



16-977

TITLE: Consider and Discuss Potential Ordinance Amendments Regulating Donation Containers

COUNCIL GOAL: Direction for Strategic and Economic Growth

MEETING DATE: October 3, 2016

DEPARTMENT: Development Services Division

CONTACT: Michael Quint, Executive Director of Development Services
Mark Houser, City Attorney

RECOMMENDED CITY COUNCIL ACTION:

- Consider and discuss the proposed ordinance amendments regulating donation containers.

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 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.

- Staff is seeking feedback from the City Council regarding the proposed ordinance amendments. Barring any substantial changes necessitating more revision time, Staff is planning to present these amendments for adoption at the October 18, 2016 City Council Regular Meeting.

SUPPORTING MATERIALS:

[Donation Bin Court Opinion](#)

[Draft Ordinance](#)