

Ordinance No. 1113-12-06-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS, DECLARING DONATION CONTAINERS TO BE A NUISANCE; PROVIDING FOR ABATEMENT; PROVIDING FOR CRIMINAL PENALTIES; PROVIDING A CUMULATIVE CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR PROPER NOTICE AND MEETING; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, combating illegal dumping is a rightful concern of the City; and

WHEREAS, the City has experienced a growing problem with illegal dumping occurring around "Donation Containers" located within the City's jurisdiction; and

WHEREAS, many Donation Containers are not regularly collected, causing unsightly overflow; and

WHEREAS, "Donation Containers" continue to proliferate within the City's jurisdiction; and

WHEREAS, such illegal dumping has blighted the City and cleanup of such illegal dumping has caused the expenditure of City resources; and

WHEREAS, Texas Local Government Code Section 217.042, authorizes home rule municipalities to define and abate nuisances within the corporate limits of the municipality and in the extraterritorial jurisdiction within 5,000 feet outside the limits; and

WHEREAS, as a result of these findings, City Council hereby declares "Donation Containers" to be a nuisance.

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

**I
DONATION CONTAINERS PROHIBITED**

Chapter 130 of the Code of Ordinance of the City of Pflugerville, Texas, is hereby amended by the addition of a new Section 130.11 (entitled "Donation Containers"), as follows:

CHAPTER 130.11 Donation Containers

(A) Definitions

1. *Donation container* means any box, container, trailer or other receptacle that is intended for use as a collection point for donated clothing, other household materials or other salvageable personal property; the term does not include recycle bins or any donation container located within a building.

2. *Building* means a commercial building lawfully occupied by a business or charitable organization pursuant to a valid certificate of occupancy.

3. *Person* includes an individual, sole proprietorship, corporation, association, nonprofit corporation, partnership, joint venture, limited liability company, estate, trust, public or private organization that is not a state agency, business trust, public corporation, or any other legal or commercial entity.

4. *Recycle Bin* means a receptacle used for the collection of recyclable materials governed or regulated by the City's zoning code.

(B) Donation Containers prohibited.

1. **Donation Containers prohibited.** It shall be unlawful for any person to place or maintain, or allow to be placed or maintained, any donation container within the City of Pflugerville's corporate limits or in the extraterritorial jurisdiction within 5,000 feet outside the limits.

2. **Abatement.** Any donation container located within the jurisdiction of the City of Pflugerville shall be subject to impoundment by the City. Any donation container impounded by the City shall be released to the owner the payment of an impound fee of \$200.00, and a daily storage fee of \$20.00 for each day in City possession after impound.

3. **Abandoned Donation Container.** Any impounded donation container not claimed within 30 days after impoundment may be destroyed without notice from the City.

(C) Offense, Penalty. Any person who shall violate any of the provisions of this section or fail to comply therewith shall be deemed guilty of a Class C misdemeanor and, upon conviction, shall be fined not less than \$1.00 nor more than \$500.00. Each day that the violation occurs shall constitute a distinct and separate offense.

**II
CUMULATIVE CLAUSE**

That this ordinance shall be cumulative of all provisions of the City of Pflugerville, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinance, in which event the conflicting provisions of such Ordinance are hereby repealed.

**III
SEVERABILITY**

That it is hereby declared to be the intention of the City Council of the City of Pflugerville that

the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional phrases, clause, sentence, paragraph or section.

**IV
PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

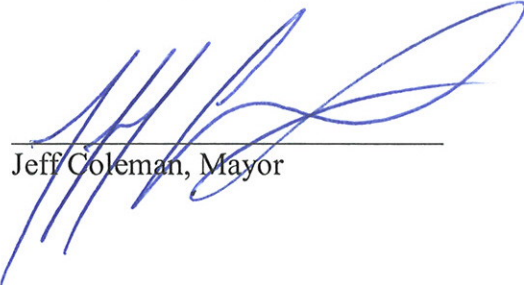
**V
EFFECTIVE DATE**

This ordinance shall be effective upon passage and publication as required by State and Local law.

PASSED AND ADOPTED by the City Council of the City of Pflugerville this 12 day of June, 2012.

APPROVED this 12 day of June 2012.

A P P R O V E D



Jeff Coleman, Mayor

Attest:



Karen Thompson, City Secretary