



CITY OF MCKINNEY, TEXAS

Legislation Details (With Text)

File #: 16-296M **Name:** Donation Bin Ordinance
Type: Agenda Item **Status:** Approved
In control: Planning & Zoning Commission
On agenda: 10/25/2016 **Final action:** 10/25/2016
Title: Conduct a Public Hearing to Consider/Discuss/Act on an Amendment to Chapter 146-130 (Vehicle Parking) of the Code of Ordinances, the Creation of Chapter 138, Article VII (Donation Collection Containers) of the Code of Ordinances, and an Amendment to Appendix A (Schedule of Fees) of the Code of Ordinances

Indexes:

Attachments: 1. Donation Bin Court Opinion, 2. Proposed 146-130 Changes, 3. Proposed Chapter 138 Article VII, 4. Proposed Ordinance for Adoption

Date	Ver.	Action By	Action	Result
10/25/2016	1	Planning & Zoning Commission	Approved	Pass

Conduct a Public Hearing to Consider/Discuss/Act on an Amendment to Chapter 146-130 (Vehicle Parking) of the Code of Ordinances, the Creation of Chapter 138, Article VII (Donation Collection Containers) of the Code of Ordinances, and an Amendment to Appendix A (Schedule of Fees) of the Code of Ordinances

COUNCIL GOAL: Direction for Strategic and Economic Growth
Enhance the Quality of Life in McKinney

MEETING DATE: October 25, 2016

DEPARTMENT: Development Services Division

CONTACT: Michael Quint, Executive Director of Development Services

APPROVAL PROCESS: The recommendation of the Planning and Zoning Commission will be forwarded to the City Council for final action at the November 1, 2016 meeting.

RECOMMENDED PLANNING AND ZONING COMMISSION ACTION:

- Staff recommends approval of the proposed ordinance amendments.

ITEM SUMMARY:

- Staff was recently made aware of recent federal court decisions that impact McKinney’s current regulations and practices as they pertain to donation containers. The proposed amendments will bring McKinney into conformance with these decisions.
- In April of 2015, the U.S. Court of Appeals for the Sixth Circuit issued an opinion in the case *Planet Aid v. City of St. John’s, MI*. The opinion stated that the City of St. John’s ordinance which banned outdoor, unattended charitable donation bins was a violation of Planet Aid’s first amendment constitutional right (free speech) and the underlying federal district court’s

preliminary injunction was upheld. The court's opinion is attached for reference purposes.

- McKinney's ordinances do not specifically provide for a permit to utilize or place a donation bins, and thus they have been historically prohibited as a result. *In order to remain consistent with current first amendment case law and avoid claims or litigation, Staff is proposing to modify the Code of Ordinances.*
- Donation containers have historically proven to be a source of visual clutter and blight thus many municipalities throughout the nation have prohibited them. While McKinney has not expressly prohibited donation containers, staff proposes clarity in the ordinance that they are allowed and how they are to be permitted. Staff feels the proposed Code amendments adequately address this issue while preserving first amendment rights.
- The proposed regulations are intended to protect the public's health, safety and general welfare by addressing where and how donation collection containers can be installed throughout the community.

BACKGROUND INFORMATION:

- Staff presented draft regulations to the City Council for consideration and discussion at the October 3, 2016 work session. At that time, the Council directed Staff to make the regulations simpler and to ensure that concepts like the "little free pantry" and "little free library" would be allowed.
- Staff has since modified the draft regulations and they are attached for consideration. The attached redlined version of Chapter 138, Article VII reflect the changes that were made subsequent to the City Council's direction. Chapter 138, Article VII does not currently exist in the Code of Ordinances.

FINANCIAL SUMMARY:

- N/A