

**ORDINANCE NO. 3832**

**AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE TOWNSHIP OF FRANKLIN, SOMERSET COUNTY, NEW JERSEY BY ADDING A NEW CHAPTER, MORE PARTICULARLY CHAPTER 109, CHARITABLE CLOTHING BINS.**

**SUMMARY**

An Ordinance amending the Municipal Code of the Township of Franklin by adding a new Chapter 109, Charitable Clothing Bins and establishing rules, regulations and registrations of said charitable clothing bins.

**BE IT ORDAINED** by the Township Council of the Township of Franklin, County of Somerset and State of New Jersey that the Code of the Township of Franklin be and it is hereby amended as follows:

**SECTION I**

**Chapter 109, Charitable Clothing Bins**

**§ 109-1. Definitions relative to charitable clothing bins**

For the purposes of this chapter relative to charitable clothing bins:

*“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 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.

**§ 109-2. Permit required**

It shall be unlawful for any person firm, or corporation to erect, place, maintain or operate in the Township of Franklin any charitable clothing bin without first submitting a completed application to the Township Clerk, receiving approval from the Franklin Township Police Department, obtaining a decal from the Township Clerk and affixing that decal to the charitable clothing bin.

**§ 109-3. Fee required.**

Initial Application (one-year period)	\$25.00
Renewal Applications (one-year period)	\$25.00

**§ 109-4. Form of application.**

The application for a charitable clothing bin permit shall require the following information from the applicant:

- A. Name, address, telephone number, name of contact person of the organization that is in charge of the charitable clothing bin;
- B. Location where the bin would be situated, as precisely as possible, including but not limited to: block and lot of property, street address, description of exact location of bin and written consent from the property owner to place the bin on his property;
- C. 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;

- D. Name and telephone of the bona fide office required pursuant to subsection c of this section, of any entity which may share or profit from any clothing or other donations collected via the bin.

**§ 109-5. Form of application for renewal.**

- A. Updated name, address, telephone number, name of contact person of the organization that is in charge of the charitable clothing bin;
- B. Location where the bin is situated, as precisely as possible, including but not limited to: block and lot of property, street address, description of exact location of bin, and if the applicant intends to move said 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 property;
- C. 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;
- D. Name and telephone of the bona fide office required pursuant to subsection B 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.

**§ 109-6. Location restriction.**

The Township shall not grant an application for a permit to place, use, or employ a charitable clothing bin if it determines that the placement of the bin could constitute a safety hazard. Such hazards include, but not be limited to, the placement of a charitable clothing bin within 100 yards of any place which stores large amounts of, or sells, fuel or other flammable liquids or gases.

**§ 109-7. Permit and information displayed.**

- A. 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 the subsections of this section; and
- B. 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
- C. The following information is clearly and conspicuously displayed on the exterior of the donation clothing bin:
  - 1) 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;
  - 2) 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;
  - 3) 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

- 4) A statement, consistent with the information provided to the Township Clerk's Office in the most recent permit or renewal application pursuant to this Chapter, 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.

**§ 109-8. Receipt, investigation of complaints relative to donation clothing bin.**

- A. The appropriate municipal office, Police, Health, Zoning, and/or Fire Prevention, within the Township where the donation clothing bin has been placed shall receive and investigate, within 30 days, any complaints from the public about the bin. Whenever it appears to the appropriate municipal officer that a person has engaged in, or is engaging in any act or practice in violation of this Chapter, 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 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 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.
- B. In the event that the person does not rectify the violation or request a hearing within 45 days of the posting of the warning, the appropriate municipal office 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.

**§ 109-9. Violations and penalties.**

In addition to any other penalties or remedies authorized by the laws of this State, County or Municipality, any person who violates any provision of this Chapter which results in seizure of the donation clothing bin shall be:

- A. Subject to a penalty of up to \$20,000.00 for each violation. The appropriate municipal office 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 payable to the Chief Financial Officer of the Township.
- 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). A person disqualified from placing, using, or employing a donation clothing bin by violating the provisions of Section 2 of P.L.2007, c.209 (C.40:48-2.60 et seq.) may apply to the appropriate municipal office to have that person's eligibility restored. The appropriate municipal office 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 Section 2 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 II**

Each clause, section or subsection of this ordinance shall be deemed a separate provision to the intent that if any such clause, section or subsection should be declared invalid, the remainder of the ordinance shall not be affected.

**SECTION III**

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed as to the extent of such inconsistency.

**SECTION IV**

This ordinance shall take effect immediately upon adoption and publication according to law.

**ORDINANCE NO. 3832**

This is a true copy of an ordinance adopted by the Township Council Township of Franklin, Somerset County, New Jersey.

Introduced:	May 26, 2009
Public Hearing:	June 23, 2009
Adoption:	June 23, 2009
Notice of Adoption:	June 29, 2009
Effective Date:	July 19, 2009

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Ann Marie McCarthy, Township Clerk