

April 20, 2011

Goodwill Industries of Northwest NC, Inc.  
c/o Art Gibel  
P. O. Box 4299  
Winston-Salem, NC 27115

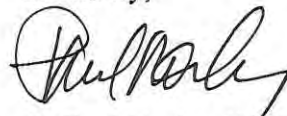
RE: ZONING TEXT AMENDMENT UDO-221

Dear Mr. Gibel:

The attached report of the Planning Board to the Forsyth County Board of Commissioners and City of Winston-Salem City Council is sent to you at the request of the Commissioners and Council Members.

When the text amendment is scheduled for public hearing, you will be notified by the Clerk to the County Commissioners and the City Secretary, of the date on which the Commissioners and City Council will hear this petition.

Sincerely,



A. Paul Norby, FAICP  
Director of Planning

Attachment

pc: County Clerk, County Manager's Office  
City Secretary

**ACTION REQUEST FORM**

**DATE:** April 20, 2011  
**TO:** The Honorable Mayor and City Council  
**FROM:** A. Paul Norby, FAICP, Director of Planning

**COUNCIL ACTION REQUEST:**

Request for Public Hearing on Zoning Text Amendment proposed by Goodwill Industries

**SUMMARY OF INFORMATION:**

A UDO Text Amendment proposed by Goodwill Industries to amend Chapters A and B of the *Unified Development Ordinances* to establish provisions for Unattended Donation Containers (UDO-221).

**PLANNING BOARD ACTION:**

**MOTION ON PETITION:** APPROVAL  
**FOR:** UNANIMOUS  
**AGAINST:** NONE  
**SITE PLAN ACTION:** NOT REQUIRED

## STAFF REPORT

DOCKET # UDO-221  
STAFF: David Reed

### REQUEST

This text amendment is proposed by Goodwill Industries to amend Chapters A and B of the *Unified Development Ordinances* to establish provisions for Donation Containers.

### BACKGROUND

Goodwill Industries submitted the following comments as part of their application:

This request is to ban the use of **unattended donation containers** (UDCs) for clothing and other household items.

Major cities across the U.S., including many municipalities in NC, have encountered an explosion in the number of UDCs. These containers can negatively affect a community's health, safety, welfare, and appearance.

- UDCs may not be adequately monitored so that any material that accumulates outside the container can become unsightly and/or encourage theft.
- UDCs can be an attractive nuisance whose opening is large enough to permit children or homeless persons to pass through.
- UDCs often resemble trash dumpsters and have a detrimental effect on neighborhood appearance.
- Additionally, most of these UDCs appear to be "sponsored" by non-profit organizations. However, in most cases the actual operator is a company or organization that pays a small sum to a legitimate non-profit in order to use its name for purported fund-raising purposes.

In almost all cases a donor is shocked when they find out that only a small portion (typically 1 – 6%), if any, of their donation actually benefits the charity they believed they were helping. Such deception of donors is not only wrong, but can contribute to a negative image of truly legitimate charities.

Winston-Salem has relatively few UDCs at the present time but an increase has been witnessed in recent months. By acting now, the City can avoid the problem being faced by many municipalities across the U.S. and North Carolina. Of note, the City of Durham effectively addressed this issue through a UDO Amendment in November, 2008.

## **ANALYSIS**

Planning staff does see an advantage in requiring an attendant to spend some part of each day at a donation container. This allows for supervision of the site and, if items are left outside the container when an attendant is not present, those items can be taken care of the very next day when the attendant returns.

Staff does not view the UDO as a document to be used for the purpose of regulating business practices or giving preference to non-profit organizations. The concern that planning staff believes is appropriate for regulation within the UDO is the concern for the unsightliness and potential hazards that arise from allowing unattended containers, or having a proliferation of containers.

Staff is recommending language that differs from that originally proposed by the petitioner. It was determined that the most logical place for the regulations is the Accessory Uses section and wording was created to fit the intent of the petitioner's request into ordinance language. Staff is also recommending slightly different standards and the petitioner is in agreement with all of the changes proposed by staff.

## **RECOMMENDATION**

### **APPROVAL**

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**CITY-COUNTY PLANNING BOARD  
PUBLIC HEARING  
MINUTES FOR UDO-221  
APRIL 14, 2011**

David Reed presented the staff report.

**PUBLIC HEARING**

FOR:

Art Gibel, 2701 University Parkway, Winston-Salem, NC 27105

- Unattended donation containers can negatively impact a community.
- They may not be monitored closely enough to avoid unsightly items piling up outside the container.
- They may resemble trash dumpsters.
- Other cities in the country have already restricted and even prohibited unattended donation containers.
- We represent several legitimate agencies who depend on charitable donations to provide job training and such services which benefit the community. Many unattended donation centers do not benefit the community.
- This text amendment makes no distinction between non-profit and for-profit entities.

AGAINST: None

**WORK SESSION**

Paul Norby further explained staff's support of this request. While he expressed appreciation for the concerns by the non-profit organizations, the following points need to be stated for the purpose of this Board and the Elected Officials in their responsibilities regarding zoning regulations. He made the following points:

1. With zoning regulations, we can't consider whether something favors non-profit organizations or for-profit organizations. The Planning Board has to deal with those evenly.
2. The Board can get into things like appearance, sanitation, maintenance of sites, and minimizing clutter. Things like that are legitimate bases for land use regulations.
3. Staff recommends this, not because of how it affects non-profits or for-profits, but because of the physical nature of the development.
4. This does put more control over these type of uses, their location, upkeep of such uses, and the appearance of sites. Those would be the reasons we think it would be legitimate for the Board to consider adoption of this.

MOTION: Clarence Lambe moved approval of the zoning text amendment.

SECOND: Paul Mullican

VOTE:

FOR: Wesley Curtis, Arnold King, Clarence Lambe, Darryl Little, Barry Lyons, Lynne Mitchell, Paul Mullican, Brenda Smith, Allan Younger

AGAINST: None

EXCUSED: None



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A. Paul Norby, FAICP  
Director of Planning

**UDO-221**  
**AN ORDINANCE AMENDING**  
**CHAPTER B OF THE *UNIFIED DEVELOPMENT ORDINANCES***  
**TO ESTABLISH REGULATIONS FOR DONATION CONTAINERS**

Be it ordained by the City Council of the City of Winston-Salem, North Carolina, that the *Unified Development Ordinances* is hereby amended as follows:

**Section 1.** Chapter A, Article II – Definitions is hereby amended as follows:

**Chapter A - Definitions Ordinance**  
**Article II – Definitions**

**DONATION CONTAINERS.** A box, bin, trailer, or similar receptacle used as a depository or collection point for the donation of clothing or other household items that is not a structure as defined by this ordinance.

**RECYCLING COLLECTION POINT.** An incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable re- sources. No processing of such items is allowed. This facility would generally be located in a shopping center parking lot or in other public or institutional areas, such as churches and schools. Does not include the separate use Donation Containers.

**Section 2.** Chapter B, Article II – Zoning Districts, *Official Zoning Maps*, and Uses is hereby amended as follows:

**Chapter B - Zoning Ordinance**  
**Article II - Zoning Districts, *Official Zoning Maps*, and Uses**

**2-6 ACCESSORY USES**

Table B.2.8  
 Uses Accessory to Certain Principal Uses

Principal Use	Uses Accessory to the Principal Use
<u>14. Retail Store; Shopping Center; Church or Religious Institution - Community &amp; Neighborhood scale; Institutional Vocational Training Facility; Manufacturing A, B &amp; C; Convenience Store; Food/drug Store; Health services - Miscellaneous; Warehousing; Hospital or Health Center; and Banking and Financial Services</u>	<u>Donation Containers</u>

Table B.2.9  
Accessory Uses Subject to Other Requirements

Accessory Use	Other Requirements	
<u>13.</u>	<u>Donation Container</u>	<u>Section B.2-6.4(F)</u>

**2-6.4 ACCESSORY USES SUBJECT TO OTHER REQUIREMENTS**

**(F) Donation Containers**

- (a) Attendant. A person whose principal function is to accept donations of clothing or other household items shall be present and available to do so a minimum of five (5) hours per day, except for holidays recognized by the zoning jurisdiction.
- (b) Number. Only one donation container shall be allowed on a zoning lot.
- (c) Evidence of property owner authorization. The sponsoring organization responsible for the donation container must submit written evidence on demand that the property owner has authorized said location for a donation container site.
- (d) Maintenance. Donated items shall be placed inside the donation container and shall not be allowed to accumulate outside the same.
- (e) Identification. The name and telephone number of the party responsible for its maintenance shall be posted on the container.

**Section 3.** All donation containers which do not comply with the requirements of this ordinance shall be removed within sixty (60) days of its adoption.

**Section 4.** This ordinance shall become effective upon adoption.