

ORDINANCE NO. 09-2010

**AN ORDINANCE OF THE MAYOR AND COMMITTEE OF TOWNSHIP OF HARRISON,
COUNTY OF GLOUCESTER, STATE OF NEW JERSEY AMENDING CHAPTER 159
ENTITLED "PROPERTY MAINTENANCE" OF THE CODE OF
THE TOWNSHIP OF HARRISON**

WHEREAS, P.L. 2007, c. 209 (C.40:48-2.60 et. seq.) authorizes the Governing Body of a municipality to adopt an Ordinance concerning charitable clothing bins/donation clothing bins; and

WHEREAS, the use of clothing bins remains a viable source of revenue for many worthy causes including veterans' quality-of-life programs, drug and gang resistance education, development projects in third-world countries, and police athletic leagues and related associations; and

WHEREAS, those whose kindness and generosity cause them to donate should be fully informed of all likely beneficiaries of their kindness; and

WHEREAS, the purpose of this Ordinance is to regulate donation clothing bins by requiring the charity or other person operating the bin to inform donors of the likely destination and list of possible beneficiaries of their donated items; and

WHEREAS, it is in the best interest of the residents of the Township of Harrison for Township Committee to adopt such an Ordinance;

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Committee of the Township of Harrison, in the County of Gloucester and State of New Jersey, and it is hereby enacted and ordained by the authority of same as follows:

Section 1.

A new Article VIII entitled "Charitable Clothing/Donation Bins" shall be added to Chapter 159 to read as follows:

**ARTICLE VIII
Charitable Clothing/Donation Bins**

§159-20. Purpose.

The purpose of this Ordinance is to implement the provisions of P.L. 2007, c. 209 (C. 40:48-2.60 et seq.) and establishing guidelines for the use of charitable clothing bins/donation clothing bins throughout the Township of Harrison.

§159-21. Definitions.

For the purposes of this Ordinance 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.

§159-22. Requirements.

Notwithstanding any other provision of law to the contrary, no person, corporation or entity (hereinafter collectively "person") shall place, use, or employ a charitable clothing bin/donation clothing bin, for solicitation purposes, unless all of the following requirements are met:

A. Permit.

The person shall obtain a permit, valid for one (1) year, issued by the Township's Zoning Officer, Housing Officer and/or his/her designee. In applying for such a permit, the person shall include:

- (a) The name and address of the property owner(s) where the bin is proposed to be situated;
- (b) The location (street address and Block/Lot) where the bin would be situated;
- (c) The location on the property in relation to the property lines and improvements (number of feet [distance] from all property lines and improvements), as precisely as possible;
- (d) 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 the collected donations would be allocated or spent;
- (e) 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;
- (f) Written consent from the property owner to place the bin on its property;
- (g) The fee for an application for a permit shall be \$25.00; and

B. Renewal of Permit.

- (a) An expiring permit for a charitable clothing bin/donation clothing bin may be renewed upon application for renewal.
- (b) The fee for a permit renewal shall be \$25.00 upon application for renewal.

C. Denial of Permit.

The Township of Harrison's Zoning Officer, Housing Officer and/or or his/her designee shall not grant an application for a permit to place, use or employ a charitable clothing bin/donation clothing bin if the Zoning Office or Housing Office 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 or sells, fuel or other flammable liquids or gases or other combustible products.

No bin shall be placed upon any public property, public right-of-way and/or easement and/or public road without the consent and approval of the governing body.

D. Display of Permit Information.

The permit number and its date of expiration shall be clearly and conspicuously displayed on the exterior of the donation clothing bin. In addition, the following information set forth in subsection a. of this section shall be displayed:

- (a) The following information must be clearly and conspicuously displayed on the exterior of the charitable clothing bin/donation clothing bin:
 - (1) The name and address of the registered person that owns the bin, and of any other entity which may share or profit from any clothing or other donations collected via the bin;
 - (2) The telephone number of the person'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 purposes of this subsection, an answering machine or service unrelated to the person does not constitute a bona fide office; and
 - (3) In cases when any entity other than the person who owns the bin any 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.

§159-23. Reporting Requirements.

The person, organization and/or entity responsible for the donation clothing bin shall provide the Clerk of the Township of Harrison with a written annual report on or before December 1 of each year that includes the following information:

- (a) The number of times the clothing bin was emptied during the year in which the permit was issued;
- (b) The weight (in terms of pounds) of the contents each time the clothing bin was emptied;
- (c) The name, address and telephone number of the location (destination) of the contents of the clothing bin.

Failure to provide the information requested in this Section shall be cause to deny renewal of the permit.

§159-24. Violations/Complaints from Public.

All complaints received from the public regarding a charitable clothing bin/donation clothing bin shall be investigated within 30 days by the Harrison Township Zoning Officer, Housing Officer and/or his/her designee. Whenever it appears to the Harrison Township Zoning Officer, Housing Officer and/or his/her designee that a person has engaged in, or is engaging in any act or practice in violation of this Ordinance, the owner of the property where the bin is situated and/or 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 45 days, the bin will be seized or removed at the expense of the person who placed the bin and/or the owner of the property where the bin is situated, and any clothing or any 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 and/or the owner of the property where the bin is situated, such warning shall be affixed to the exterior of the bin itself.

In the event the person who placed the bin and/or the owner of the property where the bin is situated does not rectify the violation or request a hearing within 45 days or the posting of the warning, the Township of Harrison Zoning Officer, Housing Officer and/or his/her designee may seize the bin, remove it or have it removed, at the expense of the person who placed the bin and/or the owner of the property where the bin is situated and sell it 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 Township of Harrison.

In addition to any other penalties or remedies authorized by the laws of the State of New Jersey, any person who violates any provision of this Ordinance which results in the seizure of the charitable clothing bin/donation clothing bin shall be:

- (a) Subject to a penalty of up to \$20,000 for each violation. The Township of Harrison may bring this action in the 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 Township of Harrison.
- (b) Deemed ineligible to place, use, or employ a charitable clothing bin/donation clothing bin for solicitation purposes pursuant to N.J.S.A. 40:48-2.60, et seq. A person disqualified from placing, using or employing a charitable clothing bin/donation clothing bin by violating provisions of N.J.S.A. 40:48-2.60, et seq., may apply to the appropriate municipal agency to have that person's eligibility restored. The Harrison Township Zoning Officer, Housing Officer and/or his/her designee 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 N.J.S.A. 40:48-2.60, et seq., and all other applicable laws and regulations or had no fraudulent intentions.

Section 2.

Repealer.

All prior Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

Section 3.

Severability.

Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

Section 4.

When effective.

This Ordinance shall take effect immediately upon final passage and publication in accordance with law.

TOWNSHIP OF HARRISON

BY: _____
LOUIS F. MANZO, MAYOR

ATTEST:

DIANE L. MALLOY, Clerk

NOTICE

The Ordinance published herein was introduced and passed upon first reading at a meeting of the Mayor and Committee of the Township of Harrison, in the County of Gloucester and State of New Jersey, held on May 3, 2010. It will be further considered for final passage, after public hearing hereon, at a meeting of said Mayor and Committee to be held in the Township's Municipal Building, 114 Bridgeton Pike, Mullica Hill, New Jersey 08062, in the Township, on May 17, 2010 at 7:30 P.M. During the week prior and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's office at the Municipal Building, 114 Bridgeton Pike, in the Township, to the members of the general public who shall request the same.

DIANE L. MALLOY
Clerk