesting relief from the ordinance. Petitions must be on the appeal form provided by the Bureau of the Planning and submitted to the Bureau at 250 Frank H. Ogawa Plaza, Suite 2114. Failure to submit such a Petition will preclude such person from challenging the ordinance as applied in court. The Petition shall identify the name and address of the applicant and property owner, the affected application number, and shall state specifically and completely how the ordinance as applied to him or her would be unlawful under and/or in conflict with Federal, State, or local law or regulation, and shall include payment of fees in accordance with the City's Master Fee Schedule. Failure to raise each and every issue that is contested in the Petition and provide appropriate supporting evidence will be grounds to deny the Petition and will also preclude the Petitioner from raising such issues in court.

If a hearing is held on the Petition, then during such hearing, the Petitioner will be limited to issues and/or evidence previously raised in the Petition itself. The Petitioner shall not be permitted to present any other issues and/or oral, written and/or documentary evidence during the Petition process.

Within 60 (sixty) calendar days of receipt of the completed Petition, the City Administrator, or designee, shall mail to the applicant a written determination accepting or rejecting the Petition. The written decision of the City Administrator is final. The City Administrator will utilize reasonable time, place and manner criteria to determine if the Petition should be granted or denied consistent with this Chapter. If the Petition is granted, the City may impose reasonable time, place and manner-related conditions on the UDCB consistent with this chapter.

Article III – Standards and Requirements

5.19.120 – Location.

- A. No UDCB shall be located within one thousand (1,000) feet from any other UDCB, except those described in Subsection 5.19.060 (B).
- B. With the exception of areas described in (C), below, UDCBs are only allowed to be located in the following zones, which are designated in the zoning maps described in Chapter 17 of the Oakland Municipal Code:
 - 1. CC-1 and CC-2;
 - 2. CN-4;
 - 3. CR-1;
 - 4. D-BV-2 and D-BV-3;
 - 5. C-40 and C-45;
 - 6. S-1 and S-2;
 - 7. D-KP-1, D-KP-2, and D-KP-3;
 - 8. D-CE-1, D-CE-2, D-CE-4, D-CE-5, and D-CE-6;
 - 9. D-BV-1, D-BV-3, and D-BV-4; or
 - 10. All Industrial Zones.
- C. No UDCBs are permitted within three hundred (300) feet of International Boulevard.
- D. A UDCB is only permitted on a lot that also contains a principal building that contains at least one operating business, occupied residential unit, or other ongoing activity, not including a surface Auto Fee Parking Commercial Activity as defined in Section 17.10 of the Oakland Municipal Code.
- E. UDCBs are prohibited within any of the following locations:
 - 1. Fifteen (15) feet from lots that lie in a Hillside Residential, Detached Unit Residential, or Mixed Housing Type Residential zone as designated in the City's zoning maps;
 - 2. The public right of way and twenty (20) feet of the public right of way;
 - 3. Five (5) feet from any property line; or
 - 4. Landscaping.
- F. UDCBs cannot block or impede access to:
 - 1. Required parking or driveways;
 - 2. Pedestrian routes;
 - 3. Emergency vehicle routes;
 - 4. Building ingress and egress;
 - 5. Required handicapped accessibility routes;
 - 6. Required easements; or
 - 7. Trash enclosure areas or access to trash bins/trash enclosures.
- G. UDCBs cannot impede the functioning of exhaust, ventilation, or fire extinguishing systems.
- H. No more than one UDCB is permitted per parcel unless documented evidence is submitted to the Director that a second bin is required due to the volume of items delivered to the site. A UDCB must be operating at a site for at least ninety (90) days in order to establish that a second bin is required. Both UDCBs shall have the same operator. No fee is required to submit an application for this second bin.
- I. The donation/collection area must be visible from the principal building and be no more than ten (10) feet from a continually operating light source of at least one foot candle.

5.19.130 – Physical Attributes.

- A. UDCBs shall:
 - 1. Be fabricated of durable and waterproof materials;
 - 2. Be placed on ground that is paved with durable cement;

3. Have a collection opening that has a tamper-resistant locking mechanism;
4. Be more than eighty-two (82) inches high, sixty (60) inches wide and fifty (50) inches deep;
5. Not be electrically or hydraulically powered or otherwise mechanized;
6. Not be a fixture of the site or considered an improvement to real property; and
7. Have the following information conspicuously displayed on at least two-inch type visible from the front on the UDCB:
 - i. The name, address, 24-hour telephone number, and, if available, the Internet Web address, and email address of the owner and operator of the UDCB and the parcel owner/owner agent,
 - ii. Address and parcel number of the site,
 - iii. Instructions on the process to register a complaint regarding the UDCB to the City Code Enforcement Division,
 - iv. The type of material that may be deposited,
 - v. A notice stating that no material shall be left outside the UDCB,
 - vi. The pickup schedule for the UDCB,
 - vii. A City approved identification system that identifies the box as being properly permitted by the City,
 - viii. If the UDCB is owned by a nonprofit organization:
 - A. A statement describing the charitable cause that will benefit from the donations,
 - B. The Federal Tax identification number of the nonprofit organization operating the UDCB, and
 - C. The statement "This collection box is owned and operated by a nonprofit organization."
 - ix. If the UDCB is owned by a for-profit entity:
 - a. "This donation is not tax deductible." and
 - b. "This collection box is owned and operated by a for-profit organization."

B. The parcel containing the UDCB shall display a sign with text in at least two (2) inch typeface stating that no material shall be left outside the UDCB. This sign shall be installed at a visually conspicuous location within a radius of twenty (20) feet from the UDCB.

5.19.140 – Maintenance.

- A. No blight shall be within twenty (20) feet of the UDCB including, but not limited to donation/collection overflow, litter, debris, and dumped material.
- B. UDCBs shall be maintained and in good working order. Items to be repaired, removed, and/or abated include, but are not limited to graffiti, removed or damaged signs and notifications, peeling paint, rust, and broken collection operating mechanisms.
- C. UDCBs shall be serviced not less than weekly between 7:00 a.m. and 7:00 p.m. on weekdays and 10:00 a.m. and 6:00 p.m. on weekends. This servicing includes the removal of donated/collected material and abatement of the blight described this section.
- D. The operator shall maintain an active email address and a 24-hour telephone service with recording capability for the public to register complaints.
- E. UDCBs cannot be used for the collection of solid waste and/or any hazardous materials.

5.19.150 – Liability.

Applicants and/or owner/owners agent shall maintain a minimum general liability insurance of one million dollars (\$1,000,000) for the duration of the operation of a UDCB at each site, to cover any claims or losses due to the placement, operation, or maintenance of the UDCB and naming the City of Oakland as additional insured.

5.19.160 – AB 939 Reporting.

Permitted UDCB operators shall be required to report annually the tonnage collected from their UDCBs within the City, including a breakdown by material type, whether the materials were reused or recycled, and any other information needed by the City to comply with AB 939. This information must be available to the City within sixty (60) days of the end of the calendar year. Failure to report will be grounds for revocation of the UDCB permit.

Article IV – Code Enforcement

5.19.170 – Compliance Process.

- A. Whenever the Building Official determines that a UDCB with a valid permit does not conform to any requirement in this Chapter he/she shall promptly notify the parcel owner/agent and UDCB operator through electronic mail of the violation. The violation must be abated and proof of such submitted to the City within seventy-two (72) hours after receipt of such notification.
- B. If an unpermitted UDCB is not within a permissible geographic area according to Section 5.19.120, then both the UDCB and any blight within twenty (20) feet of the UDCB shall be removed within seventy-two (72) hours after the parcel owner/agent and UDCB operator is notified of the violation.
- C. If an unpermitted UDCB is within a permissible geographic area according to Section 5.19.120 then any blight within twenty (20) feet of the site shall be removed and the parcel owner/agent and/or operator shall either: 1) apply for all UDCB permits required by this Chapter; or 2) remove the UDCB. This requirement shall be met within seventy-two (72) hours after the parcel owner/agent and/or UDCB operator are notified of the violation.
- D. Each day that a violation of a requirement of this Chapter is not abated constitutes a new and separate offense.
- E. The operation or maintenance of an unpermitted UDCB may be abated or summarily abated by the City in any manner by this Code or otherwise by law for the abatement of public nuisances. Pursuant to Government Code Section 38773, all expenses incurred by the City in connection with any action to abate a public nuisance will be chargeable to the persons creating, causing, committing, or maintaining the public nuisance.
- F. The City shall assess administration citations pursuant to O.M.C. Chapter 1.12 against a parcel owner and/or operator who fails to timely resolve a violation or verified compliance is not sent to the City showing the resolution of the violation relating to a UDCB after notice.
 1. For permitted UDCBs, the City shall issue administrative citations pursuant to O.M.C. Chapter 1.12:
 - a. Not more than \$150 for the 1st citation after the 72 (seventy-two) hour abatement period;
 - b. Not more than \$250 for the 2nd citation after the 72 (seventy-two) hour abatement period; and
 - c. Not more than \$500 for the 3rd and each subsequent citation after the 72 (seventy-two) hour abatement period. Total fines resulting from administrative citations shall not be more than \$5,000 within one year for each cited UDCB.
 2. For unpermitted UDCBs, the City shall issue administrative citations pursuant to O.M.C. Chapter 1.12:
 - a. Not more than \$750 for the 1st citation after the 72 (seventy-two) hour abatement period;
 - b. Not more than \$1,000 for the 2nd citation after the 72 (seventy-two) hour abatement period; and

- c. Not more than \$1,500 for the 3rd and each subsequent citation after the 72 (seventy-two) hour abatement period. Total fines resulting from administrative citations shall not be more than \$10,000 within one year for each cited UDCB.
- G. The daily administrative citations described in Subsection F shall continue until either the violation is abated or the UDCB is removed. Pursuant to Government Code section 38773, removal of the UDCB shall be at the expense of the parcel owner and/or operator. Any UDCBs removed shall also have any of its UDCB permits revoked.
- H. The property owner and operator are jointly and severally liable and responsible for all fees, administrative citations, and compliance with the regulations.
- I. Administrative citations for unpermitted UDCBs may be appealed administratively pursuant to appeals of administrative actions set forth in the Oakland Municipal Code or as developed by the City Administrator. Administrative citations for permitted UDCBs are not appealable.
- J. A party aggrieved by a final administrative decision of the City may seek judicial review of the administrative decision pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6 within the time frame pursuant to those code sections.
- K. All notices for unpermitted UDCBs shall be in writing and personally delivered to the parcel owner/agent and UDCB operator or by depositing such notice in the United States mail, postage paid, and addressed to the parcel owner/agent at the owner(s) last known address as it appears on the last Alameda County equalized assessments roll, as well as placed on the UDCB itself. If the City cannot reasonably determine the name and/or address of the unpermitted UDCB operator, placing the written notice on the UDCB itself constitutes sufficient notice. All notices regarding permitted UDCBs shall be through electronic mail.
- L. Administrative citations established in this chapter are in addition to any other administrative or legal remedy which may be pursued by the City to address violations identified in this chapter.

5.19.180 Private Rights of Action

- A. Any person claiming a violation of this Chapter may bring an action in the Municipal Court or Superior Court of the State of California, as appropriate, to enforce the provisions of this Chapter. Violations of this Chapter are declared to irreparably harm the public.
- B. The Court shall award reasonable attorney's fees, witness fees and costs to any plaintiff who prevails in an action to enforce this Chapter.
- C. No criminal penalties shall attach for any violation of this Chapter.
- D. No remedy set forth in this Section is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce any rights hereunder in a court of law.
- E. Nothing in this chapter shall be interpreted to authorize a right of action against the City, nor shall this Section give rise to any cause of action for damages against the City.
- F. The property owner or owner's agent shall have the right to rescind consent for a UDCB to be placed on the property, provided written notice of the rescission is provided to the UDCB Operator, as provided in their agreement but in no event less than ten (10) business days prior to the UDCB being removed.
- G. The property owner or owner's agent shall be held harmless by the UDCB Operator for the removal of an unauthorized UDCB where removal is necessary to comply with this ordinance.

Article V – Noticing Procedure for Removal

5.19.190 Notice Required for Removal.

- A. Any UDCB scheduled to be removed by either the City or the operator shall clearly display a notice on the UDCB with at least four-inch type visible from the front on the UDCB that states the following text in capital letters: "THIS BOX WILL BE REMOVED BY" followed

by the date the UDCB is scheduled for removal. The operator and property owners are jointly and severally responsible for the placement of the notice.

- B. For UDCBs required to be removed by the City of Oakland due to an abatement order, the notice shall be posted immediately after the City notifies the operator and/or parcel owner that the facility is required to be removed.
- C. Notice that a UDCB will be removed by the owner or operator shall be posted at least fourteen (14) calendar days prior to the removal of the facility.

PART 2

The following text amendments to the OMC are shown in underline/~~strikeout~~ format (additions are in underline and deletions are in ~~strikeout~~).

1.12.020 - Scope.

- A. This chapter authorizes the administrative assessment of citations to effect abatement of:
 - 1. Any violations of the following provisions of the Oakland Municipal Code: the Oakland Building Code (CIVIC Chapter 15.04), the Oakland Housing Code (OMC Chapter 15.08), Uniform Fire Code (CIVIC Chapter 15.12), Fire Damaged Area Protection & Improvement Code (CIVIC Chapter 15.16) Bedroom Window Security Bar & Smoke Detector Permit Code (CIVIC Chapter 15.64), Oakland Planning Code (CIVIC Title 17), Oakland Sign Code (OMC Chapter 146), Transient Occupancy Tax Code (OMC Chapter 4.24), Unattended Donation/Collection Boxes (OMC Chapter 5.19), Hotel Rates & Register Code (CIVIC Chapter 5.34), Animal Code (OMC Title 6), Health & Safety Code (OMC Title 8), Public Peace, Morals and Welfare Code (OMC Title 9), Vehicles and Traffic Code (OMC Title 10), Streets, Sidewalks & Public Places Code (OMC Title 12) and Creek Protection, Storm Water Management and Discharge Control Code (OMC Chapter 13.16); or
 - 2. The occurrence of anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal; or
 - 3. The occurrence of any public nuisance as known at common law or in equity jurisprudence.
 - 4. The violation of any state or federal law or regulations under which such violation is deemed a public nuisance.
- B. Administrative citations established in this chapter are in addition to any other administrative or legal remedy which may be pursued by the city to address violations of the codes and ordinances identified in this chapter.

1.12.060 – Assessment.

- A. The City Manager, or his or her designee, is authorized to establish a schedule of violations and assessments or similar guidelines for issuing administrative citations.
- B. Except as otherwise provided herein, administrative citations, excluding accruing interest, shall not be assessed at more than five thousand dollars (\$5,000.00) cumulatively per calendar year for an individual parcel or separate structure thereon for any related series of violations. The citation amount shall not exceed one hundred dollars (\$100.00) for the first issuance, two hundred fifty dollars (\$250.00) for the second issuance, and five hundred

dollars (\$500.00) for all subsequent issuances for any related series of violations occurring within a calendar year. ~~For offenses involving violations of Oakland Municipal Code Sections 5.19.170(F)(2), 8.28.060, 8.28.070, 8.28.150, 8.28.160, 13.16.100 and 13.16.110,~~ administrative citations shall not exceed seven hundred fifty dollars (\$750.00) for the first issuance, one thousand dollars (\$1000.00) for the second issuance, and one thousand five hundred dollars (\$1500.00) for all subsequent issuances for any related series of violations occurring within a calendar year.

- C. The issuance of administrative citations may begin to accrue on the date of initial occurrence of the violation, as identified by the city.
- D. The issuance of administrative citations shall cease when all violations are wholly and permanently corrected.
- E. Administrative citations shall be issued in accordance with the following factors:
 - 1. The duration and frequency of recurrence of the violation;
 - 2. The detrimental effects of the violation on the occupants of the property and the surrounding neighborhood and the community at large;
 - 3. The history of compliance efforts by the responsible person to correct the violation wholly and permanently;
 - 4. The viability of the administrative citation to effect abatement of the violation wholly and permanently;
 - 5. Other factors that serve justice.

5.02.020 – Application.

With the exception of Unattended Donation/Collection Box permits required in Chapter 5.19, An application for any permit referred to in Section 5.02.010 shall be filed with the City Clerk in triplicate, the original of which shall be duly acknowledged before some person lawfully authorized to administer oaths, and upon forms to be furnished by said City Clerk, and shall set forth the following information:

- A. A full identification of the applicant and all persons to be directly or indirectly interested in the permit if granted;
- B. The residence and business address and the citizenship of the applicant, including all members of any firm or partnership, or all officers and directors of any corporation applying;
- C. The location of the proposed business, establishment, place, thing, etc., for which the permit is requested, and the name of the owner and the present use of such premises;
- D. The exact nature of the proposed business, establishment, place, thing, etc., for which the permit is requested, and the name under which it is to be operated;
- E. The past experience of the applicant in the matter to which the requested permit appertains; and the name, address, and past experience in such business or matter of the person to be in charge of the premises or business;
- F. Whether or not any permit has been revoked, and if so, the circumstances of such revocation;
- G. Such further information as the City Manager, or such official of the city to whom the application may be referred, may require.

5.02.030 – Procedure on application.

With the exception of Unattended Donation/Collection Box permits required in Chapter 5.19, Immediately on the filing of any application for a permit as provided in Sections 5.02.010 and 5.02.020, the City Clerk shall place the acknowledged copy in the permanent records of his office, refer one copy to the City Administrator and one copy to such official of the city the administrative functions of whom are those primarily concerned with the granting or denying of such permit, which latter official, hereinafter in this chapter referred to as the "investigating

official," shall make such investigation of the applicant and of the facts set forth in such application as he or she shall deem advisable, and shall make a written report of such investigations, together with his or her recommendations relative to disposal of the application, to the City Administrator, who shall proceed to act upon said application after a hearing set by the City Clerk for a day certain, not more than forty-five (45) days from the date of filing completed said application. At such hearing all persons interested shall be entitled to file objections, protests or recommendations in the premises. Such hearing may, by the City Administrator, be continued over from time to time as circumstances may require; provided, however, that if hereinafter in this chapter specifically provided, the investigating official may grant the permit applied for without referring the same to the City Administrator, and with or without a hearing thereon, as may be provided.

5.02.060 – Action on application.

With the exception of Unattended Donation/Collection Box permits required in Chapter 5.19, The City Administrator or the investigating official acting thereon, shall deny the granting of any permit applied for if it shall appear to his or her satisfaction that the applicant is not a fit and proper person, either for financial, moral, or other reasons, to conduct or maintain the business, establishment, place, or other thing, to which the application appertains; that the applicant has not complied with the provisions of this code which directly appertain to the maintenance or conduct of the business, establishment, place, or other thing in question or for the violation of any law appertaining thereto; or for any other reason hereinafter in this chapter more specifically set forth.

In granting or denying such permit, and in specifying the conditions, if any, upon which it is granted, the City Administrator, other official acting thereon, shall consider the character of the applicant as respects morality, honesty and integrity, and all pertinent acts which may concern the health, safety, and general welfare of the public, and shall exercise a reasonable and sound discretion in the premises. The City Administrator, or other official acting thereon, in acting upon an application for a permit, shall notify the investigating official to whom such application was referred, of such action.

5.02.080 – Revocation and suspension of permit.

With the exception of Unattended Donation/Collection Box permits required in Chapter 5.19, Any permit granted pursuant to the provisions of this chapter may be revoked or suspended by the City Manager as in his or her discretion may seem meet and just, for any reason for which a granting of such permit might be lawfully denied, or for any other reason hereinafter in this chapter specifically provided. Such revocation or suspension shall be made only upon a hearing granted to the holder of the permit so revoked or suspended, held before the City Manager after five days' notice to such permit holder, stating generally the grounds of complaint against him or her and stating the time and place where such hearing will be held. In the event of such revocation or suspension, any certificate issued in connection with the granting of such permit shall, by the holder thereof, be forthwith surrendered to the City Manager.

Such revocation or suspension of any permit shall be in addition to any other penalties more specifically provided in this chapter.

5.02.100 – Appeals.

With the exception of Unattended Donation/Collection Box permits required in Chapter 5.19, Any person excepting to any denial, suspension or revocation of a permit applied for or held by him or her pursuant to the provisions of this chapter, or pursuant to the provisions of this code where the application for said permit is made to, or the issuance thereof is by the City Manager, or any person excepting to the granting of, or to the refusal to suspend or revoke, a permit issued

to another pursuant to the provisions of this chapter, or issued to another by the City Manager pursuant to the provisions of this Code, may appeal in writing to the City Council by filing with the City Clerk a written notice of such appeal setting forth the specific grounds thereof. Such notice must be filed within fourteen (14) days after notice of such action appealed from is posted in the United States mail. Upon receipt of such notice of appeal the Council shall set the time for consideration thereof. The City Clerk shall cause notice thereof to be given (A) to the appellant and (B) to the adverse party or parties, or to the attorney, spokesman, or representative of such party or parties, not less than five days prior to such hearing. At such hearing the appellant shall show cause on the grounds specified in the notice of appeal why the action excepted to should not be approved. Such hearing may, by the Council, be continued over from time to time and its findings on the appeal shall be final and conclusive in the matter.

5.02.140 – City Clerk to be notified of actions on permits.

With the exception of Unattended Donation/Collection Box permits required in Chapter 5.19, Any official of the city taking any action upon any application for a permit or upon any permit to operate or maintain any business, establishment or place within the city as in this chapter provided for, shall notify the City Clerk of such action, and shall, so far as possible, supply the City Clerk with copies of all communications, findings and records pertaining to such applications and permits, and the City Clerk shall place the same on file with the applications and permits to which they pertain.

5.02.150 – Expiration of permit.

With the exception of Unattended Donation/Collection Box permits required in Chapter 5.19, Any permit granted pursuant to the provisions of this chapter but under which the thing herein permitted has not been done, carried on or maintained within six (6) months from the time of the issuance of such permit, shall expire by limitation and cease to be valid for any purpose. Provided, however, that the City Manager or other official originally granting such permit may renew such permit upon written application being made prior to its expiration.