

- a. Striped parking spaces for inventory shall be painted on the pavement and not less than nine (9) feet by twenty (20) feet for each used automobile or the appropriate size for the type of vehicle being parked.
  - b. A lot shall contain a stabilized base of not less than four (4) inches covered by a minimum of two (2) inches of pavement or concrete.
  - c. Two (2) driveways, one for ingress and one for egress, or one (1) driveway adequate to permit simultaneous ingress and egress.
3. The separate lot of record or parcel shall not allow any part of a used automobile to encroach upon any public right-of-way or sidewalk.
  4. The separate lot of record or parcel shall not allow any loud or boisterous noises to emanate from his/her place of business, either by persons congregating there or by the playing of recording instruments, radios, and/or television sets or other sound-producing equipment as controlled by Roswell City Code Article 8.8 Nuisances as amended from time to time.

Mr. Davidson noted that if approved, this would be the second reading.

There was no Council comment.

**Motion:** Councilmember Price made a motion for Approval of RZ11-08 Text Amendment regarding the revision of the minimum requirements for used automobile sales establishments on Second Reading. Councilmember Diamond seconded. There was no public comment. The motion passed unanimously.

**8. RZ11-10 Text Amendment to Section 10 of the Zoning Ordinance to include regulations for donation bins in the City of Roswell. (First Reading)**

Planning and Zoning Director Bradford D. Townsend said this proposed text amendment had been discussed at Committee, as well as during the initiation. Mr. Townsend, referring to the ordinance under permit requirements on page 1, explained there had been a request for clarification that this ordinance just address donation bin locations on private property. For clarification purposes, staff recommended the words "on private property" to be placed after the words "donation bin." He said staff recommends approval of the proposed text amendment with this change.

Mayor Wood asked where the bins could be located if this text amendment passed. Mr. Townsend replied bins could be located on private property; they cannot impede crosswalks or be located next to fire hydrants; cannot be seen from the public right-of-way; bin size will be controlled; a proper display of the phone number of the entity responsible for the bin will be required. There is also location and placement criteria, an application for permit, and renewal requirements included as part of the request.

Mayor Wood asked how many donation bins will be allowed on a single parcel. Mr. Townsend replied one bin per parcel. Mayor Wood asked if a ten-acre or half-acre site would be allowed to have the same number of bins. Mr. Townsend replied that was correct, as indicated in the ordinance, Page 3, Location and placement section G; "no more than one (1) donation bin per parcel or location."

Councilmember Price asked if that meant there could be numerous bins but only one per entity placing it. Mr. Townsend said the way it was addressed was "Any person or entity shall be allowed to place no more than one (1)

donation bin per parcel or location." He said if we were controlling it by entity or person, then it would be determined whether there could be various organizations; i.e., Salvation Army, American Kidney, etc.

Mayor Wood said you could have more than one bin. For example, three could be the Salvation Army, the American Cancer Society, and the Union Mission. Mayor Wood said that would be permissible.

Mr. Townsend requested Council's intent for clarification purposes.

Councilmember Diamond said "any person or entity" should be identified as to whether they are the property owner or the bin owner. Clarifying that would solve this issue. It should read, "Any bin owner shall be allowed to place no more than one (1) donation bin per property." She said the property owner could allow any number of bins there just could not be more than one from a single company. Mr. Townsend asked if that was the clarification by Council. Mayor Wood asked for other Council members' thoughts regarding Councilmember Diamond proposal.

Mayor Wood noted the ordinance stated that it is not to be visible from the public right-of-way. Would that mean visible with binoculars or just to the average person. Mr. Townsend replied "bird's eye view or if you were just driving down the street or walking down the sidewalk." Mayor Wood said that was all the clarification needed.

Councilmember Price said compared to the current application form, has that form been created as it applies to this. Mr. Townsend said if this ordinance is adopted on second reading, the form will be adjusted to be consistent with this. Councilmember Price asked how many numbers on that form would change. Mr. Townsend replied the biggest change would be the private non-profit situation but none of the real numbers would change. The form was drafted to make sure the bins were not visible from the property and not impeding parking spaces, fire hydrants, or things of that nature.

Mayor Wood asked if there were any current bins that would not now be allowed after passing this ordinance that might be visible from the street. Mr. Townsend replied yes.

**Public Comment:**

Greg Grisham, American Kidney Services, 6360 Button Gwinnett Road, Doraville. Mr. Grisham said they currently have bins in Roswell, are a non-profit company registered with the Secretary of State, and heavily rely on clothing donations in order to support the kidney fund. On average, they give the kidney fund \$30,000 each month used to help people on dialysis. Mr. Grisham stated the current regulations and applications make it virtually impossible for them to have any donation bins in the City of Roswell. If the donation bins were not visible from the road then what would be the point of them being there. He requested that the ordinance be amended so the bins could be seen. He said there were property owners who wanted to support them and they could not because their applications continued to be denied.

Mayor Wood asked what he would suggest as to a location.

Mr. Grisham recommended they be limited to non-profits only who are registered with the Secretary of State. This would help prove where the money goes. He said many of the companies are not located in Georgia and some are for profit and not in compliance with current code.

Mayor Wood said he thought what Council was looking for from the ordinance was not to determine who could place a bin but as to the aesthetics of the bin, the location, and how it effects the property. He asked Mr. Grisham if he had any recommendations aesthetically.

Mr. Grisham said he thought it should be case by case based on the parcel of the property. If it were a small area not conducive to people pulling in and taking away parking spaces then that would not make sense and should not

be allowed. He said there are homemade wood boxes being placed now that are fire hazards. He said they should be aesthetically pleasing, maintained and serviced. He said many were not maintained with a lot of trash around and most of them were the for-profit companies. He said he did not want to see what had happened in other municipalities happen in Roswell; Johns Creek and Buford do not allow donation bins because the companies do not run their businesses properly; he hopes it will not get to the point that Roswell does not want to deal with it anymore.

Mayor Wood said he thought Council was supportive of bins but is trying to balance the support of non-profits and other businesses that have a right. He said staff has to have a rule to follow and that could not be case by case.

Edward Zito, Board Member of American Kidney Services, 6360 Button Gwinnett Road, Doraville said the property owners would make the determination because they will not want to block parking or driveways. Each property owner should say where a good space would be. The bins must be exposed for people to see otherwise they will do no good; if they are screened in, they might look like garbage bins. Mayor Wood said he agreed.

Councilmember Price said she did not think this came up as a method to restrict the placement as much as to clarify it a little bit. Item "P" under "Location and placement" of the ordinance indicates it would be a case-by-case basis. She said no one wanted to stick it in the back 40 acres, but on the other hand, if there was a horrendous eyesore then judgment would be left up to the staff. She said she did not think this was being made more restrictive for any that are currently placed. Councilmember Price asked if she was wrong.

Mayor Wood replied that she was wrong. Mayor Wood explained that he was told there were current bins that would no longer be placed where they are and it would be more restrictive than the City's current practice. Councilmember Price said that was because they were illegal now just because they were not approved. Mr. Townsend said they also may have been placed prior to any regulations.

Mr. Zito said their bins are all metal and clearly state: American Kidney Services, registered with the Secretary of State. He said you would never see one of their bins with an overload. If they are called, they will be on-site within a half hour or hour or certainly within 24 hours. American Kidney Services does not have boxes and so forth around their bins.

Mayor Wood said the ordinance, as he understood it, says the donations bins must be screened and not visible from the right-of-way, although they could be visible from the parking lot.

Councilmember Orlans said American Kidney Services bins may look good but Council is addressing all bins. He said the overkill might be in the screening if they were in the back of a parking lot; we want to make them available but are trying to address the aesthetics. Council is willing to listen to compromise ideas and maybe Council should relook at the screening of a bin if it was back in a parking lot. Councilmember Orlans said he did not hear a reason to eliminate the visibility from the street from the right-of-way.

Mr. Grisham said people need to feel safe in approaching the donation bins in the parking lots; it has to be visible.

Mayor Wood said he thought it was clear we do not want them on the street or just behind the sidewalk. He asked if we were talking about the typical strip center where it should be located.

Mr. Grisham suggested somewhere visible from the road. Most of their bins were not at strip centers but in smaller lots such as one they have at the corner of the parking lot of Roswell West Medical Center on Holcomb Bridge Road and very visible from the road.

Mayor Wood asked the problem would be solved if the bins were set back from the street.

Councilmember Diamond said there were two shopping centers near her home that have bins for almost every organization and they are just on the other side of a fence. Inside the parking lot they are in full view but are not visible from the street. She said this is not a drive-by type of business; when you are doing your shopping you remember where they are located and then you make the donation later. She said the shopping centers near her all have places where they are in the parking lot in full view once you are in the lot. There is one donation bin on Canton Street that sits on the street and takes away from the look of that area. She said like many things we do, it is not because we are looking to get rid of all the bins, but we need to have protection mechanisms for people who abuse them and we should have a mechanism to have one removed if it were not maintained.

Mayor Wood asked if screening means from the street or from the parking lot. Mr. Townsend responded from the street. Mayor Wood said then if you were in the parking lot you could see them but they could not be seen from the street. Mayor Wood asked if American Kidney Services thought that would help them.

Mr. Townsend read from the ordinance "effectively shield the bin from being viewed from the public right-of-way."

Mr. Grisham said he did not actually know what was meant by screening.

Mayor Wood asked what was meant by screening. Mr. Townsend replied that in most instances depending on the placement, it might mean no additional screening. He explained that if he were walking on the public right-of-way and not visibly seeing the bin, then it was screened by the existing buildings, berms, parking, or landscaping. This is not to require additional screening to be placed, if the location chosen was naturally screened from the public view.

Mr. Grisham said their issue was for the bins to be productive and cost effective and therefore must be highly visible.

Mr. Townsend said from the public view, and there was the contradiction. Mayor Wood said he understood and he just wanted to explore other ideas.

Councilmember Price asked if we have legitimate bins placed now for which we have received applications that we would now have to make some disposition with.

Mr. Townsend said the bins he was thinking of were ones that were in place prior to the City instituting our voluntary application.

Mr. Grisham said he did not know if those were grandfathered in and noted that he had been waiting for a call to have their bins removed.

Mayor Wood asked if the current bins were grandfathered in. Mr. Townsend replied there was no grandfathering provision currently drafted in this ordinance. Mayor Wood asked if that was because they are moveable and not a land use, and therefore not grandfathered by law. Mr. Townsend replied correct.

Councilmember Price said that does not address the issue of the bins that right now are in this limbo timeframe because we have allowed them to be placed even though there was no application until we resolve this. Mr. Townsend agreed. Councilmember Price asked if that was another whole issue.

Mr. Grisham noted they had submitted an application for at Stroud Printing off Roswell Road, and it was denied within the last month.

Mr. Zito asked if it would be possible to say that if the bin was visible and there was trash around it then that would be a violation and then could be removed. Mr. Townsend replied the ordinance was already drafted that way; bin locations are to be clean around the exterior at all times. Mr. Zito said if that is already in the ordinance then they would not have to be concerned so much with whether the bin looks terrible because if it did then it would be removed; their bins never do so they will not need to worry about that.

Councilmember Orlans noted that this was the first reading of the ordinance and the second reading would come back in a month. The time in between the two readings is used to massage what was being put through. He asked Mr. Gresham and Mr. Zito to provide any suggestions to Mr. Townsend and staff, including photos of their American Kidney Services bins from the streets.

**Motion:** Councilmember Price made a motion for Approval of RZ11-10 Text Amendment to Section 10 of the Zoning Ordinance to include regulations for donation bins in the City of Roswell on First Reading and placed on the Mayor and City Council agenda for 11/14/2011. Councilmember Orlans seconded.

Mr. Townsend requested clarification before Council votes on the first reading. He said they had talked about item "G" under "Location and placement" and asked if Council's directive was to limit the individual bin entity to that parcel or that the one parcel was only allowed one bin.

**Amended Motion:** Councilmember Price moved to amend amendment to the ordinance to read "Any person or entity shall be allowed to place no more than one (1) bin per location such that multiple bins may be permitted." The intent is to allow multiple bins, but not multiple bins of one entity.

Mr. Townsend asked if there would be a "top limit of multiple." Mayor Wood replied not at this time. Councilmember Price said she hoped the property owner would be reasonable and did not think we needed to maximize that. Mr. Townsend for clarification asked if the intent is to allow multiple entities on an individual parcel to place their bins. Mayor Wood confirmed that was the motion and asked Councilmember Orlans if that was an acceptable amendment. Councilmember Price confirmed that was acceptable. Councilmember Orlans said it brought up the topic of "any size lot," but it was acceptable for now.

Councilmember Igleheart said when we first brought this up, that was one of the key discussion points as to how many bins could be on each property. He said you would like to think the property owners would be reasonable and only have a certain amount but if that were the case we wouldn't have any other rules for everything. He was concerned about leaving it with an open number. Mr. Townsend replied that staff would be recommending some top limit; it could not be open-ended but will be reasonable. Mayor Wood said perhaps it could be something like one bin per acre, two per two acres, and so on. Councilmember Igleheart said he thought that was reasonable because it would be based on the space. Mayor Wood noted Councilmember Igleheart could make a motion at this time or bring it up later. Councilmember Igleheart replied that he was not making a motion but wanted to make sure it was considered before the next reading. Councilmember Orlans agreed with Councilmember Igleheart. No further Council comments. No public comments were made.

**Vote:** The motion passed unanimously.

**\*\*Council Member Igleheart left the Mayor and Council meeting after casting his vote for Item #8.**