

**LAFAYETTE TOWNSHIP
SUSSEX COUNTY, NEW JERSEY**

ORDINANCE 2011-07

AN ORDINANCE TO AMEND CHAPTER III (POLICE
REGULATIONS) OF THE TOWNSHIP OF LAFAYETTE CODE
BY PROVIDING FOR THE REGULATION OF CHARITABLE
DONATION CLOTHING BINS AS REQUIRED BY LAW

WHEREAS, Chapter 209 of the Laws of 2007 prohibits the placement or use of donation clothing bins for solicitation purposes unless the solicitor shall first have obtained a permit from the municipality in which the charitable clothing bin is located; and

WHEREAS, the Township of Lafayette is required to adopt an ordinance to place into effect the provisions of Chapter 209 of the Laws of 2007.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Lafayette that Chapter III of the Township of Lafayette Code shall be and is hereby amended by the adoption of Section 3-11, entitled “Charitable Donation Clothing Bins”

SECTION 1. Section 3-11 of the Township of Lafayette Code, entitled “Charitable Donation Clothing Bins” is hereby adopted as follows:

3-11 CHARITABLE DONATION CLOTHING BINS.

3-11.1 Purpose

For the purposes of this section, “solicitation” or “solicit” means 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 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.

3-11.2 Permit Required

Notwithstanding any other provision of law to the contrary, no person shall place, use or employ a donation clothing bin, for solicitation purposes, unless all of the following requirements are met:

- A. The person has obtained a permit, valid for a specified period of time from the Township, in accordance with the following:
 - (1) In applying for such a permit, the person 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 required pursuant to subsection (E) of this section, of any entity which may share or profit from any clothing or other donations collected via the bin; and
 - (d) written consent of the property owner to place the bin on his property.
- B. The 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 large amounts of, or sells, fuel or other flammable liquids or gases.
- C. An expiring permit for a donation clothing bin may be renewed upon application for renewal and payment of the fee imposed for such renewal. Such application shall include:
 - (a) The location where the bin is situated, as precisely as possible, and, if the person intends to move it, the new location where the bin would be situated after the renewal is granted and written consent from the property owner to place the bin on his property;

- (b) The manner in which the person has used, sold, or dispersed any 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 required pursuant to subsection (E) of this section, 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 permit number and its date of expiration shall be clearly and conspicuously displayed on the exterior of the donation clothing bin, in addition to the information required pursuant to subsection (E) of this section.
- E. The person, and 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 of the person or other entity, respectively, can be reached at a telephone information line during normal business hours for the purpose of offering information concerning the person or other entity. For the purposes of this subsection, an answering machine or service unrelated to the person does not constitute a bona fide office; and
- (1) The following information is clearly and conspicuously displayed on the exterior of the donation clothing bin:
- (a) 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;
 - (b) 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;
 - (c) 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
 - (d) A statement, consistent with the information provided to the Township in the most recent permit or renewal application in paragraphs A and C of this section, indicating 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.

3-11.3 Fees

The fee for a charitable donation clothing bin permit shall be the sum of twenty-five (\$25.00) dollars. Each renewal of a charitable donation clothing bin permit shall be the sum of twenty-five (\$25.00) dollars.

3-11.4 Enforcement

The Township shall receive and investigate, within 30 days, any complaints from the public about the bin. Whenever it appears to the Township 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 (C.40:48-2.60 et seq.) or this ordinance, the person who placed the bin shall be issued a warning, stating that if the violation is not rectified or a hearing with the Township is not requested within 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.

In the event that the person who placed the bin does not rectify the violation or request, a hearing within 45 days of the posting of the warning, the 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.

3-11.5 Penalties

In addition to any other penalties or remedies authorized by the laws of this State, any person who violates any provision of P.L.2007, c.209 (C.40:48-2.60 et seq.) or this ordinance 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 municipal court or Superior Court 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 municipality; and
- B. Deemed ineligible to place, use or employ a donation clothing bin for solicitation purposes pursuant to Section 2 of P.L.2007, c.209 (C.40:48-2.61) and this ordinance. 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.) and this ordinance may apply to the Township to have that person's eligibility restored. The Township 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.) this ordinance and all other applicable laws and regulations, or had not fraudulent intentions.

SECTION 2. All ordinances or parts of ordinances or resolutions that are inconsistent with the provisions of this Ordinance are repealed to the extent of such inconsistency.

SECTION 3. This Ordinance shall take effect after publication and passage according to law.

NOTICE

The above Ordinance was introduced and passed at first reading by the Lafayette Township Committee at a meeting held on April 5, 2011 and after publication and a public hearing was finally adopted by the Lafayette Township Committee at a meeting held on April 19, 2011.

Mayor:

Municipal Clerk: