

ORDINANCE

ORDINANCE NO: 3 - 09

AN ORDINANCE AMENDING CHAPTER V OF THE ORDINANCES OF THE BOROUGH OF KEYPORT REGULATING THE USE AND PLACEMENT OF CHARITABLE CLOTHING BINS

WHEREAS, the Borough of Keyport recognizes that charitable organizations utilize clothing bins to promote the purposes of the organization and generally support a public purpose; and

WHEREAS, some clothing donation bins of questionable origin and purpose have been proliferating throughout the Borough of Keyport, some of which appear to be associated with for-profit entities; and

WHEREAS, clothing donation bins have been placed upon Borough owned property and privately owned property without the authorization of their respective owners; and

WHEREAS, the State of New Jersey has sought to regulate donation bins by requiring the charity or other person operating the bin to inform owners of the likely destination and list of possible beneficiaries pursuant to P.L. 2007, c. 2009 (*N.J.S.A. 40:48-2.60 et. seq.*); and

WHEREAS, the Mayor and Borough Council have determined that it is in the public interest to regulate the placement of charity clothing bins in the Borough of Keyport.

NOW THEREFORE BE IT ORDAINED by the Mayor and the Borough Council of the Borough of Keyport that Chapter V, of the Revised Ordinances of the Borough of Keyport is amended to include a new section 5-15 entitled "CLOTHING DONATION BINS", as follows;

Section 1. Definitions.

CLOTHING DONATION BIN – Any receptacle or container intended for the collection and temporary storage of donated clothing or other materials.

Section 2. Permit Required.

Notwithstanding any other provision of the law to the contrary, no person shall place, use or employ a clothing donation bin in the Borough of Keyport for solicitation purposes, unless:

a. The clothing donation bin is owned by a charitable organization registered with the Attorney General of the State of New Jersey pursuant to P.L. 1994, c.16 (*N.J.S.A. 45:17A-18 et. seq.*) or the charitable clothing donation bin is owned by a Borough approved charitable civic organization; and

b. The registered charitable organization has obtained a permit for a period of one (1) year issued by the Borough Clerk.

Section 3. Annual Permit Fee.

The annual permit fee shall be twenty-five (\$25) dollars per approved bin.

Section 4. Application Requirements.

The application for obtaining a permit shall include:

a. The location where the bin would be placed, with a map showing the exact location, including the lot and block, and identification of the owner of the property; and

b. The manner in which the person anticipates any clothing or other donations collected via the bin would be used, sold, disposed, and the method by which the proceeds of collected donations would be allocated or spent; and

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 ordinance, an answering machine or service unrelated to the person does not constitute a bona fide office.

d. Written consent of the property owner from the location where the bin would be situated.

Section 5. Renewal Application Requirements.

In addition to the above application requirements in Section 4, including the annual twenty-five (\$25) dollar fee per approved bin renewal applications must include:

a. The location where the bin is placed, with a map showing the exact location, including the lot and block, and identification of the owner of the property, and, if the person intends to move it, the new location

where the bin would be situated after the renewal is granted, with a map showing the exact location, including the lot and block, and identification of the property owner and written consent from the property owner to place the bin on his property; and

b. The manner in which the person has used, sold, or dispersed clothing or other donations 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; and

c. The name and telephone number of the bona fide office of any person or entity which have 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

d. The total of amount of pounds of the clothing collected in each bin.

Section 6. Display of Permit.

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

a. The permit number and its date of expiration shall be clearly and conspicuously displayed on the exterior of the clothing bin; and

b. The person, or any other entity which may share or profit from any clothing or other donations collected via the bin, maintains a bona fide office where a representative if the person or other entity, can be reached during normal business hours for the purpose of offering information concerning the person or other entity. For the purposes of this section, an answering machine or service unrelated to the person does not constitute a bona fide office.

Section 7. Placement of Bins.

a. The Borough of Keyport shall not grant an application for a permit to place, use or employ a donation clothing bin if the Borough determines that the placement of the bin could constitute a safety hazard.

b. The Borough of Keyport shall not grant an application for a permit to place, use or employ donation clothing bin where it interferes the vehicular or pedestrian circulation.

Section 8. Upkeep of Bins.

The person or other entity responsible for placing, using or employing a clothing donation bin shall maintain the area surrounding the bin such that there shall be no accumulation of clothing or other donations outside of the bin. The permit holder shall also be responsible for the sanitary conditions in and around the bin.

Section 9. Receipt and investigation of complaints relative to donation clothing bins.

a. If the Borough receives a complaint about a clothing bin; the Zoning Officer shall investigate the complaint within thirty (30) days of the filing of the complaint. Whenever it appears to the Zoning Officer that a person has engaged in, or is engaging in any act or practice in violation of section 2 of P.L.2007, c.209 (*N.J.S.A.40:48-2.61*), the person who placed the bin shall be issued a warning, stating that if the violation is not rectified 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. The person who placed the bin shall have the option to request a hearing within forty-five (45) of the notice of violation, which will be heard before the Zoning Board. 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 Zoning Officer 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 municipality.

Section 10. Additional penalties for violations, remedies.

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

a. Subject to a penalty of up to \$20,000 for each violation. The Borough Administrator may bring this action in the municipal court or Superior Court as a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (N.J.S.A. 2A:58-10 et. seq.). Money collected through this proceeding shall be paid to the chief financial officer of the Borough; and

b. The violator shall be deemed ineligible to place, use, or employ a donation clothing bin for solicitation purposes pursuant to this Section and P.L.2007, c.209 (N.J.S.A. 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 Zoning Board to have that person's eligibility restored. The Zoning Board 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 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 11. If any part or parts of the Ordinance are for any reason held to be invalid, such adjudication shall not affect the validity of the remaining portions of this Ordinance.

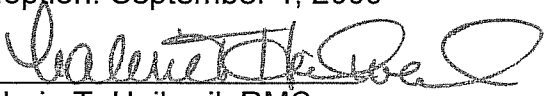
Section 12. All Ordinances or parts of Ordinances which are inconsistent herewith are repealed, but only to the extent of such inconsistency.

Section 13. This Ordinance shall become effective immediately upon its final passage and publication as required by law.

Introduction: June 9, 2009

Public Hearing: September 1, 2009

Adoption: September 1, 2009


Valerie T. Heilweil, RMC
Municipal Clerk


Robert J. Bergen
Mayor