

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, AMENDING FRISCO'S ZONING ORDINANCE, ORDINANCE NO. 11-04-09, AS AMENDED, SUBSECTION 3.02 (USE CHART) OF SECTION 3 (LAND USES) AND SUBSECTION 7.01 (TERMS AND WORDS DEFINED) OF SECTION 7 (DEFINITIONS); DESIGNATING THE LAND USE DEFINED AS "DONATION BOX" AS A CONDITIONAL USE IN THE FOLLOWING NONRESIDENTIAL ZONING DISTRICTS ONLY: R-RETAIL DISTRICT, C-1-COMMERCIAL-1 DISTRICT AND C-2-COMMERCIAL-2 DISTRICT; ESTABLISHING CONDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO DONATION BOXES; DEFINING THE TERM DONATION BOX; PROVIDING A PENALTY CLAUSE, SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

WHEREAS, the City Council of the City of Frisco, Texas ("City Council") has investigated and determined that there has been an increase in the number of persons or entities desiring to collect textiles, clothing, shoes, books, toys, household items and/or other salvageable personal property items for charitable purposes, which has led to the proliferation of donation boxes in various areas of the City of Frisco, Texas ("Frisco"); and

WHEREAS, Frisco also has seen the placement of donation boxes in required parking spaces, required landscaped buffer areas, required open space areas and in or near residential zoning districts, often without the property owner's permission; and

WHEREAS, the proliferation of these containers contribute to visual clutter, and in areas throughout Frisco, donation boxes have contributed to blight due to graffiti and poor maintenance and the accumulation of debris and excess items outside of the collection boxes; and

WHEREAS, the City Council also finds that the inability of landowners to accurately identify the owners of such donation boxes has resulted in decreased accountability on the part of donation box owners and operators; and

WHEREAS, the City Council finds that regulating the size, number, placement, installation, use and maintenance of donation boxes is necessary for the health, safety and welfare of the general public, the promotion of consistent land uses and development, the protection of property rights and the protection of landowners and residents of Frisco; and

WHEREAS, City Council finds that such minimum blight-related performance standards also are necessary to protect the aesthetic well-being of the community and to promote the tidy and ordered appearance of developed property; and

WHEREAS, Frisco has complied with all legal notices and public hearings as required by

law; and

WHEREAS, the City Council finds that it will be advantageous, beneficial and in the best interest of the citizens of Frisco to amend Subsection 3.02 (Use Chart) of Section 3 (Land Uses) and Subsection 7.01 (Terms and Words Defined) of Section 7 (Definitions) of the Frisco Zoning Ordinance, Ordinance No. 11-04-09, as amended (“Zoning Ordinance”), to designate the land use defined as “Donation Box” as a Conditional Use in the following nonresidential zoning districts only: R-Retail District, C-1-Commercial-1 District and C-2-Commercial-2 District, as provided herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS:**

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendment to Subsection 3.02 (Use Chart) of Section 3 (Land Uses) of the Zoning Ordinance. Subsection 3.02 (Use Chart) of Section 3 (Land Uses) of the Zoning Ordinance is hereby amended to designate the land use defined as “Donation Box” as a Conditional Use in the following nonresidential zoning districts only: R-Retail District, C-1-Commercial-1 District and C-2-Commercial-2 District, as follows:

**“Subsection 3.02. Use Chart**

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Use Type	O-1-Office-1 District	O-2-Office-2 District	R-Retail District	OTC- Original Town Commercial District	H – Highway District	C-1 – Commercial-1 District	C-2 – Commercial-2 District	IT – Information and Technology District	I – Industrial District	Parking Requirement Based on Use	PD – Planned Development District	SUP or S – Specific Use Permit	HL - Historic Landmark District
...													
<b>Donation Box</b>			(38)			(38)	(38)						
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**Subsection 3.02.01. Conditional Development Standards**

...

(38) **Donation Box**

- a. Donation Boxes are permitted as a secondary use to a commercial primary use on the property.
- b. No more than one (1) donation box may be permitted for placement on any one lot. In the case of a shopping center or office development that consists of multiple platted lots, the Director shall treat the shopping center or office development as if it is only one contiguous lot. In the case of a shopping center or office development, the Director shall permit a single additional donation box, provided that neither box is within fifty (50) feet of the other, unless both donation boxes are operated by the same person.
- c. The placement and size of Donation Boxes shall comply with the following:
  - 1. Donation Boxes shall not be located in a designated parking or loading space.
  - 2. Donation Boxes shall conform to all applicable building setbacks on the property.
  - 3. Donation Boxes shall be located so as to facilitate pickup of donated items by the operator or collection agency.
  - 4. Donation boxes shall be located within twenty-five (25) feet of the front façade of a building. For the purposes of this subsection, a front façade of a building shall mean the primary entrance point for the public. Donation Boxes shall not be located in the rear of any building which is not a pad site (defined as a nonresidential building of 6,000 square feet or less).
  - 5. Donation Boxes may be located in the rear of pad sites (defined as a nonresidential building of 6,000 square feet or less) provided that they meet the other locational criteria.
  - 6. Donation Boxes shall be located a minimum distance of twenty-five (25) feet away from the intersection of two (2) or more fire lanes and/or drive aisles, with the distance measured from the intersecting center lines of the fire lanes and/or drive aisles.
  - 7. The maximum dimensions of a Donation Box shall be twelve (12) feet in width, twelve (12) feet in depth and seven (7) feet in height.
  - 8. Donation Boxes shall not be located within in any required landscape buffers.
  - 9. Donation Boxes shall not be located in any designated open space areas.
- d. Approval process for Donation Boxes:
  - 1. The placement of Donation Boxes must be approved as part of a Site Plan or a Substantially Conforming Site Plan.
  - 2. The property owner shall sign and notarize the development application for the Site Plan or Substantially

- Conforming Site Plan authorizing the placement of the Donation Box on the property.
3. A decal to allow a Donation Box to be placed and used at a designated location shall be issued by Development Services at the time of the approval of the Site Plan or Substantially Conforming Site Plan. The decal shall be placed on the Donation Box in a visible location to identify the Donation Box as an allowed use on the property.
  4. The operator of the Donation Box shall serve as the applicant on the development application. A separate application is required for each Donation Box operator for each site. If the Donation Box operator changes, the new operator must submit a new Substantially Conforming Site Plan prior to the change in operation.
  5. The Site Plan or Substantially Conforming Site Plan shall detail a service plan for each Donation Box. The operator of each Donation Box shall be responsible for collecting the contents of the Donation Box to prevent overflow and littering and shall pick up all donated items at least once per week. The service plan shall include information regarding how many times a week donated items will be collected, the time of day the items will be collected, a vehicular circulation plan and a graffiti and litter abatement plan.
- e. Required maintenance of Donation Boxes and drop-off collection areas:
1. The operator of each Donation Box shall keep the real property situated within twenty-five (25) feet of the location of a Donation Box clean and free of trash, debris, broken glass, coat hangers, clothes, clothing accessories or excess donations.
  2. The Donation Box operator and the real property owner shall be jointly and severally liable and responsible for the maintenance, upkeep and servicing of the Donation Box and the cleanup and removal of any donations left on the property outside of the Donation Box.
  3. A violation of this Subsection 3.02.01(A)(38) shall constitute a public nuisance, and the City shall have the authority to abate any such violation as such. This provision does not exclude or limit the use of any other remedy available to the City under this Ordinance, the Code of Ordinances or the laws of the State of Texas.
  4. Each Donation Box shall clearly indicate in writing on the front side of each box that all donations must fit into and be placed within the Donation Box. The size of lettering for the notice shall not be less than one-half inch in height.

5. A Donation Box operator or real property owner that fails to maintain the cleanliness of the surrounding real property may receive a notice of violation from the City. If the City elects to send a notice of violation to the email address on file for the operator, the operator shall have forty-eight (48) hours to remedy the complaint. Failure to comply with a notice of violation may result in the issuance of a citation by the City. An operator who is issued more than one (1) citation in a twelve (12) month period for the same offense on the same Donation Box is subject to revocation of the approval for such Donation Box.
6. The requirements of this Subsection 3.02.01(A)(38) shall apply to all Donation Boxes regardless of whether the boxes were placed prior to the effective date of these regulations, except that any Donation Boxes existing on the effective date of these regulations shall come into compliance with the requirements of Subsection 3.02.01(A)(38)(b)-(d) and (f) not later than one (1) year after the effective date of these regulations. Donation Boxes existing on or before the effective date of these regulations shall have no legally existing non-conforming rights and shall immediately comply with the requirements of Subsection 3.02.01(A)(38)(e).
- f. It shall be unlawful for any person who owns, leases, is in control of or is entitled to possession of real property within the City of Frisco to authorize or allow any Donation Box to be placed on or remain on such real property without a valid Site Plan or Substantially Conforming Site Plan in compliance with the provisions of this Ordinance.

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**SECTION 3: Amendment to Subsection 7.01 (Terms and Words Defined) of Section 7 (Definitions) of the Zoning Ordinance.** Subsection 7.01 (Terms and Words Defined) of Section 7 (Definitions) of the Zoning Ordinance is hereby amended to add the term “Donation Box” as follows:

**“Subsection 7.01. Terms and Words Defined**

...

*Donation Box*

Any drop-off box, container, receptacle, trailer or similar facility that accepts donated textiles, clothing, shoes, books, toys, household items and/or other salvageable personal property items to be used by the

operator for distribution, resale or recycling.

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**SECTION 4: Savings/Repealing.** The Zoning Ordinance shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 5: Severability.** Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

**SECTION 6: Penalty.** Any person, firm, corporation or entity violating any provision of this Ordinance or the Zoning Ordinance, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). Each continuing day’s violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies available to it pursuant to local, state and federal law.

**SECTION 7: Effective Date.** This Ordinance shall become effective from and after its adoption and publication as required by law and the City Charter.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS** on this 21st day of May, 2019.



*Jeff Cheney*  
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Jeff Cheney, Mayor

**ATTESTED TO AND  
CORRECTLY RECORDED BY:**

*Kristi Morrow*  
\_\_\_\_\_  
Kristi Morrow, City Secretary

**APPROVED AS TO FORM:**

*Ryan D. Pittman*  
\_\_\_\_\_  
Abernathy Roeder Boyd & Hullett, P.C.  
Ryan D. Pittman, City Attorneys

Dates of Publication: May 24 and May 31, 2019, *Frisco Enterprise*