

ORDINANCE NO. 2263

**AN ORDINANCE AMENDING ARTICLE XXX, OF THE CODE
ESTABLISHING THE USE OF CHARITABLE CLOTHING BINS IN THE
BOROUGH OF ROSELLE PARK**

BE IT ORDAINED by the Mayor and Council of the Borough of Roselle Park, County of Union and State of New Jersey that Chapter XL, Land Use, Article XXX, Miscellaneous, Ordinance of the Borough Code is hereby amended to add the following:

WHEREAS, by P.L. 2007, Chapter 209, (C.40:48-2.60 et seq.), (“the Act”), the Legislature of the State of New Jersey has determined that the installation of Charitable Clothing Bins by municipalities could serve as an effective tool in monitoring the use and abuse of said clothing bins at proper locations thereby improving the beneficial use of said bins for charitable purposes, and

WHEREAS, the Borough of Roselle Park desires of regulating the use of charitable clothing bins within the Borough of Roselle Park, and

WHEREAS, the Borough of Roselle Park that adoption of the ordinance is in the best interest of health, safety, and welfare of the Borough and its residents,

NOW, THEREFORE, be it ordained by the Council of the Borough of Roselle Park, County of Union and State of New Jersey as follows:

SECTION I.

1. Definitions.

(a) “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 things of value. A solicitation shall take place whether or not the person making the solicitation receives any contribution.

(b) Appropriate municipal agency means the agency determined by resolution by the Mayor and Council of Roselle Park.

SECTION 2. Requirements for Placement, Use of Clothing Bin for Solicitation Purposes.

(a) Notwithstanding any provisions 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 owner of the bin has obtained a permit, valid for a specific period of time, from the appropriate Borough agency within the Borough of Roselle Park in which the donation clothing bin will be placed, in accordance with the following:

a. In applying for such a permit, the owner shall include:

1. the location where the bins would be situated, as precisely as possible;

2. 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;

3. 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 bins; and

4. written consent from the property owner to place the bin on his property;

2. The appropriate Borough agency 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 appropriate Borough agency may impose a fee for such application, not to exceed \$25.00 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 any fee imposed by the appropriate Borough agency for such renewal, not to exceed \$25 annually, to offset the costs involved in enforcing this ordinance. Such application shall include:

a. 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 bins, 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 owner 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 entity, respectively, can be reached by 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 or service unrelated to the person does not constitute a bona fide office; and

c. The following information is clearly and inconspicuously displayed on the exterior of the donation clothing bin:

1. The name and address of the registered person that owns the bin, and any other entity which may share a profit from any clothing or other donations collected via the bins;
2. The telephone number of the owners or the owners bona fide office and its as applicable the telephone number of the bona fide office of any other entity which may share a profit from any clothing or other donations collected via the bins;
3. When an entity other than the person who owns the bin may share a 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 the proceeds or both may be shared or given entirely to the entity other than the person who owns the bins, and identify all such entities that may share profit from such donations;
4. A statement consistent with information provided to the appropriate Borough Agency and the most recent permit or renewal applications pursuant to subparagraph (b) of paragraph (1) of subsection a. of this section and subparagraph (b) paragraph (4) of subsection a. of this section, indicating that 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.

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

1. The appropriate Borough agency shall receive and investigated within thirty (30) days any complaints from the public about the bin.

2. Whenever it appears to the above agency that a person has engaged 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 appropriate Borough agency is not requested in forty-five (45) days, the bin will be seized or removed at the expense of the person who placed the bin, and clothing and any other donations collected via the bin will be sold at public auction or otherwise disposed of. In addition to other forms of notification used to notify the owner who placed the bin, such warning shall be affixed to the exterior of the bin itself.

3. In the event the owner or person who placed the bin does not rectify the violation or request a hearing with forty-five (45) days of the posting of the warning, the appropriate Borough agency 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.

7. Additional penalties, remedies.

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

a. Subject to a penalty of up to \$20,000 for each violation. The appropriate Borough agency may bring this action in the municipal court or Superior Court as a summary proceeding under the "Penalty Enforcement Law of 1999," and any penalty monies collected shall be paid to the chief financial officer of the Borough.

b. The person disqualified from placing, using, or employing a donation clothing bin by violating the provisions of this Ordinance may apply to the appropriate Borough agency to have that person's eligibility restored.

c. The appropriate Borough agency 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 this ordinance and all other applicable laws and regulations or had no fraudulent intentions.

8. Location restrictions.

1. Any and all clothing bins are prohibited in all residential zones and or in front of any type of residence.

SECTION II.

All ordinances and parts of ordinances inconsistent with the terms hereof are hereby appealed to the extent of such inconsistency.

SECTION III.

This Ordinance shall take effect at the time and in the manner prescribed by law.

Introduced: February 5, 2009

Adopted:

Attest: _____
Borough Clerk

Mayor