

INTRODUCED BY _____ INTRODUCTION _____
SECONDED BY _____ HEARING _____
ADOPTION _____

**BOROUGH OF CLIFFSIDE PARK
COUNTY OF BERGEN COUNTY, STATE OF NEW JERSEY**

ORDINANCE 2009-04

AN ORDINANCE ESTABLISHING CHAPTER 29, "CHARITABLE DONATION BINS", OF THE GENERAL ORDINANCE OF THE BOROUGH OF CLIFFSIDE PARK, IN ORDER TO REGULATE THE PLACEMENT AND OPERATION OF DONATION BINS WITHIN THE BOROUGH OF CLIFFSIDE PARK

WHEREAS, the Mayor and Council of the Borough of Cliffside Park are desirous of adopting an ordinance in order to regulate the placement and operation of charitable donation bins within the Borough of Cliffside Park; and

WHEREAS, the New Jersey Legislature has adopted *N.J.S.A. 40:48-2.60 et seq.*, to regulate donation clothing bins; and

WHEREAS, pursuant to *N.J.S.A. 40:48-2.60 et seq.*, persons desiring to place and/or operate charitable donation bins within the Borough of Cliffside Park must provide certain information to the Borough and otherwise comply with State Law.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Cliffside Park, County of Bergen and State of New Jersey as follows:

Section 1. The Code of the Borough of Cliffside Park is hereby amended and supplemented by adding a new Chapter 29, "Charitable Donation Bins", as follows:

**CHAPTER 29
Charitable Donation Bins**

- § 29-1 Purpose.**
- § 29-2 Definitions.**
- § 29-3 Permit required.**
- § 29-4 Application for permit; Fee.**
- § 29-5 Regulations.**
- § 29-6 Enforcement.**
- § 29-7 Receipt, investigation of complaints relative to clothing bin.**
- § 29-8 Additional penalties; remedies.**

§ 29-1 Purpose.

Pursuant to *N.J.S.A. 40:48-2.60* through *-2.64*, the purpose of this Chapter is to provide a uniform set of procedures for administering the placement and maintenance of clothing bins within the Borough of Cliffside Park ("Borough"), as well as providing for a uniform set of procedures for administering the issuance and revocation of all permits issued by the Borough for the placement of clothing bins, consistent with State law.

§ 29-2 Definitions.

For purpose of this Chapter, the following terms shall have the meanings indicated:

DONATION BIN - Any enclosed receptacle, container or other depository made of metal, steel or a similar product and designed or intended for the donation and the temporary storage of clothing or other materials.

SOLICITATION or **SOLICIT** - The request, directly or indirectly, for money, credit, property, financial assistance, or other thing of any kind of value. Solicitation shall include, but not be limited to, the use of employment of canisters, cards, receptacles or similar devices for the collection of money or other thing of value. A solicitation shall take place whether or not the person making the solicitation receives any contribution.

BONA FIDE OFFICE – Location at which a representative of the person or entity can be reached at a telephone information line during normal business hours for the purpose of offering information concerning the person or entity. An answering machine or service unrelated to the person or entity does not constitute a bona fide office.

§ 29-3 Permit required.

A. Notwithstanding any other provision of law to the contrary, no person shall place, use or employ a clothing bin, for solicitation purposes, within the Borough without first obtaining a permit valid for a period of one year, from the Borough Construction Official as hereinafter provided.

B. The Borough will only issue permits for three (3) bins per year. The Borough shall create a “wait list” for all of the applicants. The permits for the receptacles will be issued on a first come first serve basis with each company receiving a permit for only one bin.

§ 29-4 Applications for permit; Fee.

- A. Application for a permit to place and/or maintain a clothing bin shall be made in writing to the Borough Construction Official prior to placing and/or maintaining the clothing bin.
- B. The application shall contain the following information:
 - a. Name, address, bona fide office and telephone number of the person, firm corporation, club or charitable organization, institution or association placing and/or maintaining such clothing bin;
 - b. Name and address of the owner of the premises on which the clothing bin is to be located and the written consent of the owner if the applicant is other than the owner;
 - c. Name, address, bona fide office and telephone number of any entity which may share or profit from any clothing or other donations collected via the bin;
 - d. The location where the clothing bin would be situated, described as precisely as possible;
 - e. A description of the proposed clothing bin, including dimensions;

- f. The manner in which the person, firm, corporation, club or charitable organization, institution or association anticipates any clothing or other donations collected via the clothing bin would be used, sold or dispersed, and the method by which the proceeds of collected donations would be allocated or spent; and
 - g. The schedule of pick-ups removing the articles from the clothing bins, which can be no less than once per week, and the name and telephone number of the person to be notified if the clothing bin is overflowing prior to the scheduled date of pick-up; and
 - h. Liability Insurance Certificate in an amount not less than \$500,000.00 per incident.
- C. The fee for such application for the permit to place and/or maintain a clothing bin shall be \$25.00.
- D. An expiring clothing bin permit may be renewed upon application to the Borough Construction Official for renewal that shall include the following information and payment of a \$25.00 permit renewal application fee:
 - a. Name, address, bona fide office and telephone number of the person, firm, corporation, club or charitable organization, institution or association placing and/or maintaining such clothing bin;
 - b. Name and address of the owner of the premises on which the clothing bin is to be located and the written consent of the owner if the applicant is other than the owner, and, if applicant intends to move the bin to a new location upon renewal, the name and address of the owner of the premises on which the clothing bin is to be located and the written consent of the owner if the applicant is other than the owner;
 - c. Name, address, bona fide office and telephone number 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;
 - d. The location where the clothing bin would be situated, as precisely as possible, and, if the applicant intends to move it, the new location where the clothing bin would be situated, as precisely as possible;
 - e. A description of the proposed clothing bin, including dimensions;
 - f. The manner in which the person, firm, corporation, club or charitable organization, institution or association has used, sold or dispersed any clothing or other donations collected via the clothing bin, the method by which the proceeds of collected donations have been allocated or spent, and any changes the person, firm, corporation, club or charitable organization, institution or association anticipates it may make in these processes during the period covered by the renewal; and

- g. The schedule of pick-ups removing the articles from the clothing bins, which can be no less often than once per week and the name and telephone number of the person to be notified if the clothing bin is overflowing prior to the scheduled date of pick-up.
- h. Liability Insurance Certificate in an amount not less than \$500,000.00 per incident.

§ 29-5 Regulations.

- A. The following information shall be clearly and conspicuously displayed on the exterior of the clothing bin:
 - 1. The permit number and its date of expiration;
 - 2. The name and address of the registered person, firm, corporation, club or charitable organization, institution or association that owns the clothing bin, and of any other entity which may share or profit from any clothing or other donations collected via the bin;
 - 3. The telephone number of the person, firm, corporation, club or charitable organization, institution or association's bona fide office and, if applicable, the telephone number of any other entity which may share or profit from any clothing or other donations collected via the bin;
 - 4. In cases when an entity other than the person who owns the clothing bin may share or profit from any clothing or other donations collected via the bin, a notice, written in a clear and easily understandable manner, indicating that clothing or other donations collected via the bin, their proceeds, or both, may be shared, or given entirely to, an entity other than the person, firm, corporation, club or charitable organization, institution or association who owns the bin, and identifying all such entities which may share or profit from such donations; and
 - 5. A statement, indicating the manner in which the person, firm, corporation, club or charitable organization, institution or association anticipates any clothing or other donations collected via the bin would be used, sold or dispersed, and the method by which the proceeds of collected donations would be allocated or spent.
- B. An application for a permit to place and/or maintain a clothing bin shall not be granted and/or a permit may be revoked if the Borough Construction Official determines that the placement of the bin could constitute a health or safety hazard. Such hazards shall include, but are not limited to, the placement of a clothing bin in parking spaces, in any area that interferes with pedestrian or vehicular traffic, landscaping, required setbacks, or within 100 yards of any place which stores large amounts of, or sells, fuel or other inflammable liquids or gases, or is likely to or does attract vermin or litter.
- C. Each clothing bin shall be accessory to an existing non-residential use, and shall not be located within 100 feet of a residential area except if located on Borough property.

§ 29-6. Enforcement.

This chapter shall be enforced by the Building Department and/or Borough Construction Official. All clothing bins shall be subject to inspection by the Building Department or any duly authorized representative of the Borough.

§ 29-7. Receipt, investigation of complaints relative to clothing bin.

- A. The Building Department and/or Borough Construction Official and Police shall receive and investigate, within ten (10) days, any complaints from the public about a clothing bin.
1. Whenever it appears that a person, firm, corporation, club or charitable organization, institution or association has engaged in, or is engaging in any act, omission or practice which violates this ordinance, the person, firm, corporation, club or charitable organization, institution or association who placed and/or maintains the clothing bin shall be issued a warning, stating that if the violation is not rectified or a hearing is not requested within forty-five (45) days, the bin will be seized or removed at the expense of the person, firm, corporation, club or charitable organization, institution or association who placed the bin, and any clothing or other donations collected via the bin will be sold at public auction or otherwise disposed of.
 2. In addition to any other means used to notify the person, firm, corporation, club or charitable organization, institution or association who placed the bin, such warning shall be affixed to the exterior of the bin itself.
- B. In the event that 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, the Borough may seize the bin, remove it, or have it removed, at the expense of the person who placed the bin, and sell at public auction or otherwise dispose of any clothing or other donations collected via the bin. Any proceeds from the sale of the donations collected via the bin shall be paid to the Borough.

§ 29-8. Additional penalties; remedies.

- A. In addition to any other penalties or remedies authorized by the laws of this State, any person, firm, corporation, club or charitable organization, institution or association violating any of the provisions of this Chapter and/or any provision of P.L.2007, C.209 (*C40:48-2.60 et seq*), which results in the seizure of the donation clothing bin shall be:
1. Subject to a penalty of \$20,000.00 for each violation. The Borough Construction Official may bring this action in the municipal court or Superior Court as a summary proceeding under the "Penalty Enforcement Law of 1999", N.J.S.A. 2A:58-10 et seq., and any penalty monies collected shall be paid to the Borough; and

2. Deemed ineligible to place and maintain a clothing bin pursuant to this Chapter. A person, firm, corporation, club or charitable organization, institution or association disqualified from placing and/or maintaining a clothing bin by violating the provisions of this Section may apply to the Borough Construction Official to have that person, firm, corporation, club or charitable organization, institution or association's eligibility restored. The eligibility of a person, firm, corporation, club or charitable organization, institution or association may be restored if that person, firm, corporation, club or charitable organization, institution or association has:

- (a) Acts within the public interest; and
- (b) Demonstrates a good faith effort to comply with the provisions of this Chapter and all other applicable laws and regulations, or had no fraudulent intentions.

B. In addition to any other penalties or remedies authorized by the laws of this State and/or under this Chapter, any person, firm, corporation, club or charitable organization, institution or association that violates any provision hereof which results in a threat to public health or safety shall be subject to all penalties and remedies provided by law governing and conferring the Borough's police powers.

Section 2. Severability.

If any provision or portion of a provision of this ordinance is held by any court of competent jurisdiction to be unconstitutional, preempted by federal or State law, or otherwise invalid, the remaining provisions of the ordinance shall remain in full force and effect and shall not be invalidated.

Section 3. Effective date.

This Ordinance shall become effective thirty (30) days after final passage and publication as required by law.

Section 4. Repeal of inconsistent ordinances.

All ordinances and parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

INTRODUCED _____, 2009

ADOPTED _____, 2009

Gerald A. Calabrese, Mayor

ATTEST:

Sercan Zoklu, Borough Clerk