

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, CREATING A NEW CHAPTER 109 OF THE CODE OF ORDINANCES TITLED "CHARITABLE CLOTHING DONATION BINS" REGULATING THE USE AND PLACEMENT OF DONATION BINS, AND PROVIDING FOR CERTAIN CLOTHING DONATION BINS TO BE PERMITTED UNDER CERTAIN CONDITIONS, PROVIDING FOR REGULATIONS, A PERMITTING PROCESS AND IMPLEMENTATION, PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission desires to regulate the use and location of donation bins to protect the health and safety of its residents; and

WHEREAS, the City Commission deems it in the interest of the citizens and residents of the City of Hollywood to adopt regulations concerning the use and placement of donation bins in the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That a new Chapter 109: Charitable Clothing Donation Bins of the Code of Ordinances is hereby created to read as follows:

## **TITLE IX. GENERAL REGULATIONS**

\* \* \*

### **CHAPTER 109: CHARITABLE CLOTHING DONATION BINS**

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#### **§ 109.01 PURPOSE AND INTENT.**

The purpose of this section shall be to provide rules, regulations and standards for the limited placement and use of clothing donation bins in the City of Hollywood in order to promote the public health, safety and welfare of the city. City owned recycling bins are not subject to the limitations set forth herein.

(Coding: words in underscored type are additions to existing text, and words in ~~struck-through~~ type are deletions)

## **§ 109.02 DEFINITIONS.**

The following words, terms and phrases, when used in this Chapter, shall have the meanings as ascribed to them in this section, except where the context clearly indicates a different meaning:

**CLOTHING DONATION BIN.** A receptacle or container made of metal of other fire-resistant material designed or intended for the collection and temporary storage of donated clothing only.

**DONATION BIN.** A receptacle of container designed or intended for the collection and temporary storage of items other than clothing.

**CHARITABLE ORGANIZATION.** A person determined by the federal Internal Revenue Service to be a tax-exempt organization pursuant to Section 501(c)(3) that is established for any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary purpose.

**SHOPPING CENTER.** Five or more commercial establishments planned, developed, owned and managed as an integral unit, with off-street parking provided on the property, and related in its location, size and type of shops to the trade area that the unit serves.

## **§ 109.03 REQUIREMENTS FOR USE OF CLOTHING DONATION BINS.**

Clothing donation bins shall be permitted on a limited basis only, and only in compliance with all of the provisions of this section, including the following requirements:

(A) The person/entity operating the clothing donation bin has obtained a valid permit from the city;

(B) A clothing donation bin shall only be owned and operated by a charitable organization;

(C) The information required in subsection 109.09 below is clearly and conspicuously displayed on the exterior of the clothing donation bin;

(D) The clothing donated shall be provided to others as a part of a bona fide charitable endeavor, and any proceeds from collected donations must be used by the charitable organization for its charitable purposes;

(E) The contents of the clothing donation bin shall be clothing only and shall be regularly emptied at least every two weeks and not permitted to overflow to the point where the contents are visible from the outside, and the ground area immediately adjacent to the clothing donation bin (within three feet of the clothing donation bin on all sides) shall be kept free of donated clothing or other debris;

(F) The clothing donation bin shall be kept free of signs, advertising (except as specifically permitted or required herein, graffiti and other markings and shall be maintained in a structurally sound, clean and sanitary condition; and

(G) All other conditions of this ordinance are satisfied and there is continuing compliance with the provisions of this ordinance.

#### **§ 109.04 DONATION BINS.**

Donation bins are prohibited.

#### **§ 109.05 PERMIT APPLICATION REQUIREMENTS.**

An application shall be filed with the City for each proposed clothing donation bin and location. The application for a permit shall include:

(A) An affidavit stating the following:

(1) The precise location where the clothing donation bin will be located, including a description of the business or enterprise being conducted on or at the property;

(2) The manner in which the applicant anticipates any clothing collected via the clothing donation bin will be used, sold or dispersed, and the method by which the proceeds of collected donations will be allocated or spent;

(3) The name and telephone number of the bona fide offices of the organization that has custody of the clothing donation bin and the name of the person authorized by said organization to assure compliance with this ordinance and the phone number, physical address and email address where such person can be reached during normal business hours. For the purposes of this section, an answering machine of service unrelated to the person or entity does not constitute a bona fide office;

(4) The name(s) and phone number(s) of the person(s) responsible for placing, emptying and removing the clothing donation bin; and

(5) A statement indicating the manner in which the applicant anticipates any clothing or other donations via the clothing donation bin will be used, sold, or dispersed, and the method by which the proceeds of collected donations will be allocated or spent.

(B) Written consent from the property owner to place the clothing donation bin at or on their property, and whether any other clothing donations bins are at or on the property. The written consent shall acknowledge that the City shall hold both the property owner and the charitable organization liable for violation of this ordinance.

(C) The articles of incorporation of the Not for Profit Corporation, and the names of the officers of the corporation and the name, phone number, email address and physical address of the responsible person to be contacted with respect to compliance with this ordinance. There shall also be a statement that the person agrees to accept service by certified mail at the physical address listed, on behalf of the corporation, for any violations of this ordinance.

(D) The annual permit fee (new or renewal permit), shall be paid at the time of application submission. Fees shall be established and/or amended by Resolution of the City Commission. This fee shall be paid annually for each clothing donation bin established under the provisions of this ordinance. The annual permit fee shall be effective from October 1 through September 30 of the following year.

#### **§ 109.06 PERMIT RENEWAL APPLICATION REQUIREMENTS.**

Renewal applications shall include an affidavit that all information and statements in the original application continues to be true, and a description of any facts that would make any information or statement in the original application no longer true.

#### **§ 109.07 PLACEMENT OF CLOTHING DONATION BINS; RESTRICTIONS.**

The following criteria shall be applied in granting a permit and in determining if a clothing donation bin is placed in conformity with this ordinance:

(A) The City must determine that the placement of the clothing donation bin will not constitute a safety hazard. Such hazards include, but are not limited to: the placement of a clothing donation bin within 100 yards of any place that stores or sells large amounts of fuel or other flammable liquids or gases, and placement of a clothing donation bin that interferes with vehicular or pedestrian circulation. The clothing donation bin may not be placed on required parking, landscape areas or terminal islands.

(B) Clothing donation bins shall be secured or removed in such a manner as to minimize the danger of such units causing damage to persons or property from high winds or severe weather conditions.

(C) It shall be the responsibility of the owner of the property upon which the clothing donation bin is located and the permit holder to remove or properly secure the clothing donation bin in the event of any hurricane warning in effect for the city. If such action is not taken, the city reserves the right to remove the clothing donation bin and to revoke the permit.

(D) Clothing donation bins shall not be located in rights of way.

(E) No clothing donation bin shall be permitted in a residentially zoned district or within 150 feet of a residentially zoned district unless the building is devoted solely to a not for profit organization.

(F) No clothing donation bin shall be located on a vacant lot.

(G) Clothing donation bins shall only be permitted in the following commercial settings:

(1) On the property of a retail or professional building of at least 30,000 square feet in interior space, and which is not part of a shopping center. In such case, only one clothing donation bin shall be permitted;

(2) On the property of a shopping center of at least 100,000 square feet in interior building size. One clothing donation bin shall be allowed for each 100,000 square feet of building size; or

(3) On the premises of a not for profit entity for that not for profit entity, provided that only one clothing donation bin shall be permitted on the property.

#### **§ 109.08 BIN STRUCTURE.**

(A) The clothing donation bin(s) shall be of the type that are enclosed by use of a one-way receiving door so that the contents of the clothing donation bin(s) may not be accessed by anyone other than those responsible for the retrieval of the contents.

(B) Each clothing donation bin shall not cover a ground surface area in excess of five feet by five feet, nor be more than six feet in height. The primary color of the clothing donation bin(s) shall be white.

(C) There shall be no advertisement of any kind on the clothing donation bin except for the identity of the charitable organization and the purpose of the donation effort.

#### **§ 109.09      DISPLAY OF PERMITS.**

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

(A)      The permit number and its date of expiration, along with a statement that a copy of the permit application is on file with the Department of Community & Economic Development;

(B)      The name and address of the registered person who owns the clothing donation bind and any other entity which may share or profit from any clothing or other donations collected from the bin; and

(C)      The telephone number of the owner's bona fide office, and, if applicable, the telephone number of any other entity that shared or profited from any clothing collected from the bin.

#### **§ 109.10      PROPERTY OWNER RESPONSIBILITY.**

The owner of the property upon which the clothing donation bin is located shall share joint and several responsibility for compliance with all conditions set forth in this ordinance with the entity that owns or is in custody of the clothing donation bin. The failure of the person in custody to comply with the provisions of the ordinance shall not be a defense by the property owner should a violation be found to exist.

The registered owner of the clothing donation bin shall report to the community Department of Community & Economic Development any change of entity or entities that may share or profit from any clothing collected from the clothing donation bin no later than 30 days from any changes. Failure to provide the Department of Community & Economic Development with such report within the 30 day period shall result in revocation of the permit.

Section 2:      That it is the intention of the City Commission and it is hereby ordained that the provisions of this section shall be made a part of the Code of Ordinances of the City of Hollywood, Florida, and the sections of this Code may be renumbered to accomplish such intention.

Section 3:      That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

AN ORDINANCE CREATING A NEW CHAPTER 109 OF THE CODE OF ORDINANCES  
TITLED "CHARITABLE CLOTHING DONATION BINS".

Section 4: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5: That this ordinance shall be in full force and effect immediately upon its passage and adoption.

ADVERTISED on \_\_\_\_\_, 2014.

PASSED on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

PASSED AND ADOPTED on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
PETER BOBER, MAYOR

ATTEST:

\_\_\_\_\_  
PATRICIA A. CERNY, MMC  
CITY CLERK

APPROVED AS TO FORM & LEGALITY  
for the use and reliance of  
the City of Hollywood, Florida, only.

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JEFFREY P. SHEFFEL, CITY ATTORNEY