

Ordinance No. 18- 2009

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING THE CODE OF THE TOWNSHIP BY ADDING A NEW ARTICLE IV CHARITABLE CLOTHING BINS TO CHAPTER 217 PEDDLING AND SOLICITATION

WHEREAS, the State of New Jersey adopted P.L. 2007, c 209, regulating charitable clothing bins for solicitation purposes; and

WHEREAS, P.L. 2007, c 209 became effective on January 1, 2009 and requires all persons who seek to place, use or employ a donation clothing bin for solicitation purposes within a municipality to obtain a permit from the appropriate municipal agency for the placement of such a bin and to establishes penalties for the placement, usage or employment of a donation clothing bin for solicitation purposes without a permit; and

WHEREAS, at the time of the adoption of this ordinance, the Township has designated the Zoning Official as the appropriate municipal official to issue permits hereunder by separate resolution; and

WHEREAS, the Township Council of the Township of Livingston wish to implement the provisions of P.L. 2007, c 209 into the Code of the Township of Livingston.

NOW THEREFORE, BE IT ORDAINED by the Township Council of the Township of Livingston, County of Essex, State of New Jersey as follows:

SECTION ONE

Chapter 217 of the Code of the Township of Livingston entitled "Peddling and Soliciting" is hereby amended to include a new Article IV entitled "Charitable Clothing Bins" which shall provide as follows:

ARTICLE IV.

CHARITABLE CLOTHING BINS

§ 217-35. PLACEMENT, USAGE OR EMPLOYMENT OF A CHARITABLE CLOTHING BIN FOR SOLICITATION PURPOSES- PERMIT REQUIRED:

A. No person shall place, use or employ a donation clothing bin for solicitation purposes within the Township of Livingston unless all of the following requirements are met:

1. The person shall apply for and obtain a permit from the Zoning Official, which permit shall include, along with the required fee set forth in this ordinance:
 - (i) The location where the bin would be situated as precisely as possible.
 - (ii) The manner in which the person, entity or organization anticipates any clothing or other donations collected via the bin would be used, sold or disbursed and the method by which the proceeds collected would be allocated or spent.
 - (iii) The name and telephone number of the bona fide office of any entity which may share, or profit from any clothing or other donations collected via the bin.
 - (iv) Written consent of the property owner to place the bin on his property.
 - (v) Written approval by the zoning officer as to placement and location of the clothing bin ordinance.

2. All persons who have obtained a permit pursuant to subsection A above and wish to renew said permit shall submit, along with the required fee set forth in this ordinance, an application for renewal prior to the expiration of the permit, which such renewal application shall include the following information:
 - (i) The location where the bin is currently situated and if the person intends to move it, the new location where the bin would be situated and a written consent of the property owner to place the bin on his property.
 - (ii) The manner in which the person has used, sold or disbursed any clothing or other donations via the bin and the method by which the proceeds of collected donations have been allocated or spent, and any changes the person anticipates it may make in these processes during the period covered by the renewal.
 - (iii) The name and telephone number of the bona fide office of any entity which shared or profited from any clothing or other donations collected via the bin, and of any entities which may do so during the period covered by the renewal.

B. Notwithstanding the provisions of subsection A above, no donation clothing bin shall be placed, used or employed in a place that could be considered a safety hazard, which includes, but is not limited to within one hundred (100) yards of any place which stores large amounts of or sells fuel or other flammable liquids or gases.

§ 217-36. PERMIT FEE AND, DURATION

- A. The application fee, which must be submitted with the application under § 217-7 shall be \$25.00.
- B. The fee for a renewal of the permit, which must be submitted with the application under § 217-7 shall be \$25.00.
- C. The fee for a replacement sticker which is the permit for the clothing bin is \$25.00.
- D. All permits and renewals obtained shall be in effect for one (1) year and shall expire on December 31st of the year of the permit and renewals.

§ 217-37 NOTICES REQUIRED

The following information shall be clearly and conspicuously displayed on the exterior of the donation clothing bin:

1. The permit number and the date of expiration of that permit;
2. The name and address of the registered person who owns the bin, and any other entity which may share or profit from any clothing or donations;
3. The telephone number of the person's bona fide office and the telephone number of the bona fide office of any other entity which may share in the profit from any clothing or donations collected via the bin;
4. In cases where the entity other than the person who owns the bin may share or profit from any clothing or other donations collected via the bin, then notice shall also state that clothing or other donations collected via the bin, proceeds or both, may be shared, or given directly to, an entity other than the person who owns the bin, which such entity shall be identified; and
5. A statement indicating the manner in which the person, entity or organization anticipates any clothing or other donations collected via the bin would be used, sold or disbursed and the method by which the proceeds collected would be allocated or spent.

§ 217-38 COMPLAINTS AND INVESTIGATION

1. The Zoning Officer, upon receipt of any complaint concerning the donation clothing bin, shall perform an investigation within 14 days of receipt of the complaint.
2. Any person who places a clothing bin in violation of this ordinance or N.J.S.A. 40:48-2.61 shall be given a warning stating that if the violation is not rectified or a hearing with the Zoning Official is not requested within forty-five (45) days, then the bin will be seized and

removed at the expense of the person who placed the bin, and any clothing or other donations collected via the bin shall be sold at public auction. This notice shall be placed on the donation clothing bin and forwarded to the last known address of the person who placed the bin at the location according to the Township's records.

3. If the person who placed the bin does not rectify the violation or request a hearing within forty-five (45) days of the posting of the warning, then the Township shall remove the bin or have it removed at the expense of the person who placed the bin and sell at public auction or otherwise dispose of the clothing or donations. All proceeds from the sale of the donations collected via the bin shall be paid to the Chief Financial Officer of the Township.

§ 217-39 ADDITIONAL FINES AND PENALTIES

1. In addition to the remedies set forth in § 217-38 above, any person who violates this ordinance or N.J.S.A. 40:48-2.60 et seq. and as amended and or supplemented, which results in the seizure of the donation clothing bin shall be subject to the following:

- (a) A penalty up to \$20,000.00 for each violation. The Township shall bring this action in Municipal Court or Superior Court in a summary proceeding under the "Penalty Enforcement Law of 1999," P.L. 1999, c.274 (C.2A:58-10 et seq.). Penalty monies collected shall be paid to the Chief Financial Officer of the Township.
- (b) Deemed ineligible to place, use or employ a donation clothing bin for solicitation purposes. A person who is deemed ineligible may apply to the Zoning Official to have that person's eligibility restored. The Zoning Official may restore the eligibility of a person who:
 - i) acted within the public interest; and
 - ii) demonstrates that he has made a good faith effort to comply with the provisions of N.J.S.A. 40:48-2.60 et seq. and this ordinance and had no fraudulent intentions.

SECTION TWO

Chapter 217-7 License Fees of the Code of the Township of Livingston is hereby amended to add the following language:

Charitable Clothing Bin Permit		
(a)	Application Fee:	\$25.00
(b)	Renewal	\$25.00
(c)	Replacement	\$ 5.00

SECTION THREE

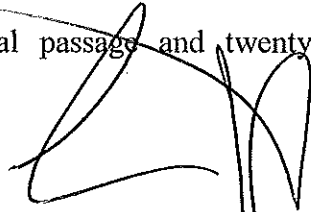
If any section or provision of this ordinance shall be held invalid in any court, the same shall not affect the other sections or provisions of this ordinance except so far as the section or provision so declared invalid and shall be inseparable from the remainder or any portion thereof.

SECTION FOUR

Except as hereby amended, the Code of the Township of Livingston shall remain in full force and effect.

SECTION FIVE

This Ordinance shall take effect upon final passage and twenty (20) days from publication in accordance with the law.

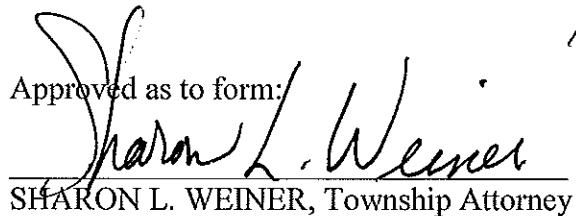


CHARLES AUGUST, Mayor



GLENN R. TURTLETAUB, Township Clerk

Approved as to form:



SHARON L. WEINER, Township Attorney

Adopted: 5/4/09