

ORDINANCE # 2023-19

**BOROUGH OF LODI
COUNTY OF BERGEN
STATE OF NEW JERSEY**

AN ORDINANCE TO REGULATE CLOTHING DONATION BINS

WHEREAS, there has been a proliferation of clothing donation bins in the Borough of Lodi ("Borough"); and

WHEREAS, N.J.S.A. 40:48-2.61 entitled Donation Clothing Bins; Requirements for Placement for Solicitation Purposes regulates donation clothing bins and requires an applicant to obtain a permit from the municipality;

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

Article 1 - Definitions. As used in this chapter, the following terms shall have the meanings indicated:

Article 2 - Solicitation or Solicit. In accordance with N.J.S.A. 40:48-2.60 and this Ordinance, "Solicitation" or "Solicit" means 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 3 - Donation Clothing Bins. In accordance with N.J.S.A. 40:48-2.61 and this Ordinance, no person shall place, use, or employ a donation clothing bin, for solicitation purposes in the Borough, unless the following requirements are met:

A. The person has obtained a permit, valid for a specified period of time, from the Borough in accordance with the following:

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

(a) a survey or site plan depicting 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 b. 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 from the property owner to place the bin on his property;
 - (2) The Borough 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;
 - (3) The Applicant shall pay an annual application fee for the permit to the Borough in the amount of \$100.00 per bin payable to the Borough of Lodi and delivered to the Borough Clerk's Office to offset the costs involved in enforcing this Ordinance;
 - (4) An expiring permit for a donation clothing bin may be renewed upon application for renewal and payment of a \$100.00 per bin payable to the Borough of Lodi and delivered to the Borough Clerk's Office renewal fee imposed by the Borough to offset the costs involved in enforcing this Ordinance. Such application shall include:
 - (a) a survey or site plan depicting 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 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; and
 - (5) 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;
- 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 shall be clearly and conspicuously displayed on the exterior of 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 any clothing or other donations collected via the bin;
 - (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;
 - (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 Borough in the most recent permit or renewal application pursuant to subparagraph (b) of paragraph (1) of subsection a. of this section and subparagraph (b) of paragraph (4) of subsection a. 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.
- D. The owner/applicant shall be recognized as a charitable nonprofit 501(c)(3) corporation, organization, or an officer of such corporation or organization on whose behalf the application is being made. Such applicant shall submit the required sufficient documentation demonstrating the formal creation and recognition by the Internal Revenue Service of the establishment and present status of the charitable corporation or organization to the Borough with the application for the permit and any and all renewal applications.

Article 4 - Additional Requirements for placement; use of clothing bins for solicitation purposes.

- A. All permits and renewals obtained shall be in effect for one (1) year and shall expire on December 31st of each year and shall not be pro-rated for any part of the year.
- B. The Borough shall not be authorized to issue more than ten (10) clothing donation bins within the Borough and no more than two (2) at any given site.
- C. 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.
- D. No donation clothing bin shall be placed, used or employed pursuant to this

Ordinance unless such donation clothing bin is free of rust, peeling, or other deleterious effects.

- E. No donation clothing bin shall be placed on any municipally owned property, except with the written authorization of the Mayor and Council.
- F. No bin will be authorized in any residential zone.
- G. Bins will be authorized only on properties owned or operated by a recognized charitable non-profit 501(c)(3) corporation or entity in business zones non-profit properties only and are subject to annual renewal.
- H. Bins cannot be placed in any parking space;
- I. Bins must be placed in the rear of the property;
- J. Bins must not be in a fire zone;
- K. Bins must not be in a loading dock area;
- L. Bins must be fenced in and not be overflowing, and as such must be picked up at least twice per month to prevent overflowing;

Article 5 - Investigation of Complaints.

- A. The Borough Building Department shall receive and investigate, within thirty (30) days, any complaints from the public about the bin. Whenever it appears to the Building Department Zoning Officer or Code Enforcement 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 Borough Mayor and Council is not requested within ten (10) 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 who placed the bin does not rectify the violation or request a hearing within ten (10) days of the posting of the warning, the appropriate municipal agency of the Borough 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 municipality.

Article 6 - Violations and penalties; remedies.

A. Penalties.

- (1) In addition to any other penalties or remedies authorized by the laws of the State of New Jersey, 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.), including seizure of the donation clothing bin shall be subject to the following penalties through the municipal court of the Borough:
 - (a) For the first offense: \$250.00 per day;
 - (b) For the second offense: \$500.00 per day;
 - (c) For the third offense: mandatory 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 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 this Ordinance or P.L. 2007, c. 209 (N.J.S.A. 40:48-2.60 et seq.), may apply to the Mayor and Council to have that person's eligibility restored. The Mayor and 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 and is now in full compliance 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, and had no fraudulent intentions.

Article 7. In the event any section, part or provision of this Ordinance shall be held unconstitutional or otherwise invalid by any Court of competent jurisdiction, such determination shall not affect the validity of this Ordinance or the remaining provisions which shall remain in full force and effect.

Article 8. All ordinances or parts thereof which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Article 9. This Ordinance shall take effect ten (10) days after adoption and publication in the manner prescribed by law.

Introduced on this ____ day of _____, 2023

ATTEST:

Scott A. Luna, Mayor

Rebecca Paladino, Municipal Clerk

Introduction: July 11, 2023

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CM MASOPUST						
CM LETO						
CM CARAFA						
DEPUTY MAYOR MARTIN						
MAYOR LUNA						

Adoption: August 8, 2023

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
CM MASOPUST						
CM LETO						
CM CARAFA						
DEPUTY MAYOR MARTIN						
MAYOR LUNA						