

12-02
**ORDINANCE OF THE BOROUGH OF MERCHANTVILLE,
COUNTY OF CAMDEN AND STATE OF NEW JERSEY
ADDING CHAPTER 81, DONATION CLOTHING BINS, IN
THE CODE OF THE BOROUGH OF MERCHANTVILLE**

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Merchantville, County of Camden, and State of New Jersey, that Chapter 81, Donation Clothing Bins, is hereby added to the Code of the Borough of Merchantville, as follows:

ARTICLE I. SECTION 81-1 Purpose.

The purpose of this Section is to provide for the enforcement of P.L. 2007, c.209.

ARTICLE I. SECTION 81-2 Definitions relative to charitable clothing bins.

SOLICITATION or **SOLICIT** — 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.

ARTICLE I. SECTION 81-3 Requirements for placement, use of clothing bin for solicitation purposes.

A. 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:

(1) The person has obtained a permit, issued by the Borough Clerk's Office, valid for a specified period of time, from the Borough of Merchantville in which the donation clothing bin will be placed, in accordance with the following:

(a) In applying for such a permit, the person shall include:

[1] The location where the bin would be situated, as precisely as possible;

[2] 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] The name, and telephone number of the bona fide office required pursuant to Subsection A.(2) of this Section, of any entity which may share or profit from any clothing or other donations collected via the bin; and

[4] Written consent from the property owner to place the bin on his property;

(b) The Borough of Merchantville 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 one hundred (100) yards of any place which stores large amounts of, or sells, fuel or other flammable liquids or gases;

(c) The Borough of Merchantville fee for such application, is Twenty-five Dollars (\$25.00) per bin, to offset the costs involved in enforcing Chapter 81 of the Code of the Borough of Merchantville entitled "Donation Clothing Bins," pursuant to P.L. 2007, c.209 (C.40:48-2.60 et seq.);

(d) An expiring permit for a donation clothing bin may be renewed upon application for renewal and payment of any fee imposed by the Borough of Merchantville for such renewal, not to exceed Twenty-five Dollars (\$25.00) annually, to offset the costs involved in enforcing Chapter 81 of the Code of the Borough of Merchantville entitled "Donation Clothing Bins," pursuant to P.L. 2007, c.209 (C.40:48-2.60 et seq.). Such application shall include:

[1] 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;

[2] 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

[3] The name, and telephone number of the bona fide office required pursuant to Subsection A.(2) 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; and

(e) 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 c. of this Section;

(2) 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

(3) 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 who 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 Borough Clerk in the most recent permit or renewal application pursuant to Subsection A(1)(a)[2] and Subsection A(1)(d)[2] 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.

ARTICLE I. SECTION 81-4 Receipt, investigation of complaints relative to donation clothing bin.

The Borough of Merchantville in which the donation clothing bin has been placed shall receive and investigate, within thirty (30) days, any complaints from the public about the bin. Whenever it appears to the Chief of Police or his designee 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.40:48-2.61), the person who placed the bin shall be issued a warning, stating that if the violation is not rectified or a hearing with the Borough Council is not requested within forty-five (45) days, the bin will be seized or removed by the Chief of Police or his designee 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 forty-five (45) days of the posting of the warning, the the Chief of Police or his designee 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 Borough.

ARTICLE I. SECTION 81-5 Additional penalties, remedies.

A. In addition to any other penalties or remedies authorized by the laws of this state, any person who violates any provision of Chapter 81 of the Code of the Borough of Merchantville entitled "Donation Clothing Bins" pursuant to P.L. 2007, c.209 (C.40:48-2.60 et seq.) which results in seizure of the donation clothing bin shall be:

(1) Subject to a penalty of up to Twenty Thousand Dollars (\$20,000.00) for each violation. The Borough of Merchantville 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 Borough of Merchantville; and

(2) 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). A person disqualified from placing, using, or employing a donation clothing bin by violating the provisions of Chapter 81 of the Code of the Borough of Merchantville entitled "Donation Clothing Bins," pursuant to P.L.

2007, c.209 (C.40:48-2.60 et seq.) may apply to the Merchantville Borough Clerk's Office to have that person's eligibility restored. The Borough of Merchantville may restore the eligibility of a person who:

(a) Acts within the public interest; and

(b) 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.

ARTICLE VI.

All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent that they are inconsistent herewith.

ARTICLE VII.

This Ordinance shall take effect upon passage and publication according to law.

THE BOROUGH OF MERCHANTVILLE

BY: _____
FRANK M. NORTH, MAYOR

ATTEST:

DENISE BROUSE, BOROUGH CLERK

The foregoing ordinance was introduced by Mayor and Council at a meeting held on February 13, 2012. This Ordinance will be considered for adoption on final reading and public hearing to be held on March 12, 2012 at 7:30 p.m. in the Council Meeting Room, Merchantville Borough Hall, 1 West Maple Avenue, Merchantville, New Jersey.

The purpose of this Ordinance is the regulation of donation clothing bins in the Borough of Merchantville, and to provide for the enforcement of P.L. 2007, c.209. A copy of this Ordinance is available at no charge to the general public between the hours of 8:30 AM to 4:30 PM, Monday through Friday (Legal Holidays excluded), at the Office of the Borough Clerk, Merchantville Borough Hall, 1 West Maple Avenue, Merchantville, New Jersey.