

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 01/25/21 07:00 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

SCHEDULED

ORDINANCE 2021-2

DOC ID: 3410

**First Reading: Adding a Section to the Borough Code
Entitled “Clothing Donation Bins”**

Borough of Flemington, County of Hunterdon

WHEREAS, N.J.S.A. 40:48-2.6 requires a permit for the placement or use of clothing bins for solicitation purchases.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Flemington, the County of Hunterdon, as follows:

SECTION 1. Chapter ____ of the Borough Code, entitled “Clothing Donation Bins,” is hereby added as follows:

§____-1. **Permit required; information required.** No person shall place, use or employ a donation clothing bin for solicitation purposes within the Borough of Flemington unless the following requirements are met.

a. The person has obtained a permit, valid for one year, from the Borough of Flemington Clerk.

b. The Clerk shall issue a permit only if the person applying has supplied the following information:

1. The location where the bin would be situated, as precisely as possible; and

2. Proof that the applicant owns the property where the bin is to be placed or written consent from the property owner to place a clothing donation bin on the subject property.

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

4. Contact information for the applicant and property owner.

5. The name and telephone number of the bona fide office required by Section 8 of this Ordinance of any entity which may share or profit from any clothing or other donations collected via the bin; and

§___-2. Review by zoning officer; Denial of permit if placement of bin is safety hazard.

Every application for the placement of a clothing donation bin shall be reviewed by the Borough zoning officer to determine if the placement of said bin constitutes a safety hazard or otherwise violates Borough Ordinances (including Section 11 of this Ordinance) or land use approvals granted for the subject property. Such hazard 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, the placement of the donation bin would obstruct a parking space or loading zone, or the placement of the donation clothing bin would constitute a traffic hazard.

The Clerk shall not grant an application for a permit to place, use or employ a donation clothing bin, if the zoning officer determines that the placement of the bin could constitute a safety hazard or otherwise violate Borough Ordinances or land use approvals.

§___-3. Application fee. The fee for the application for a donation clothing bin shall be \$250.

§___-4. Renewal of permit; fee. An expiring permit for a donation clothing bin may be renewed upon application for renewal and payment of a fee of \$250.

§___-5. Renewal application requirements. The annual renewal application for the placement of a clothing donation bin shall include the following:

- a. The location where the bin is situated, as precisely as possible;
- b. If the applicant intends to move the bin, 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/her property; and
- c. The manner in which the person has used, sold or dispensed 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 he/she may make in these processes during the period covered by the renewal; and
- d. Contact information for the applicant and property owner; and
- e. The name and telephone number of the bona fide office required pursuant to Section 8 of this Ordinance 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.

§___-6. **Denial of renewal permit.** The Clerk shall deny a renewal permit for the placement of a clothing donation bin if the applicant or property owner are subject to outstanding an unremedied violations of this Ordinance.

§___-7. **Issuance of permit; display of permit.** The Clerk shall issue a permit number and 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 described in Section 10, of this Ordinance.

§___-8. **Bona fide office required.** The person, and any other entity which may share of profit from any clothing or other donations collected by the bin, shall maintain a bona fide office where a representative of the person or 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 Ordinance section, an answering machine or service unrelated to the person does not constitute a bona fide office.

§___-9. **Limitation of number of bins per property.** Except as set forth in Section ___-12, no more than three permits for the placement of clothing donation bins may be issued per property. For the purposes of this Ordinance, adjacent lots under common ownership or use shall be considered a single property.

§___-10. **Information to be displayed on bin.** The following information shall be clearly and conspicuously displayed on the 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 clothing or other donations collected via the bin; and

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; and

3. In cases where 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

4. A statement consistent with the information as required by Section 1(b)(3) of this Ordinance, indicating the manner in which the person anticipates any clothing or other donations collected via the bin would be used, sold or dispensed and

Section 5(c) indicating the method by which the proceeds of the collected donations would be allocated.

§___-11. Regulation of use and location of bins; maintenance of bins and surrounding area.

a. The person placing, using, or employing a clothing donation bin shall maintain the bin and the surrounding area such that there shall be no accumulation of clothing or other donations outside the bin.

b. No clothing donation bin shall be placed, used, or employed unless such donation bin is free of rust, peeling paint, or other deleterious effects.

c. No clothing donation bin shall be placed on municipally-owned property, except with the written authorization of the Mayor and Council.

d. Clothing donation bins shall only be located in non-residential zoning districts.

e. Clothing bins shall be placed in the rear or side yard of the property and shall not be closer than 250 feet from an adjacent residential dwelling or 5 feet from the property line.

f. No more than three bins may be located on a single property or within a single complex.

g. Each bin shall not exceed six (6) feet in depth, eight (8) feet in width, and six (6) feet in height.

h. The placement of bins shall not interfere with vehicular or pedestrian traffic.

i. Bins shall be located in clearly visible and well-lit areas to permit inspection and enforcement.

j. Bins shall not be placed in a required buffer area, site triangle, or fire zone.

k. Bins shall not be placed on vacant or unimproved lots or lots containing unoccupied buildings or abandoned buildings.

§___-12. Exemptions.

Bins sponsored by any department, agency, or committee of the Borough shall be required to comply with the permit requirements hereof, but will be exempt from the payment of any application fees. Bins sponsored by and benefitting a non-profit organization that are to be located on property owned by said non-profit organization shall be required to comply with this permit requirements hereof, but will be exempt from the payment of any application fees. Bins placed pursuant to this section shall be limited to one per property.

§___-13. Receipt and investigation of complaints.

a. The Zoning Officer shall receive and investigate, within 30 days, any complaints from the public about the maintenance or placement of clothing donation bins. 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 Ordinance, the person who placed the bin, and the property owner, shall be issued a warning, stating that if the violation is not rectified or a hearing with the Borough of Flemington Mayor and Council is not requested within 45 days, the bin will be seized or removed at the expense of the person who placed the bin and the property owner.

b. In the event that the person who placed the bin and the property owner do not remedy the violation or request a hearing within 45 days of posting of the warning, the Borough may seize the bin, remove it, or have it removed at the expense of the person who placed the bin. Upon proper certification to the Mayor and Borough Council by the Zoning Officer, such expenses may be assessed as a lien on the subject property and shall be added to and become part of the taxes levied on the subject property. Any clothing or other donations collected via the bin will be sold at public auction or otherwise disposed of. Any proceeds from the sale of the donations collected via the bin shall be paid to the Chief Financial Officer of the Borough. 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.

c. In addition to the remedies set forth in this section, the Zoning Officer is also empowered to issue a Notice of Violation and Summonses pursuant to Section 14 of this Ordinance.

§___-14. Violations and Penalties.

a. In addition to any other penalties authorized by this Ordinance or laws of this State, any person who violates any provision of this Chapter or N.J.S.A. 40:48-2.60 et seq. shall be subject to the following penalties:

1. For the first offense: \$100 per day;
2. For the second offense: \$250 per day;
3. For the third offense: \$350 per day and revocation of permit.

b. Any person or organization may be deemed ineligible to place, use, or employ a donation clothing bin for solicitation purposes pursuant to this chapter 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 (N.J.S.A. 40:48-2.60 et seq.), may apply to Borough Council to have that person's eligibility restored. Borough Council 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 (N.J.S.A. 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 repealed as to such inconsistencies.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any 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 thereof.

SECTION 4. This Ordinance shall take effect upon final passage, publication, and filing, all in accordance with the law.

Introduced: January 25, 2021

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk