

ORDINANCE 2009-22

AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF HILLSBOROUGH, COUNTY OF SOMERSET, STATE OF NEW JERSEY, BY ADDING A NEW CHAPTER 233 TO REGULATE CLOTHING DONATION BINS

WHEREAS, the control of the location of clothing donation bins has become a matter of public concern because the proper maintenance of clothing donation bins affect the health and safety of the residents of the Township of Hillsborough; and

WHEREAS, residents making donations utilizing said bins are entitled to information regarding the entities receiving said donations; and

WHEREAS, pursuant to N.J.S.A. 40:48-2.60, et seq., entities utilizing said bins for the receipt of donations are required to obtain a permit from the Township allowing such use.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hillsborough, County of Somerset, State of New Jersey, as follows:

Section 1. Amend the Code of the Township of Hillsborough by adding Chapter 233, Clothing Donation Bins, to read as follows:

Chapter 233. Clothing Donation Bins.

A. Definitions.

For the purposes of this Ordinance 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.

B. 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 Hillsborough, for solicitation purposes, without obtaining a permit from the Township Clerk. Permits are renewable on an annual basis during the month of January.

C. Permit Fee.

The annual permit fee is \$25.00 per bin and will be used to offset the costs involved in enforcing this Ordinance.

D. Application Requirements.

The application for obtaining a permit 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 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
4. Written consent from the property owner to place the bin on his property.

E. Renewal Application Requirements.

In addition to the above application requirements, renewal applications must include:

1. A statement on the manner in which the person has used, sold, or dispersed any clothing or other donation collect 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;
2. 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
3. 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.

F. Placement of Bins.

The Township of Hillsborough 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; or the placement of a bin where it interferes with vehicular or pedestrian circulation. 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.

G. Display of Permit.

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

1. The permit number and its date of expiration;
2. 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;
3. 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;
4. 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
5. A statement, consistent with the information provided to the Township of Hillsborough 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.

H. Receipt, investigation of complaints relative to donation clothing bin.

1. 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 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 of Hillsborough Committee 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.
2. 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 Township of Hillsborough 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 of Hillsborough.

I. Duty to Maintain and Service Bins.

It shall be the duty of the person placing, using, employing or owning a clothing donation bin to properly maintain and service each clothing donation bin placed within the Township so as to prevent such clothing bin from creating any nuisance, hazardous or unsafe condition.

J. Enforcement.

The Zoning Officer or other person designated by the Township Committee as a person authorized to enforce the provisions of this Ordinance shall, upon receipt of a complaint by a local resident or any other person that a clothing donation bin is causing a nuisance, hazardous or unsafe condition, investigate such complaint and take such enforcement action as is permitted pursuant to N.J.S.A. 40:48-2.62 and N.J.S.A. 40:48-2.63.

K. 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 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 donation clothing bin shall be:

1. Subject to a penalty of up to \$20,000.00 for each violation. The Township of Hillsborough may bring this action in the Township of Hillsborough 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 (N.J.S.A. 2A:58-10 et seq.), and any penalty monies collected shall be paid to the Chief Financial Officer of the Township; and
2. Deemed ineligible to place, use, or employ a donation clothing bin for solicitation purposes pursuant to this Ordinance 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 the Township Committee of the Township of Hillsborough to have that person's eligibility restored. The Township of Hillsborough Committee 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 this Ordinance 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. Severability. If any provisions of this Ordinance shall be adjudged invalid, such adjudication shall not affect the validity of the remaining provisions, which shall be deemed

severable there from.

Section 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior Ordinance of the Township of Hillsborough, the provisions hereof shall be determined to govern. This Ordinance is not intended to supercede Chapter 188 of the Code of the Township of Hillsborough and clothing donation bins are subject to the requirements of Chapter 188.

Section 4. Effective Date. This Ordinance shall take effect immediately upon passage and publication according to law.

ATTEST:

TOWNSHIP OF HILLSBOROUGH

Kevin P. Davis, Township Clerk

Frank DelCore, Mayor

Introduced: 05/12/09
Published: 05/21/09
Public Hearing: 06/14/09
Continued Public Hearing: 06/23/09
Amended Ordinance Introduction: 06/23/09
Published: 07/02/09
Public Hearing of Amended Ordinance: 07/14/09
Adoption: 07/14/09
Published: 07/23/09