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AGENDA REPORT

TO: JOHN A. FLORES
INTERIM CITY ADMINISTRATOR

FROM: Rachel Flynn

SUBJECT: Supplemental Report - Unattended
Donation/Collection Boxes Regulations

DATE: January 28, 2015

City Administrator
Approval

Date

1/28/15

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that the Council conduct a Public Hearing and upon conclusion consider:

Adopting An Ordinance 1) Establishing Oakland Municipal Code (OMC) Chapter 5.19 "Unattended Donation/Collection Boxes" And 2) Amending The Master Fee Schedule (Ordinance No. 13171 C.M.S., As Amended) And OMC Sections 1.12.020A And 1.12.060 To Establish Application, Inspection, Appeal And Other Fees, Administrative Citations And Fines Related To Unattended Donation/Collection Boxes.

REASON FOR THE SUPPLEMENTAL REPORT

Exhibit A of the ordinance in the original submittal to the City Administrator contained proposed text amendments to the Oakland Municipal Code (OMC). This exhibit contained two parts: Part 1 was an entirely new Chapter (Chapter 5.19) in the OMC; Part 2 contained changes to existing Chapter 1.12 of the OMC.

In general, proposed new text in the OMC is underlined (i.e. text) and deleted text is in strikeout font (i.e. ~~text~~) so it is clear to the City Council the exact amendments proposed to the OMC. However, for purposes of clarity, it has been staff's practice to not underline text that is an entirely new Chapter of the OMC; therefore, Part 1 of Exhibit A did not contain underlined text.

Staff did not include underlines or strikeouts in Part 2 of Exhibit A, even though it contained proposed amendments to an existing Chapter of the OMC. Attachment A of this supplemental report contains all the appropriate underlines and strikeouts and replaces Exhibit A of the original ordinance.

Item: _____
City Council
February 3, 2015

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

Respectfully submitted,



Rachel Flynn
Acting Director, Department of Economic
& Workforce Development

Reviewed by Scott Miller, Zoning Manager

Prepared by Neil Gray, Planner III

Attachments:

- A. Corrected Exhibit A

EXHIBIT A: TEXT AMENDMENTS

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 – Requirements for the approval of a UDCB permit.**
- 5.19.090 – Time Limit for Final Decision.**
- 5.19.110 – UDCB permit Expiration and Renewal.**

Article III – Standards and Requirements

- 5.19.120 – Location.**
- 5.19.130 – Physical Attributes.**
- 5.19.140 – Maintenance.**
- 5.19.150 – Liability Insurance.**

Article IV – Code Enforcement

- 5.19.160 – Compliance Process.**

Article I – General Provisions

- 5.19.010 – Purpose.**

The purpose of these regulations is to promote the health, safety, and welfare of the public by providing minimum standards for the operation of Unattended Donation 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 users are fully informed of those who operate the UDCBs.

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 and a continuing blight and shall be abated by the Director in accordance with the provisions of this Chapter.

5.19.040 – Responsibility.

The parcel owner and the UDCB operator (operator) have joint and several liability for conditions or regulations, fees, citations, and/or public blight 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 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” 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 of salvageable personal property.

"UDCB Permit" means the City of Oakland 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 a 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 (G), 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 separation requirement contained in 5.19 120(A)
- 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 under Section 5 02.060.

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 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 public 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 operators soliciting for charitable purposes, proof sufficient to establish that the operator who will utilize the unattended donation box is qualified to solicit donations of salvageable personal property pursuant to California Welfare and Institutions Code Section 148 3, as amended,
- H For for-profit operators, proof of an active business tax certificate with the City of Oakland. For nonprofit operators, evidence that the nonprofit has been registered 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 location of information and disclosures required in this Chapter;
- 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 – Requirements for the approval of a UDCB permit.

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

- A. The applicant has submitted a complete and accurate application accompanied by the applicable fee,
- B. 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
- C. The proposal is consistent with all the requirements of this Chapter.

5.19.090 – 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.

5.19.100 – 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 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. 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. Within 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.

5.19.110 – 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. Renewal requires an application and a non-refundable renewal fee in an amount set by the Master Fee Schedule.
- C. The Director shall either approve or deny the renewal of a UDCB permit within thirty (30) 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 5.19.080 or that would justify the revocation of the UDCB permit as specified in Section 5.19.160(E).
- E. See Section 5.19.100 for the appeal and petition processes for UDCB permit decisions, including decisions regarding renewal.

Article III – Standards and Requirements

5.19.120 – Location.

- A. No UDCB shall be located within one thousand (1,000) feet from another UDCB, except those described in Subsection 5 19.060 (B).
1. 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:
 - a. RU-5;
 - b. CC-1 and CC-2,
 - c. CN-4;
 - d. CR-1;
 - e. D-BV-2 and D-BV-3;
 - f. C-40 and C-45,
 - g. S-1 and S-2;
 - h. D-KP-1, D-KP-2, and D-KP-3;
 - i. D-CE-1, D-CE-2, D-CE-4, D-CE-5, and D-CE-6,
 - j. D-BV-1, D-BV-3, and D-BV-4, and
 - k. All industrial zones.
- B. A UDCB is only permitted on a lot that also contains both a principal building and a principal activity, not including a surface Auto Fee Parking Commercial Activity as defined in Section 17.10 of the Oakland Municipal Code.
- C. UDCBs are prohibited if they are within any of the following locations 1) fifteen 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) 20 feet of the right of way; or 3) five feet from any property line
- D. UDCBs are not permitted in the right-of-way
- E. UDCBs cannot block or impede access to required parking or driveways, pedestrian routes, emergency vehicles, building ingress and egress, handicapped accessibility, or required easements.
- F. UDCBs cannot impede the functioning of exhaust, ventilation, or fire extinguishing systems.
- G. 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 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
- H. The donation 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. Have the following information clearly displayed:
 - a. Ownership and operator identification;
 - b. Address and parcel number of the site;
 - c. UDCB permit information and UDCB identification number on a City issued sticker,
 - d. Statement regarding the IRS status of the operator;
 - e. A statement that reads, “This collection box is owned and operated by a for-profit company” if the operator is a for-profit business or “This collection box is owned and operated by a non-profit organization ” if the operator is a nonprofit organization.

- f. Instructions on process to register a complaint regarding the UDCB to the City Code Enforcement Division;
 - g. Contact information (24-hour phone number, address, email) for the operator and the parcel owner/owner's agent;
 - h. A statement from Bureau of Planning indicating standards and conditions for maintenance; and
 - 1. A description of accepted and prohibited donation materials.
- B UDCBs shall not:
- 1. Be more than eighty-two (82) inches high, fifty-six (60) inches wide and fifty (50) inches deep,
 - 2. Be electrically or hydraulically powered or otherwise mechanized, or
 - 3. Be a fixture of the site or considered an improvement to real property

5.19.140 – Maintenance.

- A. No blight shall be within twenty (20) feet of the UDCB including, but not limited to donation 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 recyclables or any hazardous materials.

5.19.150 – Liability Insurance.

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.

Article IV – Code Enforcement

5.19.160 – 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 and UDCB operator through electronic mail of the violation. The violation must be abated within ten (10) days after receipt of such notification.
- B. If an unpermitted UDCB is within one thousand (1,000) feet of an existing permitted UDCB, then both the UDCB and any blight within twenty (20) feet of the UDCB shall be removed within ten (10) days after the parcel owner/agent is notified of the violation or fifteen (15) days if the notice is mailed.
- C. If an unpermitted UDCB is not within one thousand (1,000) feet of an existing permitted UDCB, then any blight within twenty (20) feet of the site shall be removed and the parcel owner/agent or operator shall either: 1) apply for all UDCB permits required by this Chapter within ten (10) days after the parcel owner/agent is notified of the violation or fifteen (15) days if the notice is mailed; or 2) remove the UDCB as described in Subsection B.
- D. The City shall assess administration citations pursuant to O.M.C. Chapter 1.12 against a parcel owner who fails to timely resolve a 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 day after the 10 day abatement period;
 - b. Not more than \$250 for the 2nd day after the 10 day abatement period; and
 - c. Not more than \$500 for the 3rd and each subsequent day. Total fines resulting from administrative citations shall not be more than \$5,000 within one year.
2. For unpermitted UDCBs, the City shall issue administrative citations pursuant to O.M.C. Chapter 1.12:
 - a. Not more than \$300 for the 1st day after the 10 day abatement period;
 - b. Not more than \$500 for the 2nd day after the 10 day abatement period; and
 - c. Not more than \$1,000 for the 3rd and each subsequent day. Total fines resulting from administrative citations shall not be more than \$10,000 within one year.
- E. The administrative citations described in Subsection D shall continue until, after 72 hour notice, the bin is removed by the City and any UDCB permit for the bin shall be revoked at the expense of the parcel owner and/or operator. The bins will be removed after one week or more of administrative citations.
- F. 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.
- G. 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.
- H. 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. All notices regarding permitted UDCBs shall be through electronic mail.

PART 2

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

1.12.060 – 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. These amounts may double for the administrative citations described in 5.19.160(D)(1). For offenses involving violations of Oakland Municipal Code Sections 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, A 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, A 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 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