

**TOWN OF FAIRVIEW, TEXAS**

**ORDINANCE NO. 2023- 24**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW, TEXAS, AMENDING THE CODE OF ORDINANCES, TOWN OF FAIRVIEW, TEXAS, CHAPTER 4 "BUSINESS REGULATIONS," ADDING A NEW ARTICLE 4.08 "DONATION BOXES" AND RELATED PROVISIONS THEREIN; PROVIDING A SAVING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE WITH PENAL FINE FOR VIOLATION OF UP TO \$2,000 PER DAY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Fairview, Texas, (the "Town") is a home rule municipality acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, the Town of Fairview, Texas Town Council ("Town Council") recognizes the Town's reliance on sales tax and/or property tax from retail shopping centers, restaurants, hotels, entertainment venues, similar uses and the Town's proximity to convention facilities, sports venues, and tourist destinations in the Dallas-Fort Worth Metroplex and desires to attract persons to own, operate and frequent such establishments within the Town; and

**WHEREAS**, in the Town and elsewhere, there has been an increase in the number of persons desiring to place unmaintained donation boxes, mostly in parking lots, resulting in overflowing of donation boxes, litter, traffic, illegal dumping, illegal disposal of hazardous materials, broken glass and other dangerous objects, and scavenging; and

**WHEREAS**, the presence of donation boxes in the Town presents fire and structural safety concerns and are an attraction to transient individuals and other persons committing theft from said donation boxes; and

**WHEREAS**, the Town has received complaints from neighbors seeking to resolve issues with parking, litter, overflowing and other adverse effects related to the placement and operation of donation boxes within the Town; and

**WHEREAS**, the Town's code enforcement department has had difficulty identifying and finding the owners of the donation boxes in order to enforce existing nuisance and other applicable regulations; and

**WHEREAS**, the Town Council has reviewed data and information from other cities' experiences with donation boxes and used this data and information to structure this ordinance; and

**WHEREAS**, the Town Council finds that this ordinance will help protect the aesthetic well-being of the Town and promote the tidy and ordered appearance of developed property within the Town; and

**WHEREAS**, the Town Council finds that prohibiting donation boxes is necessary for promoting the health, safety, and welfare of the general public, and protecting the rights and safety of property owners, residents, and visitors in the Town of Fairview;

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW, TEXAS:**

**Section 1.** The above-stated recitals are incorporated herein as if set forth in full for all purposes.


**Section 2.** The Town Council hereby approves and adopts amendments to the provisions of Chapter 4 "Business Regulations," by adding a new Article 4.08 "Donation Boxes," as said amendments are set forth in the document attached to this ordinance as Exhibit "A," incorporated herein for all purposes as if set forth in full and being part of this ordinance.

**Section 3.** The sections, paragraphs, sentences, phrases, clauses and words of this ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this ordinance or application thereof to any person, firm or corporation, or to any circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the Town Council hereby declares that it would have adopted such remaining portions of this ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**Section 4.** It shall be a Class C misdemeanor to violate any provision of this ordinance or the regulations adopted hereunder. The amount to be paid upon conviction shall not exceed the amount set forth and as applicable in the Fairview Code or in said regulations, or the highest amount allowed by law, whichever is lower. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense.

**Section 5.** This ordinance amendment shall take effect upon passage and publication, and it is accordingly so ordained.

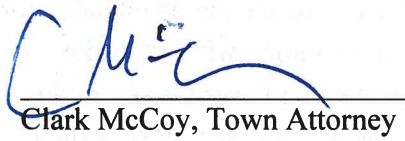
**PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW, TEXAS, THIS 5th DAY OF SEPTEMBER 2023.**

  
Henry Lessner, Mayor  
Town of Fairview

ATTEST:

  
Joshua Stevenson, Town Secretary

APPROVED AS TO FORM:

  
Clark McCoy, Town Attorney

## **EXHIBIT "A"**

### **ARTICLE 4.08 DONATION BOXES**

#### **§ 4.08.001 Definitions.**

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

*Donation Boxes.* Any drop-off box, container, trailer, or other receptacle that is intended for use as a collection point for accepting items donated by the public including without limitation textiles, clothing, shoes, books, toys, dishes, household items, items for recycling, or other salvageable items of personal property. The term does not include Solid Waste/Recyclable Materials Collection Containers.

*Solid Waste/Recyclable Materials Collection Containers.* Any container/receptacle intended for collection and disposal of solid waste or recyclable materials that are: (1) governed under Article 13.02 of this Code; and/or (2) utilized solely by the owner(s) or operator(s) of the premises upon which such containers/receptacles are placed for the purpose of disposing of such solid waste or recyclable materials.

*Person.* See definition of "person" under Section 1.01.004 of this Code.

#### **§ 4.08.002 Donation boxes prohibited.**

All donation boxes are hereby prohibited and unlawful within the Town of Fairview. It shall be unlawful for any person to place or maintain (or fail to maintain) or allow to be placed or maintained (or allow to be unmaintained) a donation box at any location within the Town of Fairview. This prohibition applies to all persons, including without limitation, the owners or managers of donation boxes and the owners of property upon which donation boxes are placed or located.

#### **§ 4.08.003 Penalty.**

(a) A person commits an offense under this article if that person violates the prohibition in Section 4.08.002.

(b) Violation of the conditions of this article shall be punishable by a maximum fine of \$2,000 per violation, per day.

(c) Each day of violation of said regulations of this article constitutes a separate offense and is separately punishable but may be joined in a single prosecution.