

**BOROUGH OF ROCKY HILL
COUNTY OF SOMERSET**

ORDINANCE #1 -2009

"An Ordinance of the Borough of Rocky Hill Establishing Regulations and Permit Requirements for the Placement and Use of Charitable Clothing Bins Throughout the Borough."

WHEREAS, this ordinance is established pursuant to P.L. 2007, c.209 approved by the New Jersey Legislature on December 20, 2007;

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Rocky Hill, County of Somerset, State of New Jersey, that the Code of Rocky Hill be amended by adding a new Chapter, **CHARITABLE CLOTHING BINS**, as follows:

Section 1. Definitions.

- A. For the purposes of this Chapter only, the terms "solicitation" or "solicit" shall mean the request, directly or indirectly, for money, credit, property, financial assistance, or other thing of any kind or value. Solicitation shall include, but not be limited to, the use or 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.
- B. For the purposes of this Chapter only, "Donation Clothing Bin" shall mean a charitable clothing bin or any canister, card, receptacle or similar device for the collection of money or other thing of value.

Section 2. Requirements for placement, use of donation clothing bin for solicitation purposes.

Notwithstanding any other provision of law to the contrary, no person shall place, use, or employ a donation clothing bin within the Borough of Rocky Hill, for solicitation purposes, without obtaining a permit from the Borough Clerk. Such permit is subject to approval by the Borough Council. Permits are renewable on an annual basis during the month of January.

Section 3. Permit Fee.

The annual permit fee is \$25 per bin and will be used to offset the costs involved in enforcing this Chapter.

Section 4. Application Requirements.

The application for obtaining a permit shall include:

- A. The location where the donation clothing bin would be situated, as precisely as possible;
- B. The manner in which the person 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;
- C. The name and telephone number of the bona fide office of any person or entity which may share or profit from any clothing or other donations collected via the bin, at which such person can be reached during normal business hours. For the purposes of this subsection, an answering machine or service unrelated to the person does not constitute a bona fide office; and
- D. Written consent from the property owner to place the bin on his property.

Section 5. Renewal Application Requirements.

In addition to the above application requirements, renewal applications must include:

- A. A statement on the manner in which the person has used, sold, or dispersed any clothing or other donation collected via the bin, the method by which the proceeds of collected donations have been allocated or spent, and any changes the person anticipate will be made in these processes during the period covered by the renewal;
- B. 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; and
- C. If the location of the bin is to be moved, the new location where the bin is to be situated, as precisely as possible and written consent from the property owner of the new location.

Section 6. Placement of Bins.

The Borough of Rocky Hill shall not grant an application for a permit to place, use, or employ a donation clothing bin if it determines that the placement of the bin could constitute a safety hazard. Such hazards shall include, but not be limited to, the placement of a donation clothing bin within 100 yards of any place which stores large amounts of, or sells, fuel or other flammable liquids or gases; or the placement of a bin where it interferes with vehicular or pedestrian circulation. The person placing, using or employing a donation clothing bin shall maintain the bin and the area surrounding the bin such that there shall be no accumulation of clothing or other donations outside the bin.

Section 7. Display of Permit.

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

- A. The permit number and its date of expiration;
- B. The name and address of the registered person who owns the bin, and of any other entity which may share or profit from any clothing or other donations collected via the bin;

- C. The telephone number of the owner's bona fide office, and, if applicable, the telephone number of the bona fide office of any other entity which may share or profit from any clothing or other donations collected via the bin. For the purposes of this subsection, an answering machine or service unrelated to the person does not constitute a bona fide office;
- D. In cases when any entity other than the person who owns the 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 who owns the bin, and identifying all such entities which may share or profit from such donations; and
- E. A statement, consistent with the information provided to the Borough in the most recent permit or renewal application, indicating the manner in which the owner 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.

Section 8. Receipt, investigation of complaints relative to donation clothing bin.

A. The Zoning Officer shall receive and investigate, within thirty (30) days, any complaints from the public about the bin. Whenever it appears to the Zoning Officer that a person has engaged in, or is engaging in any act or practice in violation of this Chapter, the person who placed the bin shall be issued a warning, stating that if the violation is not rectified or a hearing with the appropriate municipal agency is not requested within forty five (45) days, the bin will be seized or removed at the expense of the person who placed the bin, and any clothing or other donations collected via the bin will be sold at public auction or otherwise disposed of. In addition to any other means used to notify the person 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 of Rocky Hill 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 chief financial officer of the Borough.

Section 9. Additional penalties, remedies.

In addition to any other penalties or remedies authorized by the laws of this State, any person who violates any provision of this Chapter or the provisions of P.L.2007, c.209 (C.40:48-2.60, *et seq.*) which results in seizure of the donation clothing bin shall be:

- A. Subject to a penalty of up to \$20,000 for each violation. The Borough may bring this action in the Borough of Rocky Hill Municipal Court or the Superior Court of New Jersey as a summary proceeding under the Penalty Enforcement Law of 1999, P.L.1999, c.274 (C.2A:58-10 *et seq.*) , and any penalty monies collected shall be paid to the chief financial officer of the Borough; and
- B. Deemed ineligible to place, use, or employ a donation clothing bin for solicitation purposes pursuant to this Chapter and P.L.2007, c.209 (C.40:48-2.61). A person disqualified from placing, using, or employing a donation clothing bin by violating the provisions of P.L.2007, c.209 (C.40:48-2.60 *et seq.*) may apply to the Borough Council to have that person's eligibility restored. The Borough Council may restore the eligibility of a person who:
 - (1) Acts within the public interest; and
 - (2) Demonstrates that he made a good faith effort to comply with the provisions of this Chapter and P.L.2007, c.209 (C.40:48-2.60 *et seq.*), and all other applicable laws and regulations, or had no fraudulent intentions.

Section 10. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect, and to this end the provisions of this ordinance are hereby declared severable.

Section 11. All other ordinances in conflict or inconsistent with this ordinance are hereby repealed, to the extent of such conflict or inconsistency. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Rocky Hill, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Code of the Borough of Rocky Hill are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 12. This ordinance shall take effect immediately upon adoption and publication in accordance with the laws of the State of New Jersey.

ATTEST:

BOROUGH OF ROCKY HILL

By: _____

Donna M. Griffiths, RMC

Edward Zimmerman, Mayor

Borough Clerk

Introduced: 2/2/09

Public Hearing: 2/18/09

Adopted: 2/18/09