

ORDINANCE NO. 2009 - 12

AN ORDINANCE OF THE TOWNSHIP OF LACEY,
COUNTY OF OCEAN, STATE OF NEW JERSEY
AMENDING AND SUPPLEMENTING THE TOWNSHIP
CODE OF THE TOWNSHIP OF LACEY, SO AS TO
CREATE A NEW CHAPTER 155, ENTITLED
"CHARITABLE CLOTHING BINS"

CHAPTER 155

CHARITABLE CLOTHING BINS

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

NOW THEREFORE BE IT ORDAINED by the Mayor and Township Committee of the Township of Lacey, County of Ocean, and State of New Jersey, as follows:

SECTION 1. The Township Code of the Township of Lacey is hereby amended and supplemented so as to create a new Chapter 155, entitled "Charitable Clothing Bins," which shall read in its entirety as follows:

§ 155-1. Definitions.

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.

§ 155-2. Requirements for placement, use of clothing bins 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 Township of Lacey for solicitation purposes without obtaining a permit from the Zoning Officer, the form of which shall be approved by the Township Administrator. Permits are renewable on an annual basis during the month of January.

§ 155-3. Permit Fee.

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

§ 155-4. Application Requirements.

The application for obtaining a permit shall include:

- A. The location where the 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 or her property.

§ 155-5. 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 anticipates it may make 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.

§ 155-6. Placement of Bins.

Lacey Township 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 or sells large amounts of fuel or other flammable liquids or gases; or the placement of a bin where it interferes with vehicular or pedestrian traffic. Clothing bins shall only be placed on non-residential properties, and must comply with the setbacks required by the Township's Zoning Ordinance. The sites on which a clothing bin may be placed must have a minimum of fifty (50) approved parking spaces. A maximum of four (4) clothing bins on one site are permitted.

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.

§ 155-7. 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 in which 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 Township 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.

§ 155-8. 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, Lacey Township 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 Township.

§ 155-9. 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 Township may bring this action in the Lacey Township 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; 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 governing

body to have that person's eligibility restored. The governing body may restore the eligibility of a person who:

- (1) Acts within the public interest; and
- (2) Demonstrates that he or she 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 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. This ordinance shall take effect after second reading and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Township Committee of the Township of Lacey, in the County of Ocean, State of New Jersey, held on **the 14th day of May, 2009**, and will be considered for second reading and final passage at the regular meeting of said Township Committee to be held on the 28th day of May, **2009**, at 7:00 p.m., or as soon thereafter as this matter can be reached, at the Municipal Building located on Lacey Road, Forked River, New Jersey, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance.

VERONICA LAUREIGH, CMC, AAE
Township Clerk, Township of Lacey