

**CITY OF SURPRISE
PLANNING AND ZONING COMMISSION**

MEETING MINUTES

March 5, 2015 / 6:00 PM

**COUNCIL CHAMBERS
16000 North Civic Center Plaza
Surprise, AZ 85374**

CALL TO ORDER.

Chair Steve Somers called the Planning and Zoning Commission Meeting to order at 6 p.m. at Surprise City Hall, 16000 North Civic Center Plaza, Surprise, Arizona 85374, on Thursday, March 5, 2015.

A. ROLL CALL

In attendance were Chair Somers, Vice Chair Ken Chapman and Commissioners Peter Pervi, Dennis Smith, Jerry Hoyler and Mathew Keating. Commissioner Matthew Bieniek was absent.

STAFF PRESENT:

Community Development Director Eric Fitzer, Deputy City Attorney Donna Bronski, Assistant Director Chris Boyd, Long Range Planning Manager Lloyd Abrams, Planner Hobart Wingard, and Planning and Zoning Commission Secretary Heather Donaldson.

COUNCIL MEMBERS PRESENT:

None

B. PLEDGE OF ALLEGIANCE

C. CURRENT EVENTS REPORT

D. STAFF REPORT

Eric Fitzer, Director, advised the Commission of the Original Town Site Community Chat taking place at the Villanueva Recreation Center on Wednesday, March 18th at 6:00 p.m.

CALL TO THE PUBLIC:

Chair Somers called to the public to discuss any issues not noted on the agenda. Hearing no comments, Chair Somers closed the call to the public.

CONSENT AGENDA:

No Items

REGULAR AGENDA ITEMS NOT REQUIRING A PUBLIC HEARING:

Item 1 – INTERNAL – Consideration and action on the February 19, 2015 Planning and Zoning Commission minutes.

Commissioner Smith made a motion to approve the Planning and Zoning Commission Minutes for February 19, 2015. Vice Chair Chapman seconded the motion. The motion passed with 5 yes votes, one abstained (Jerry Hoyler) and one absence.

Item 2 – CITYWIDE – Discussion on a Zoning Text Amendment regarding the regulation of donation bins within the City of Surprise.

Hobart Wingard, Planner II, presented the project to the Commission. Staff recommends approval of a Zoning Text Amendment to institute regulations for donation bins within the City of Surprise.

Chair Somers opened the Call to the Public:

Benjamin Graff, Withey Morris, PLC – representing Goodwill of Arizona – This is an excellent idea and ordinance. Recommends notarization authorization requirement not only in City policy but through City ordinance. Property owners should be able to remove bin if creating blight. Mr. Graff provided each Commissioner with a handout that is attached hereto.

Kristin Greene, Molera and Alvarez - represents American Textile Recycling Services (for profit). Recommends maintenance schedules for bins including removal of property guidelines. Requests due process for property owner's removal of a bin once they rescind the right to place it on a property. Concerned that paint used to paint on permit numbers will not be permanent. Requesting notarization requirements are in effect for all TUP's, and not just donation bins. Please allow property to owner to both revoke permits and sign for permits.

Jim Mapstead, former member of City of Phoenix Planning Commission, speaking on behalf of the Coalition of the Neighborhood Activists and Property Managers in Phoenix who support the regulation of donation bins in Phoenix communities. Many donation bins are dropped on commercial property without the permission of property owners. Concerned that many bin owners are for profit entities who sell items out of state and local charities do not receive the funds. Notarization is critical component of this text amendment. Supports property owners' rights to revoke permit and remove bin.

Chair Somers closed the Call to the Public.

The Commission discussed:

- Rights of City to remove donation bins
- Property owner's rights/control
- Temporary use permit coverage and timelines
- Parking spaces lost to donation bins
- Fee structure for permits, renewal fees, etc.
- Private property owner's process to remove a bin (City should not be involved)
- City website to disclose dollar amounts attributed to charity for non-profit donation bin companies
- Phone numbers need to be posted on donation bins / Phone number with an actual person who answers the line rather than a voicemail or dial tone
- Revenue generated per bin
- Church owned private bins on church property
- Process when applicant applies for donation bin permit
- Notarization – shifting the burden on the City
- Internal monitoring of bins (duplicate permit numbers painted on bins) – Permanent sticker on the bin from the City

Item 3 – DISTRICT 6 – Discussion regarding Project Heart.

Eric Fitzer, Director, presented the project to the Commission. He addressed the following points:

- IRIS Worldwide – World Headquarters in Japan
- IRIS USA – leading manufacturer of high-quality storage products
- Western Regional Headquarters in Surprise, AZ
- Company & City Investments
- Anticipated project timeline
- Preliminary Site Plan

The Commission discussed:

- Relationship between rail-line and loading docks, silos, etc.
- Elevation / vegetation
- Full time jobs
- Spec warehouse to the East (in relation to size)
- Chairman suggested having groundbreaking and grand opening ceremonies for projects like this

REGULAR AGENDA ITEMS REQUIRING A PUBLIC HEARING:

None

OTHER BUSINESS:

Item 4 – INTERNAL - Discussion for future agenda items.

None

ADJOURNMENT:

Hearing no further business, Chair Somers adjourned the Planning and Zoning Commission meeting at 7:12 p.m.

Eric Fitzer
Community Development Director

Steve Somers, Chair
Planning and Zoning Commission

The foregoing instrument is a full, true and correct copy of the original document on file in the office of the City Clerk, City of Surprise, Arizona.

ATTEST BY: _____
Heather Donaldson, Commission Secretary

DATE: _____

MEMORANDUM

To: City of Surprise Planning and Zoning Commission

FROM: Withey Morris, PLC

RE: Donation Bin Text Amendment; Proposed Revisions/Additions

Date: March 5, 2015

This memorandum and its attachments provide a summary of issues surrounding the growing number of donation drop boxes popping up in commercial shopping centers and neighborhoods in the City of Surprise. We have also provided recommended revisions to the proposed City of Surprise Donation Bin Text Amendment based on a review of the best practices of other municipalities. The following exhibits are attached to this memorandum for your review:

Exhibit A: Recommended Redline Revisions to Donation Bin Text Amendment

Exhibit B: Photographs of Blighted Donation Bins throughout the Valley

Exhibit C: City of Phoenix Donation Bin Ordinance

General Issues and Background Regarding Donation Drop Boxes

- (1) Uncontrolled Proliferation: Six years ago, it is estimated only 500 drop boxes existed within the Valley. Today, approximately 7000 drop boxes are placed on almost every commercial corner and shopping center and throughout neighborhood centers.
- (2) Property Owner Authorization: All permanent and temporary land uses require **written and notarized** authorization from the property owner. However, most drop box operators are placing boxes on properties in the middle of the night without property owner authorization. In many jurisdictions, "Charitable" or "Donation" drop boxes are the only land use completely unregulated by the City. Many municipalities are not requiring written, notarized proof of owner authorization, as they would with any other rezoning, use permit, or other land use application.
- (3) Regulation will Help All Legitimate Non-Profits: This proposed regulation will not harm legitimate non-profit companies using drop boxes (i.e., the Salvation Army and Big Brothers Big Sisters). Non-profit companies obtaining proper owner

authorization will not be negatively impacted. Proper regulations will allow the good actors to continue the use of legitimate and charitable drop boxes.

- (4) The Bad Actors: In many cases, the drop box operators are actually for-profit companies misleading the public. For example, for-profits intentionally place drop boxes in Goodwill parking lots and paint them "Goodwill Blue" to confuse donors. Some drop boxes may "partner" with a local charity in order to place an inviting picture of those in need on the front of the box, but research shows in some cases the for-profit companies are giving less than 1% of the profits to the charity. The public donates upon the false belief they are giving to charity. In fact, calling the number shown on a drop box can result in a recorded message stating, "your donation is not tax deductible."
- (5) Arizona is a Target Location/Climate: The Valley has been specifically targeted because of our ideal weather and the charitable nature of our residents. In Arizona, donated items can sit in bins for weeks without a risk of mold or other damaging elements.
- (6) Exportation of Donated Items: It is estimated the 7000 drop boxes throughout the valley result in over 200 million pounds of donated goods being removed from Arizona. Whereas donations to local non-profits (i.e., Goodwill, Salvation Army, Big Brothers Big Sisters) result in a direct benefit to our community, drop box donations strip our community of the intended benefit. In most cases, for-profit companies are selling donated items out-of-state or even out of the country as raw products. Clothing donations are often sold in bulk and used for industrial rag material in foreign industries.
- (7) Unmaintained Drop Boxes = Blight: In many cases, the boxes remain unmonitored for weeks at a time and are allowed to overflow into the parking lot. Surveys of local drop boxes have shown stacks of furniture, garbage, clothing, and other goods thrown next to the box. This, in turn, attracts the homeless and others to rummage through the unsecured materials. The boxes themselves can be a dangerous attractive nuisance if not maintained or properly latched. Local fire and police representatives state numerous criminal activities are associated with the boxes, including theft, vandalism/graffiti, and arson.
- (8) Drop Boxes = Code Violations: Currently, unauthorized bins are placed within required parking spaces, landscape setbacks, City right-of-way, and parking landscape islands – all of which are violations of municipal zoning ordinances. Some drop boxes result in obstruction of onsite vehicular circulation. Large drop boxes are also being used as illegal signage viewable from major arterial streets.
- (9) Removing Unauthorized Bins is a Near Impossibility: Various shopping center owners have provided first-hand accounts of failed attempts to remove nefarious drop boxes. If a box is physically removed by the owner, and at the owner's expense, a new box will show up in the middle of the night. In one example in

Peoria, a commercial parking lot contained 14 drop boxes and after months of efforts by the property owner to remove these boxes, one or two boxes consistently continue to show up on the property. Moreover, property owners have even been threatened with law suits for removing the drop box company's "property." Currently, property owners struggle to find support on this issue from their local governments.

- (10) Regulation of Drop Boxes = Protection of Private Property Rights: Arizona prides itself upon its unequivocal protection of private property rights. Yet, in this case, for-profit companies are permitted to place drop boxes on commercial and even residential properties without the property owner's authorization – a clear act of trespass. Furthermore, property owners are road-blocked from removing these unauthorized land uses. Municipalities drafting regulations should specifically include the express authority of the property owner to remove unauthorized and/or unwanted drop boxes from their property.

Conclusion

The effective regulation and enforcement of donation drop boxes is a prudent and necessary responsibility for every jurisdiction in Arizona. Currently, rogue drop box operators are committing thousands of acts of trespass upon Arizona's commercial shopping center property owners each year. Without a municipal ordinance to rely upon, these owners are left powerless to remove an ever-growing intrusion. These commercial property owners are the very citizens who are responsible for accumulating millions of dollars in annual construction and sales tax revenue for our municipalities. At its core, municipalities have determined that drop boxes, as a land use, must be regulated by the applicable zoning ordinance and enforced by the local neighborhood services and/or code enforcement department.

Simply put, unregulated drop boxes perpetuate and encourage an illegal land use, host a source of significant blight/nuisance within our towns and cities, open up areas of liability for towns, cities, and property owners, and deprive our local charitable organizations from the opportunity to turn recycled goods into a revenue source for non-profit endeavors which directly benefit our citizens.

Zoning Text Amendment
(Suggested Revisions in BLUE)

**The Regulation of Donation Bins within the City of
Surprise – Legislative Edit**

Sec. 122-47. RESERVED –~~Temporary use/special event permit.~~

~~The temporary use/special event permit allows for short term activities that may be appropriate on an interim basis without requiring full compliance with the development standards of the land use district or by which the city may permit seasonal or transient uses not otherwise permitted.~~

~~(a) Approval criteria:~~

~~(1) Conditions may be applied to the issuance of the permit and periodic review may be required;~~

~~(2) The permit may be granted for a particular use and not for a particular person or company;~~

~~(3) Any use or structure requiring sanitary facilities shall locate the sanitary facilities on the same lot as a host structure unless independent water and sewer service is provided.~~

~~(4) The operation and maintenance of the temporary use/special event shall be in a manner compatible with existing uses on adjoining properties and in the surrounding area. Conditions to be considered shall include, but are not limited to, the following:~~

~~a. Adequate parking;~~

~~b. Hours of operation;~~

~~c. Site location including ingress and egress, trip generation, and, if applicable, pedestrian accessibility;~~

~~d. The nature, scope, location and manner of operation of the use shall not constitute a health and/or safety hazard to the public.~~

~~e. Assurance of compliance with health, building, fire, electrical, plumbing, and all other appropriate codes shall be required;~~

~~f. Site lighting;~~

~~g. Security considerations; and~~

~~h. Any other conditions that may have a detrimental effect on the city or on surrounding properties.~~

~~{Ord. No. 09-12, § 2(Exh. A), 5-14-09}~~

37
38 **Sec. 122-105. - Temporary ~~u~~Uses. PERMITS**

39 THE TEMPORARY USE PERMIT ALLOWS FOR ACTIVITIES THAT MAY BE
40 APPROPRIATE ON AN INTERIM BASIS WITHOUT REQUIRING FULL COMPLIANCE
41 WITH THE DEVELOPMENT STANDARDS OF THE LAND USE DISTRICT OR BY
42 WHICH THE CITY MAY PERMIT SEASONAL OR TRANSIENT USES NOT
43 OTHERWISE PERMITTED.

44
45 When allowed, temporary uses shall be subject to the following requirements:

46 (a) APPROVAL CRITERIA:

- 47 (1) CONDITIONS MAY BE APPLIED TO THE ISSUANCE OF THE PERMIT AND
48 PERIODIC REVIEW MAY BE REQUIRED;
- 49 (2) THE PERMIT MAY BE GRANTED FOR A PARTICULAR USE AND NOT FOR A
50 PARTICULAR PERSON OR COMPANY;
- 51 (3) ANY USE OR STRUCTURE REQUIRING SANITARY FACILITIES SHALL
52 LOCATE THE SANITARY FACILITIES ON THE SAME LOT AS A HOST
53 STRUCTURE UNLESS INDEPENDENT WATER AND SEWER SERVICE IS
54 PROVIDED.
- 55 (4) THE OPERATION AND MAINTENANCE OF THE TEMPORARY USE/SPECIAL
56 EVENT SHALL BE IN A MANNER COMPATIBLE WITH EXISTING USES ON
57 ADJOINING PROPERTIES AND IN THE SURROUNDING AREA. CONDITIONS
58 TO BE CONSIDERED SHALL INCLUDE, BUT ARE NOT LIMITED TO, THE
59 FOLLOWING:
- 60 a. ADEQUATE PARKING;
- 61 b. HOURS OF OPERATION;
- 62 c. SITE LOCATION INCLUDING INGRESS AND EGRESS, TRIP
63 GENERATION, AND, IF APPLICABLE, PEDESTRIAN ACCESSIBILITY;
- 64 d. THE NATURE, SCOPE, LOCATION AND MANNER OF OPERATION OF THE
65 USE SHALL NOT CONSTITUTE A HEALTH AND/OR SAFETY HAZARD TO
66 THE PUBLIC;
- 67 e. ASSURANCE OF COMPLIANCE WITH HEALTH, BUILDING, FIRE,
68 ELECTRICAL, PLUMBING, AND ALL OTHER APPROPRIATE CODES
69 SHALL BE REQUIRED;
- 70 f. SITE LIGHTING;
- 71 g. SECURITY CONSIDERATIONS; AND
- 72 h. ANY OTHER CONDITIONS THAT MAY HAVE A DETRIMENTAL EFFECT ON
73 THE CITY OR ON SURROUNDING PROPERTIES.

74 (b) A temporary use permit shall be issued for a maximum of:

- (1) Sixty days for one event uses, such as Christmas tree sales; or
- (2) Four event periods during a calendar year with each event period lasting no more than four days during each period; or
- (3) During the time of construction when the temporary use is for the temporary placement of a construction trailer on a construction site-; OR

(4) DONATION BINS MAY BE PERMITTED FOR A RENEWABLE DURATION NOT TO EXCEED 12 MONTHS OR AS DETERMINED BY THE CITY. EACH RENEWAL REQUIRES A NEW TEMPORARY USE PERMIT APPLICATION AND FEE. DONATION BIN TEMPORARY USE PERMITS WILL BE RENEWED 30 DAYS PRIOR TO THE FIRST DAY OF EVERY YEAR. IF AN APPLICANT SUBMITS FOR A TEMPORARY USE PERMIT PRIOR TO THE 30 DAY RENEWAL PERIOD, THE PERMIT WILL NOT EXCEED THE DURATION OF THE CURRENT CALENDAR YEAR AND THE PERMIT FEES WILL BE PRORATED.

- (c) Temporary sales or display of goods for special event use or fundraising use are allowed only if they are related to a particular seasonal, cultural, traditional, or community activity or event use. The following uses may be permitted:

- (1) Carnivals, circuses, festivals, fairs, holiday and special events;
- (2) Concerts, exhibitions, and special performances;
- (3) Temporary retail sales of arts, crafts, souvenirs, gifts, food, and other goods;
- (4) Temporary retail sales of Christmas trees, or other seasonally related sales;
- (5) Grand opening events, tent sales, sidewalk sales, and other events that include commercial activities or commercial related activities in areas that are not used for commercial purposes;
- (6) Religious/revival gatherings;
- (7) Political/organizational rallies;
- (8) Parades, races, walk or bike-a-thons, and sports tournaments;
- (9) School events;
- (10) Garage or yard sales held in excess of 32 hours or two times a year.

- (d) Portable storage containers shall be subject to the following requirements:

- (1) The temporary placement of a portable storage container on any residential lot for the purpose of loading and unloading household contents shall be permitted for a period of time not exceeding seven days in a calendar year.
- (2) In all non-residential districts, portable storage containers are permitted only in accordance with the following:
 - a. As a temporary use during construction, remodeling, or redevelopment of permanent on-site building and facilities. In addition to specifying and limiting the number, size, location, and duration of the storage containers, the city manager or designee may require additional measures to ensure compatibility

- 114 with adjacent land uses such as increased setbacks, screen walls, landscaping,
115 exterior materials and color.
- 116 b. As a temporary use that is periodic, intermittent, or isochronal and accessory
117 to a primary permitted use. In addition to specifying and limiting the number,
118 size, location, and duration of the storage containers, the city manager or
119 designee may require additional measures to ensure compatibility with
120 adjacent land uses such as increased setbacks, screen walls, landscaping,
121 exterior materials and color.
- 122 c. In no case shall such storage containers be located in required landscape
123 areas, open space, retention basins, drive aisles, fire lanes, required parking
124 spaces, loading zones, or any other location that may cause hazardous
125 conditions, constitute a threat to public safety, or create a condition detrimental
126 to surrounding land uses and developments.
- 127 (e) Construction trailer shall be subject to the following requirements:
- 128 (1) The construction trailer shall remain on site only for the duration of an active permit.
129 Abandoned trailers shall not be permitted on the site.
- 130 (2) The construction trailer, attendant parking and storage areas shall be located on
131 site so as not to interfere with safe ingress and egress to developed areas or areas
132 under construction.
- 133 (3) The construction trailer shall be removed prior to issuance of a final certificate of
134 occupancy.
- 135 (f) DONATION BINS SHALL BE SUBJECT TO THE FOLLOWING REQUIREMENTS:
- 136 (1) DONATION BINS ARE ONLY PERMITTED IN COMMERCIAL, BUSINESS PARK,
137 INDUSTRIAL, AND CIVIC ZONING DISTRICTS.
- 138 (2) CHURCHES, SCHOOLS AND OTHER PUBLIC FACILITIES LOCATED IN
139 RESIDENTIAL ZONING DISTRICTS MAY BE PERMITTED.
- 140 (3) DONATION BINS SHALL BE LOCATED ON A PAVED SURFACE.
- 141 (4) DONATION BINS SHALL NOT BE LOCATED WITHIN THE FRONT OR CORNER
142 SIDE SETBACKS, REQUIRED LANDSCAPED AREAS OR WITHIN REQUIRED
143 PARKING SPACES.
- 144 (5) DONATION BINS SHALL NOT OBSTRUCT PEDESTRIAN OR VEHICULAR
145 CIRCULATION, OR BE LOCATED WITHIN THE PUBLIC RIGHT-OF-WAY,
146 DRIVE AISLES, FIRE LANES, LOADING ZONES, OR ANY OTHER LOCATION
147 THAT MAY CAUSE HAZARDOUS CONDITIONS, OR CONSTITUTE A THREAT
148 TO THE PUBLIC HEALTH, SAFETY, AND WELFARE.
- 149 (6) THERE SHALL BE NO MORE THAN ONE (1) DONATION BIN ON PROPERTIES
150 LESS THAN ONE (1) ACRE IN SIZE, NO MORE THAN TWO (2) DONATION
151 BINS ON PROPERTIES OR COMMERCIAL CENTERS OF ONE (1) TO THREE
152 (3) ACRES IN SIZE, AND NO MORE THAN FOUR (4) DONATION BINS ON A
153 COMMERCIAL CENTER GREATER THAN THREE (3) ACRES IN SIZE. NO

MORE THAN TWO (2) DONATION BINS SHALL BE CLUSTERED TOGETHER AND LOCATED WITHIN 1,000 FEET OF ANY OTHER DONATION BIN.

(7) EACH DONATION BIN SHALL HAVE A FIRMLY CLOSING AND LOCKING¹ LID.

(8) EACH DONATION BIN SHALL BE CLEARLY MARKED TO IDENTIFY THE SPECIFIC ITEMS AND MATERIALS REQUESTED TO BE COLLECTED FOR DONATION.

(9) EACH DONATION BIN SHALL BE CLEARLY MARKED TO IDENTIFY THE CITY OF SURPRISE TEMPORARY USE PERMIT NUMBER WITH CONTRASTING PAINT. THE NUMBERS SHALL BE A MINIMUM OF TWO (2) INCHES HIGH AND LOCATED ON THE DEPOSIT FACE OF THE DONATION BIN.

(10) THE ENTITY PLACING THE BIN SHALL SUBMIT TO THE CITY, AS PART OF THE TEMPORARY USE PERMIT APPLICATION, WRITTEN AND NOTARIZED PERMISSION AUTHORIZATION² OF THE PROPERTY OWNER CONSENTING TO THE PLACEMENT AND MAINTENANCE OF THE DONATION BIN.

(11) THE CITY MAY CONSIDER PRIOR PERMIT REVOCATIONS, CITIZEN COMPLAINTS, NOTICES OF VIOLATION, AND FRAUDULENT APPLICATION INFORMATION WHEN GRANTING OR DENYING NEW OR RENEWED TEMPORARY USE PERMITS FOR DONATION BINS.³

~~(10)~~(12)

~~(11)~~(13) THE NAME AND TELEPHONE NUMBER OF THE ENTITY OBTAINING THE TEMPORARY USE PERMIT SHALL BE AFFIXED TO THE DONATION BIN ON AN AREA NO LARGER THAN ONE (1) FOOT BY ONE (1) FOOT.

~~(12)~~(14) DONATION BINS SHALL HAVE A CAPACITY NO GREATER THAN SIX (6) CUBIC YARDS.

~~(13)~~(15) ALL DONATED ITEMS MUST BE COLLECTED AND STORED IN THE DONATION BIN AND ALL CONTENTS CLEARED NO LESS THAN ONCE A WEEK. ANY ITEMS OR MATERIALS LEFT OUTSIDE OF THE DONATION BIN

¹ Without the requirement of a required locking mechanism, drop box operators may place hazardous bins accessible to children and other interested parties within the City of Surprise.

² Given the drop box industry's history of trespass and unauthorized placement of bins on property without ownership authorization, other jurisdictions have required notarization within the ordinance in order to place the burden of proof upon the applicant or drop box operator to provide evidence the true owner of record or his duly authorized agent provided authorization. Without notarization, the burden is shifted to the City of Surprise to use valuable City Staff time and efforts to verify the validity of each ownership authorization.

³ The revised language proposed above clarifies City Staff may consider prior revocations, violations, and also false statements within application information when granting or denying Temporary Use Permits.

182 SHALL BE REMOVED WITHIN 24 HOURS OF DISCOVERY OR NOTIFICATION,
183 WHICHEVER OCCURS FIRST.

184 (14)(16) IF A DONATION BIN IS DAMAGED OR VANDALIZED, IT MUST BE
185 REMOVED WITHIN FIVE (5) BUSINESS DAYS OF DISCOVERY OR
186 NOTIFICATION. IF THERE IS A PUBLIC HEALTH, SAFETY OR WELFARE
187 CONCERN PURSUANT TO THE AUTHORITY GRANTED TO THE CITY, THE
188 DONATION BIN MUST THEN BE REMOVED WITHIN 24 HOURS OF
189 DISCOVERY OR NOTIFICATION.

190 (15)(17) IT IS THE JOINT RESPONSIBILITY OF THE PROPERTY OWNER OR
191 AUTHORIZED AGENT AND THE ENTITY OBTAINING THE TEMPORARY USE
192 PERMIT TO KEEP THE AREA AROUND THE DONATION BOXES FREE OF
193 LITTER AND DEBRIS, AND REMOVE ANY GRAFFITI WITHIN (24) HOURS OF
194 DISCOVERY OR NOTIFICATION, WHICHEVER OCCURS FIRST.

195 (16)(18) IT IS THE RESPONSIBILITY OF THE ENTITY OBTAINING THE
196 TEMPORARY USE PERMIT TO MAINTAIN THE DONATION BIN PAINTED OR
197 OTHERWISE UN-RUSTED AND UN-DENTED AND IN GOOD REPAIR.

198 (19) THIS ORDINANCE AUTHORIZES THE CITY OR PROPERTY OWNER⁴
199 TO REMOVE AND DISPOSE OF ANY DONATION BIN (INCLUDING ITS
200 CONTENTS) WHICH IS UNAUTHORIZED, UNPERMITTED, OR IS OTHERWISE
201 IN VIOLATION OF THIS ORDINANCE.

202 (20) THE PROPERTY OWNER SHALL CONTROL THE TEMPORARY USE
203 PERMIT. THE PERMITTEE OR DONATION BIN OPERATOR DOES NOT
204 CONTROL THE TEMPORARY USE PERMIT UNLESS HE/SHE IS ALSO THE
205 PROPERTY OWNER. AS SUCH, THE PROPERTY OWNER MAY RESCIND
206 HIS/HER AUTHORIZATION FOR THE DONATION BIN AT ANY TIME AND THE
207 PERMIT SHALL BE REVOKED. NOTHING IN THIS ORDINANCE PROHIBITS
208 A PROPERTY OWNER FROM REMOVING A DONATION BIN REGARDLESS
209 OF WHETHER THE BIN IS PERMITTED OR UNPERMITTED. A PROPERTY
210 OWNER RETAINS THE RIGHT TO REMOVE AND DISPOSE OF AN
211 UNWANTED DONATION BIN AND ITS CONTENTS AT ANY TIME.⁵

⁴ In order for this ordinance to be enforceable and allow for the ultimate remedy of donation bin removal, this section must clearly provide both the City and the Property Owner with authority to remove drop boxes. Without this clarification, the ordinance can be used by drop box operators to argue a Property Owner does not have the authority to remove unauthorized and/or unwanted drop boxes.

⁵ This section ensures the City of Surprise is protecting the private property rights of its commercial shopping center owners. At all times, it is the property owner who must control the temporary use permit and have the ability to revoke his/her authorization and the associated permit. This language also assures a drop box operator cannot use the ordinance against a property owner wishing to remove a donation box from his/her property. Sections 19 and 20 above ensure both the City and the Property Owner have the ability to remove and dispose of an unwanted, unauthorized, unpermitted, and/or violating donation boxes from a property.

(17)(21)

SEC. 122-105. - Definitions.

COMMERCIAL CENTER. A LOCATION WHERE, REGARDLESS OF THE NUMBER OF PARCELS, ECONOMIC, SOCIAL, CULTURAL, AND ADMINISTRATIVE SERVICES ARE PROVIDED. THE COMMERCIAL CENTER WILL PROVIDE COMMON CIRCULATION, PARKING, AND UTILITY FACILITIES THAT SERVICE THE COMMERCIAL CENTER. A COMMERCIAL CENTER WOULD BE A CONTIGUOUS FACILITY AND WOULD NOT CROSS PUBLIC STREETS.

DONATION BIN. ANY CONTAINER, STORAGE UNIT, OR STRUCTURE, OTHER THAN A PRIMARY BUILDING OR ACCESSORY BUILDING(S), THAT IS USED FOR THE COLLECTION OF CHARITABLE OR FOR-PROFIT DONATED ITEMS BY THE GENERAL PUBLIC, INCLUDING BUT NOT LIMITED TO CLOTHING, HOUSEHOLD GOODS, TOYS, BOOKS, AND NEWSPAPERS.

Blight / Nuisance



Lack of regulation on number of bins or impact on parking.

In your Neighborhood?

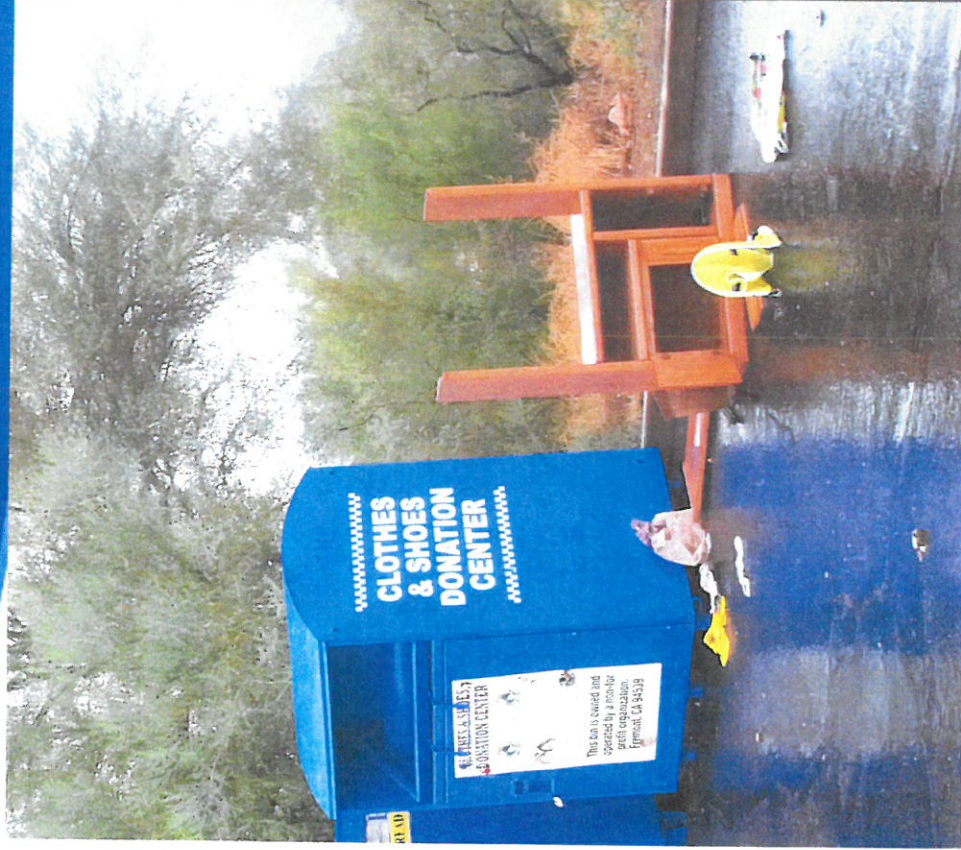


Blight



[illegible]

Maintenance & Pick Ups



Maintenance & Pick Ups



Graffiti



ROW Obstruction



Safety Hazard



Safety Hazard



32nd Street & Baseline Road

Blight



Parking & Blight



Parking Spaces



Dumping



Dumping



Dumping



708 Temporary uses.

A. Purpose. The purpose of the temporary uses section is to regulate limited duration uses not otherwise allowed in the applicable zoning districts. *3 *5

The Planning and Development Director may issue an administrative temporary use permit upon written request and submission of an application. Any approval is contingent upon this section, city policy, and written stipulations contained on the permit. +5

A temporary use permit allows for a temporary use that does not meet the requirements of an administrative temporary use permit. An application per Section 307 shall be filed to request approval of a temporary use permit. +5

B. General Regulations. These provisions apply to both administrative temporary use permits and temporary use permits. Temporary uses shall mean either a land use or a structure on the parcel. *5

1. Temporary uses shall be accessory to the primary use on the lot, and may be either indoors or outdoors. The Planning and Development Director may waive this requirement based upon the following criteria: +5

a. There exists a substantial need for it to be considered a primary use for a limited period of time, +5

b. Necessary to enjoy reasonable and substantial property rights, +5

c. Will not create an adverse impact on other properties or persons within the vicinity. +5

2. The Planning and Development Director may revoke a temporary use permit if any conditions or stipulations are not met. +5

3. Temporary uses or structures shall not be permitted within a Planned Unit Development (PUD) zoning district unless otherwise authorized in the PUD. This provision does not apply to PUDs with an adopted ordinance prior to August 6, 2011, the effective date of Ordinance No. G-5644. +5

C. Administrative Temporary Use Permit. An administrative temporary use permit (ATUP) is subject to the following: +5

1. An administrative temporary use permit is required for the following uses or analogous uses: +5

a. Community or other special events on commercial properties. +5

b. Interim surface parking or temporary event parking. +5

c. Promotional events for commercial retail or service businesses. +5

d. Temporary residential dwelling units or residential accessory structures during construction. +5

- e. Temporary employment offices during construction. +5
 - f. Portable searchlights. +5
 - g. Promotional vehicle sales for sites with a minimum of 20 contiguous acres in size and conducted by an existing licensed auto dealership. +5
 - h. Temporary generators. +5
 - i. Temporary construction yards or staging areas. +5
2. Applicants shall submit the following: +5
- a. Application form. +5
 - b. Address or location of property. +5
 - c. Notarized letter of authorization from the property owner of record or a person who has been granted written authorization by the owner to act on his behalf giving permission to have the specified use on the property. If a notarized letter from the property owner is not provided then a notarized letter from the person who has been granted written authorization by the property owner to act on his behalf shall be provided at the time of application. The agent must be approved to authorize and locate a container on the parcel. A permit may be revoked if fraudulent materials are submitted as part of the application process. +6
 - d. Letter of authorization from the property owner giving permission to hold the event on specified days and times. +5 *6
 - e. Site plan showing the location of event on subject property. +5 *6
 - f. Submittal fee in accordance with Appendix A of the Zoning Ordinance. +5 *6
3. The Planning and Development Director shall review applications and may grant approval based upon the following criteria: +5
- a. The use shall not cause a significant increase in odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions. +5
 - b. The use shall comply with all other codes and ordinances. +5
 - c. The use shall not reduce the number of parking spaces below the number required by the Zoning Ordinance for the existing uses. +5
 - d. Dates, times, duration, and other requirements shall be in accordance with the following, or as otherwise may be limited by the Planning and Development Director and listed on the permit. +5
 - (1) The approval of the following shall not exceed a length of five consecutive days with a maximum of five events per calendar year and a maximum of two events per month: +5
 - (a) Community or other special events on commercial properties. +5

- (b) Promotional vehicle sales for sites with a minimum of 20 contiguous acres in size conducted by an existing licensed auto dealership. +5
- (c) Temporary event parking. +5
- (2) The approval of the following shall not exceed a length of five consecutive days with a maximum of 12 events per calendar year and a maximum of two events per month: +5
 - (a) Promotional events for commercial retail or service businesses. +5
 - (b) Portable searchlights. +5
- (3) The following uses may be approved for up to one year: +5
 - (a) Temporary residential dwelling units or residential accessory structures during construction. +5
 - (b) Temporary employment offices during construction. +5
 - (c) Temporary generators. +5
 - (d) Temporary construction yards or staging areas. +5
 - (e) Interim surface parking. +5
- e. The use shall not emit direct light that is greater than one foot candle at the property line or broadcast sound beyond the boundaries of the property on which the use is conducted unless approved by the Planning and Development Director. +5
- f. An administrative temporary use permit for a parcel may be denied when the property owner has been issued a notice of violation that was related to previous temporary uses within the last two years. +5
- 4. Uses that require an administrative temporary use permit may not be altered or expanded unless approved by the Planning and Development Director. +5
- D. Temporary Use Permits.** Other than a mobile vendor use or mobile vending unit, a temporary use permit shall be obtained pursuant to Section 307 as follows: +2 *5
 - 1. The Zoning Administrator may grant a temporary use permit for up to 36 months. A time extension of no more than six months may be granted only through an additional use permit hearing. +2 *5
 - 2. The following will apply to sites with approved use permits prior to August 6, 2011, the effective date of Ordinance No. G-5644: If the temporary use is recurring and occurs less than 50 days during the calendar year, then a use permit must be obtained for each of the first two years. In the third and consecutive, subsequent years, no use permit approval shall be required to continue the temporary use permitted by the use permit upon complying with the following: (a) payment of the application fee set forth in the City Code; and (b) upon a finding by the Zoning Administrator that the temporary use has not been detrimental to persons residing or working in the vicinity, to adjacent property or to the neighborhood. +2 *5

E. A nonresidential use in a residential district may have a temporary use upon a finding by the Zoning Administrator that the temporary use meets the following criteria: +2 *5

1. The subject parcel must have its primary driveway on an arterial street. Ingress and egress to the site during the time period the temporary use is functioning is restricted to arterial street driveways. +2 *5
2. The subject parcel shall have no zoning violations on record for the previous 12 months. +2 *5
3. The use or structure shall comply with all other applicable codes and ordinances. +2 *5
4. The approval shall not exceed a length of three consecutive days (excluding installation and removal) with a maximum of four events per calendar year. +2 *5
5. The use or structure shall be set back a minimum of 50 feet from the lot line of any adjacent residential use. +2 *5
6. The number of parking spaces shall not be reduced below the number of spaces required by the Zoning Ordinance or below ten percent of the spaces provided, whichever is greater. +2 *5
7. The use shall not be conducted between the hours of 10:00 p.m. and 8:00 a.m. +2 *5
8. No direct light or sound associated with such use or structure shall be visible or broadcast beyond the boundaries of the lot. +2 *5
9. A third party, commercial use that is unrelated to the primary use of the subject parcel may not sell retail merchandise indoors or out-of-doors, unless the third party is a nonprofit organization. +2 *5
10. A fee has been paid in an amount equal to the minor promotional event fee set forth in the zoning fee schedule of this code. +2 *5

F. Reserved. -5

G. A searchlight may be located within a C-1, C-2, C-3, A-1, A-2, Commerce Park, PSC, or RSC district so long as it is not placed within one hundred fifty feet of an occupied residence. +1

H. A searchlight display may consist of two searchlights. Additional lights may be authorized with a use permit. +1

I. A searchlight display may be located on a property for twelve days in any calendar year. Additional days may be authorized with a use permit. +1

1. A searchlight display may be located on a shopping center containing seventy-five acres or more or at the Veterans Memorial Coliseum so long as said light is not placed within three hundred feet of an occupied residence, notwithstanding the provisions of subsection G. +1
2. Notwithstanding the other provisions of this section, a searchlight may be displayed at a grand opening within one hundred fifty feet of an occupied residence and shall not be displayed for more than three days in any calendar year. +1

J. A form, furnished by the Planning and Development Department, shall be submitted to the Planning and Development Department for each searchlight display. If not submitted prior to the occurrence, it shall be postmarked no later than the date of the display. +1

K. No searchlight shall be operated between the hours of 11:00 p.m. and dawn. +1

L. Charitable Drop Box Container Permit. A charitable drop box container permit is subject to the following: +6

1. An annual permit is required for the following uses or analogous uses: +6

a. Charitable drop box containers. +6

(1) Containers are permitted in C-0, C-1, C-2, C-3, and Commerce Park Zoning Districts. Containers are also permitted on residentially zoned properties with public assembly uses. +6

(2) Must be a container constructed of painted metal, rubber, wood, or plastic, and shall be maintained in a safe and non-blighted condition. The owner or operator of a container shall remove any material left in and around the container within 24 hours of receiving written notification from the property owner, or City of Phoenix. If more than 25 percent of a container is damaged or vandalized, it must be removed within five business days of written notification. If there is a public health, safety or welfare concern pursuant to Chapter 27 of the City Code, the container must then be removed within 24 hours of written notification. +6

(3) The container shall be no more than six cubic yards in capacity and must have a locking lid or a latch that meets the requirements of Chapter 27 of the City Code. There shall be no more than two containers on any one property or center, whichever is most restrictive. A property may contain one 12-cubic-yard container in lieu of two six-cubic-yard containers. The Planning and Development Director may approve more than two containers on properties that are greater than 10 acres in size if the additional containers are located on a different street frontage and spaced a minimum of 500 feet from the other containers. +6

(4) The container shall be clearly marked to identify the specific items and materials requested to be left for donations, the name, telephone number and email address of the owner or operator of the container that may be used for contact at any time. A notice shall also be on the container that items shall not be left outside of the container and a statement that no hazardous materials may be placed inside the containers pursuant to Chapter 27 of the City Code. The container shall also list the name of the non-profit entity that shares the donated item profits. +6

(5) Containers shall not be permitted in a location that impacts required parking vehicular circulation, loading zones, or landscaping. +6

(6) Each container may be permitted for up to one year. Each container permit may be renewed on an annual basis pursuant to compliance with Section 708.C.3. +6

(7) The City may consider prior permit revocations due to fraudulent application information when granting new charitable drop box permits. +6

(8) A property owner shall control the permit not the permittee. As such, the owner or authorized agent may rescind their authorization for the container at any time and the permit shall be revoked. +6

(9) Permits are not required when the container is in compliance pursuant to Section 608.E.1. +6

Date of Addition/Revision/Deletion - Section 708

- +1 Addition on 6-3-1992 by Ordinance No. G-3530
- +2 Addition on 1-20-1999 by Ordinance No. G-4155
- *2 Revision on 1-20-1999 by Ordinance No. G-4155
- *3 Revision on 10-4-2000 by Ordinance No. G-4298 (effective 2-1-2001)
- *4 Revision on 4-17-2002 by Ordinance No. G-4426, eff. 5-17-2002
- +5 Addition on 7-6-2011 by Ordinance No. G-5644, eff. 8-5-2011
- 5 Deletion on 7-6-2011 by Ordinance No. G-5644, eff. 8-5-2011
- *5 Revision on 7-6-2011 by Ordinance No. G-5644, eff. 8-5-2011
- +6 Addition on 10-2-2013 by Ordinance No. G-5846, eff. 1-1-2014
- *6 Revision on 10-2-2013 by Ordinance No. G-5846, eff. 1-1-2014