

ORDINANCE NO. 2016-11-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ESTABLISHING CHAPTER 138, ARTICLE VII (DONATION COLLECTION CONTAINERS) OF THE CODE OF ORDINANCES, AMENDING SECTION 146-130(6)(d) OF THE CODE OF ORDINANCES, AND AMENDING APPENDIX A (SCHEDULE OF FEES); ESTABLISHING PRESUMPTIONS; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF

WHEREAS, the City of McKinney adopted the Code of Ordinances for the protection of the public health and general welfare of the people of the City of McKinney; and

WHEREAS, the City Council has recognized that certain provisions of the Code of Ordinances should be reviewed and updated; and

WHEREAS, amendments to these provisions have been proposed and the City Council of the City of McKinney is of the opinion that this chapter should be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:

Section 1. Chapter 138, Article VII (Donation Collection Containers) of the Code of Ordinances, City of McKinney, Texas, is hereby established and shall read as follows:

“ARTICLE VII. – DONATION COLLECTION CONTAINERS

Sec.138-500. – Purpose.

The proliferation of donation collection containers contribute to visual clutter, blight due to graffiti and poor maintenance, and the accumulation of debris and excess items outside the collection containers. These regulations are intended to promote the health, safety, and welfare of the public, and to protect the property rights of the owners of the parcels of land on which the collection containers are located by providing minimum blight-related performance standards for the operation of collection containers, including establishing criteria to ensure that:

- (a) Material is not allowed to accumulate outside of the collection containers;
- (b) The collection containers remain free of graffiti and blight;
- (c) The collection containers are maintained in sanitary conditions;
- (d) The collection containers are not placed without the approval of property owners; and
- (e) Contact information is readily available so that the operators can be contacted if there are any blight-related questions or concerns.

Sec. 138-501. – Definitions.

- (a) *Collection container* means a drop-off structure, box, bin, container, receptacle, trailer, mobile vehicle, or similar facility that accepts furniture, textiles, shoes, media, books (save and except residential book exchange containers) and/or other salvageable or reusable items of personal property.

- (b) *Collection container, small* means a collection container that occupies less than or equal to one hundred and seventy-five (175) cubic feet and is no taller than seven feet (7') above the finished grade of the area of the parcel or tract where the container is located.
- (c) *Collection container, large* means a collection container that occupies more than one hundred and seventy-five (175) cubic feet. Large collection containers may not be taller than fourteen feet (14') above the finished grade of the area of the parcel or tract where the container is located.

Sec. 138-502. – Conflicts.

Where a conflict exists between the regulations or requirements in this article and applicable regulations or requirements contained in other sections of the Code, the applicable regulations or requirements of this article shall prevail.

Sec. 138-503. – Permit Required and Exemptions.

- (a) Except as provided herein, it shall be prohibited to place, operate, maintain or allow a collection container on any real property unless the property owner and operator of the collection container first obtain an annually renewable permit from the Environmental Health Manager, or their designee.
- (b) Collection containers that satisfy the following standards are exempt from the requirements of this article:
 - (1) Collection containers that are wholly located within an entirely enclosed and lawfully constructed and permitted building or structure, or otherwise cannot be seen from outside boundaries of the property on which the containers are located, provided that such collection containers satisfy the operational requirements contained herein;
 - (2) Cargo storage containers that may otherwise be allowed by this Code; and
 - (3) Refuse or recycling containers that comply with the provisions of Chapter 146-132 (Fences, Walls and Screening Requirements) of this Code.

Sec. 138-504. – Application Requirements.

The following minimum information shall be required when applying for a permit for a collection container:

- (a) A completed permit application containing the names, signatures, phone numbers, email addresses, websites (if available), and mailing addresses of the property owner and the operator of the collection container;
- (b) A non-refundable application fee as outlined in Appendix A (Schedule of Fees) of the Code, and as may be amended from time to time by ordinance;
- (c) A site plan or layout exhibit sufficiently reflecting:
 - (1) The location and dimensions of all property boundaries;
 - (2) The location of all buildings or structures;
 - (3) The proposed collection container location;
 - (4) The location and dimensions of all existing and/or proposed driveways, carports, parking spaces, maneuvering, pavement and striping/markings.

- (d) Four-sided color elevations showing the appearance and dimensions of the proposed collection container.

Sec. 138-505. – Permit Expiration and Renewal.

- (a) A permit issued under this section shall expire and become void on January 1 of each calendar year. An application for renewal must be submitted prior to the expiration of a permit annually and must be accompanied by the following, at a minimum:
 - (1) A completed permit renewal application containing the names, signatures, phone numbers, email addresses, websites (if available), and mailing addresses of the property owner and the operator of the collection container;
 - (2) A non-refundable application fee as outlined in Appendix A (Schedule of Fees) of the Code, and as may be amended from time to time by ordinance;
 - (3) Updates to any information contained in the original permit application that is to be modified.

Sec. 138-506. – Approval Required.

- (a) The Environmental Health Manager, or their designee, shall approve or deny a permit application for collection container within ten (10) days of the receipt of a completed submittal. If the Environmental Health Manager fails to take action on the submittal within the required timeframe, the application shall be deemed approved.
- (b) A permit application for a collection container shall be approved if the following is found to be true:
 - (1) The applicant has submitted a complete, fully executed and accurate application accompanied by the applicable application fee;
 - (2) The applicant is neither currently in violation of, nor has been found in violation of this article within two (2) years prior to the submission of the application or permit renewal; and
 - (3) The application or permit renewal will be in compliance with all applicable regulations contained herein.
- (c) If a permit application or renewal application for a collection container is denied by the Environmental Health Manager, or their designee, such ruling may be appealed to the Executive Director of Development Services within seven (7) calendar days of the denial. The appeal must be made in writing and must include the reason for the appeal and the justification for why the permit application should be approved. The Executive Director of Development Services shall be the final approval authority.

Sec. 138-507. – Permit Revocation.

If any individual, company, corporation or association who owns, operates, exhibits, or displays any collection container in this City shall violate any provision of this article, the Environmental Health Manager shall have the power and authority to cancel and revoke all permits issued hereunder to any of the foregoing by giving written notice, stating the reason justifying such revocation, and the same shall become void ten (10) days from date of such notice. No permit shall be issued within a period of two (2) years to anyone whose permit has been revoked, except at the discretion of the City Council. If the permit of an individual, company, corporation, or association owning, operating, or displaying a collection container on a specific property in this City is cancelled, such

individual, company, corporation or association shall not operate, display or permit to be operated or displayed such a collection container on said property until a new permit is granted.

Sec. 138-508. – Locational Requirements for Collection Containers.

- (a) No collection container shall be located within three-hundred feet (300') from any other collection container.
- (b) Collection containers are only permitted within non-residential zoning districts.
- (c) No collection contained shall be located on or within three-hundred feet (300') of a property zoned or used for residential purposes.
- (d) Collection containers must be located within twenty feet (25') of an illumination source which operates from dusk until dawn that is sufficient for discouraging theft, vandalism and/or vagrancy including, but not limited to street lighting, parking lot lighting, or an illuminated building wall pack(s).
- (e) No collection container shall be located on or within:
 - (1) A required landscaping area;
 - (2) A parking space, loading space or driveway area that is required to satisfy the requirements of the City; or
 - (3) The public right-of-way, except as approved by the City Council as part of a license agreement.
- (f) No collection container shall be placed in a manner that blocks, limits, or impedes the function of, access to, or maintenance of any of the following:
 - (1) Required parking, loading or driveway areas;
 - (2) Pedestrian, wheelchair and/or bicycle routes or trails;
 - (3) Building ingress and egress;
 - (4) Required disabled access routes;
 - (5) Required easements;
 - (6) Refuse and/or recycling enclosures areas or access to refuse and/or recycling bins or enclosures; or
 - (7) Exhaust, ventilation, mechanical, electrical or fire suppression systems, including, but not limited fire department connections or fire hydrants.
- (g) No more than one collection container shall be located on any parcel or tract of land, except as otherwise permitted herein.
- (h) No large collection container shall be located within any zoning district's building setback.

Sec. 138-509. – Collection Container Physical Attribute Requirements.

- (a) All collection containers shall:
 - (1) Be fabricated of durable and waterproof materials;
 - (2) Be placed on ground that is paved with durable cement;

- (3) Have a tamper-resistant locking mechanism for all collection openings to prevent theft and vandalism;
 - (4) Not be electrically, mechanically, or hydraulically powered or otherwise mechanized; and
 - (5) Not be considered a fixture of the site or an improvement to real property.
- (b) Small collection containers shall have the following information conspicuously displayed in at least two-inch (2") type visible on the collection container:
- (1) The name, mailing address, 24-hour contact telephone number, email address, and if available, the internet web address of the operator of the collection container and the agent or representative for the property owner;
 - (2) The type of material that may be deposited into the collection container; and
 - (3) A notice stating that no material shall be left outside the collection container.
- (c) Large collection containers shall have the following information conspicuously displayed in at least four-inch (4") type visible from the front of the collection container:
- (1) The name, mailing address, 24-hour contact telephone number, email address, and if available, the internet web address of the operator of the collection container and the agent or representative for the property owner;
 - (2) The type of material that may be deposited into the collection container;
 - (3) A notice stating that no material shall be left outside the collection container; and
 - (4) A statement that no items may be left for collection unless an attendant is on duty.

Sec. 138-510. – Maintenance and Operation.

- (a) No overflow collection items, litter, debris or dumped materials shall be allowed to accumulate within twenty feet (20') of any collection container.
- (b) Collection containers shall be maintained and in good working order, and free from graffiti, removed or damaged signs and notifications, peeling paint, rust, and broken collection operating mechanisms.
- (c) Collection containers 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 maintenance of the container, the removal of collected material and abatement of any graffiti, litter, or any nuisance conditions.
- (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) Any conditions that are in violation of this section must be remedied or abated within forty-eight (48) hours of being reported to the operator or property owner.
- (f) Collection containers cannot be used for the collection of refuse, solid waste and/or any hazardous materials.

(g) Large collection containers shall have an attendant present at the container at all times that items are being received.”

Section 2. Section 146-130(6)(d) of the Code of Ordinances, City of McKinney, Texas, is hereby amended and shall read as follows:

“d. *Non-residential and multiple family uses.*

1. All required off-street parking, maneuvering, and loading areas shall be paved with concrete or asphaltic material in accordance with parking lot requirements in the city's design standards, except where another surface is approved through the site plan process for special loading/unloading operations such as storage or use of tracked equipment.
2. Parking spaces shall be clearly identified by stripes, buttons, tiles, curbs, barriers, or other approved methods.
3. Barriers shall be installed to prevent overhang of vehicles into required landscape areas, rights-of-way, pedestrian ways, and private property.
4. For safety and firefighting purposes, cross access between parking areas of adjacent non-residential parcels shall be provided.
5. Fire lanes shall be provided as required by the adopted fire code of the city, and shall be adequately reinforced to withstand heavy vehicle loading.
6. Refuse facilities shall be located so as to facilitate pickup by refuse collection agencies. Sanitation containers shall not be located in a designated parking space or loading area. Reinforced concrete pavement shall be provided for refuse facilities and their approaches for loading and unloading.
7. No parking area shall be used for repair, storage, dismantling, or servicing of vehicles or equipment.
8. No parking or loading area shall be used for storage of inventory, materials, display, sanitation containers, supplies, or for any other use, except for donation collection containers permitted by Chapter 138, Article VII of the Code of Ordinances, or as approved through the site plan process or through the issuance of a temporary use permit. Under no circumstances shall a required parking space be used for any purpose other than parking except as otherwise permitted herein.
9. All off-street parking areas shall be kept free of litter, trash, debris, vehicle repair operations, display, and advertising uses. Donation collection containers permitted by Chapter 138, Article VII of the Code of Ordinances shall be permitted in an off-street parking area.
10. The property owner shall be responsible for adequately maintaining all parking facilities, including paving, striping, elimination of debris, and correction of use violations.
11. At no time after initial approval of the parking area layout, can changes be made to the location or number of provided spaces, unless approved by the director of planning or through the site plan process.”

Section 3. Appendix A (Schedule of Fees) of the Code of Ordinances, City of McKinney, Texas, is hereby amended to incorporate a new fee for Section 138-504 of the Code of Ordinances and shall read as follows:

“*Sec. 138-504. Application Requirements.*

Application Fee... \$150.00”

Section 4. If any section, subsection, paragraph, sentence, phrase or clause of this Ordinance shall be declared invalid for any reason whatsoever, such

decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect, and to this end, the provisions of this Ordinance are declared to be severable.

Section 5. That this Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.

Section 6. This Ordinance shall become effective from and after the date of its final passage and publication as provided by law, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THIS 1ST DAY OF NOVEMBER, 2016.

CITY OF MCKINNEY, TEXAS

BRIAN LOUGHMILLER
Mayor

CORRECTLY ENROLLED:

SANDY HART, TRMC, MMC
City Secretary
DENISE VICE, TRMC
Assistant City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney