

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

**Town of Colonie
Local Law No 1 of the year 2016**

A local law amending the Town Code of the Town of Colonie to establish rules and regulations and provide for registration of Clothing Bins, Donation Bins and Recycling Bins.

Be it enacted by the Town Board of the Town of Colonie of as follows:

SECTION 1. AMENDMENT.

Chapter 63 is hereby created as follows:

CHAPTER 63: CLOTHING BINS, DONATION BINS and RECYCLING BINS

§ 63-1 Legislative Intent

It is the intent of the Town of Colonie to support and encourage, in a responsible manner, the placement and use of attended and unattended Clothing Bins, Donation Bins and Recycling Bins. These bins are most commonly used to collect for recycling, re-sale or re-use general household goods such as clothing, shoes, books and small appliances. This local law is intended to protect the public health, safety and welfare and protect the environment by establishing rules and regulations for Clothing Bins, Donation Bins and Recycling Bins.

§ 63-2 Definitions

Clothing Bins, Donation Bins and Recycling Bins. An attended or unattended receptacle, trailer or container made of metal, wood, steel or similar material for permanent or temporary use, designed or intended for the collection of unwanted clothing, shoes, textiles, books and other similar household items.

Site Host. The owner or lessee of the site of a Clothing Bin, Donation Bin or Recycling Bin within the Town of Colonie.

Permittee. Any organization, firm or other entity that owns and receives a permit to operate a Clothing Bin, Donation Bin or Recycling Bin pursuant to this Chapter.

§ 63-3 Permit Required

A. It shall be unlawful to erect, place, maintain or operate any Clothing Bin, Donation Bin or Recycling Bin without first obtaining a permit issued by the Town of Colonie.

B. A permit issued under this Chapter shall be valid for one year and renewable for one-year periods thereafter.

C. Where a Clothing Bin, Donation Bin or Recycling Bin is owned and/or operated by one entity for the benefit of another entity, the contact information for both entities must be included on the permit application.

D. The initial application fee, renewal application fee and sticker fee shall be valid for an one-year period and shall be established by Resolution of the Town Board.

E. In order to qualify as a permittee under this Chapter, an applicant must either be (1) a public charity exempt from taxes under Section 501(c)(3) of the United States Internal Revenue Code, and in good standing with the State of New York, or (2) a business in good standing with the State of New York.

§ 63-4 Form of Application

The application for a Clothing Bin, Donation Bin or Recycling Bin permit shall be made to the Building Department and shall require the following information from the applicant:

A. If the applicant claims to be a qualified public charity:

1. A copy of the determination letter issued by the Internal Revenue Service stating that the applicant is a public charity exempt under Internal Revenue Code Section 501(c)(3), and

2. A certificate of good standing issued by the Office of the Secretary of State of the State of New York. A certificate of good standing must not be older than 3 months at the time of application for a permit.

B. Name, address and telephone number of a contact person or entity of the applicant who is responsible for the management and maintenance requirements of this Chapter. The contact person or entity must reside or have a place of business in the County of Albany.

C. Written consent from the Site Host (or, if the Site Host is a Lessee, from the owner) to place a Clothing Bin, Donation Bin or Recycling Bin on the property, including name, address and telephone number of the Site Host.

D. Permittee must provide to the Town of Colonie at the time of application a Certificate of Liability Insurance of at least \$1 million covering permittee's Clothing Bin, Donation Bin or Recycling Bin. The Certificate of Liability Insurance must name the Town of Colonie as an additional insured.

E. Permittee must provide to the Town of Colonie at the time of application a Performance Bond in an amount established by Resolution of the Town Board for the faithful and complete performance by the permittee of the duties and obligations required by this Chapter.

§63-5 Proof of Permit

The Town of Colonie shall provide the permittee with one permit sticker for each approved permit. The permittee must place the permit sticker in a conspicuous place on the front of the permitted Clothing Bin, Donation Bin or Recycling Bin. The Town of Colonie will provide replacement stickers for an amount to be established by Resolution of the Town Board should the original sticker become damaged, fall off, or disappear.

§63-6 Management, Maintenance; Requirements

A. Permittee must maintain the aesthetic presentation of each Clothing Bin, Donation Bin or Recycling Bin, including fresh paint, readable signage and general upkeep.

B. Permittee must provide to the Site Host a telephone number to respond to Clothing Bin, Donation Bin or Recycling Bin maintenance complaints.

C. Permittee must respond to Clothing Bin, Donation Bin or Recycling Bin maintenance complaints within 24 hours of receiving notification during regular business hours.

D. Permittee must remove graffiti within 72 hours following receipt of notice of its existence.

E. If a Clothing Bin, Donation Bin or Recycling Bin becomes damaged or vandalized, it shall be repaired, replaced or removed within five days of receipt of notice of such condition.

F. Each Clothing Bin, Donation Bin or Recycling Bin must be regularly emptied of its contents.

§63-7 Placement of Clothing Bins, Donation Bins or Recycling Bins

A. A Clothing Bin, Donation Bin or Recycling Bin shall be placed on the site in a manner that does not impede vehicular or pedestrian traffic flow.

B. A Clothing Bin, Donation Bin or Recycling Bin shall not be placed within the municipal right-of-way and shall adhere to the setback standards for the site where they are placed.

C. A Clothing Bin, Donation Bin or Recycling Bin shall not be placed in a required parking space or reduce the number of parking spaces below the minimum number required by the Town of Colonie Land Use Law and related approvals.

D. A Clothing Bin, Donation Bin or Recycling Bin shall not be placed on sidewalks and must allow for a minimum of five (5) feet of pedestrian walkway in front of the Clothing Bin, Donation Bin or Recycling Bin.

E. A Clothing Bin, Donation Bin or Recycling Bin shall not be placed within the sight triangle of any intersection.

F. No more than three Clothing Bins, Donation Bins or Recycling Bins shall be placed on any parcel.

§63-8 Information and Label Requirement for all Bins

The front of every Clothing Bin, Donation Bin or Recycling Bin shall conspicuously display the following:

A. The name, address, telephone number and the internet web address of the Owner and Operator of the Clothing Bin, Donation Bin or Recycling Bin.

B. A statement, in at least two-inch typeface, that either reads: “this collection bin is owned and operated by a not-for-profit organization” or “this collection bin is owned and operated by a for-profit organization”.

C. If the Clothing Bin, Donation Bin or Recycling Bin is owned by a not-for-profit organization, the front of the collection bin shall also conspicuously display a statement describing the charitable causes that will benefit from the donations;

D. If the Clothing Bin, Donation Bin or Recycling Bin is owned by a for-profit company, the front of the collection bin shall conspicuously display a statement that reads “[name of company] is a for-profit company, deposits are not tax deductible”.

E. A Clothing Bin, Donation Bin or Recycling Bin operated by a for-profit entity on behalf of or in conjunction with a not-for-profit organization shall have the name, address, telephone number and internet web address of both entities on the front of the bin.

§63-9 Violations and Penalties

A. The site host, permittee or other person or entity in control of the property where a Clothing Bin, Donation Bin or Recycling Bin is found to be in violation of this chapter shall be jointly and severally liable therefor.

B. Code Enforcement Officers of the Building Department and Officers of the Colonie Police Department are hereby authorized to issue notices of violation, summonses or appearance tickets, returnable in the Town Court of the Town of Colonie, for any violation of this Chapter.

C. In addition to any other penalty that may be imposed for an offense against the Penal Law, any violation of this Chapter shall be punishable by a fine of not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars (\$250.00) for the first such offense.

D. For each subsequent offense, a violation of this Chapter shall be punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) per week thereafter. Each week such offense is permitted to continue shall constitute a separate offense and shall be punishable as such hereunder without further need for the Town to issue additional notices of violation, summonses or appearance tickets. The Town may also bring an action or proceeding to enjoin the offense and to recover any costs incurred by the Town for removing and/or storing the bin or otherwise remedying conditions brought about by the offense of this chapter. If a site holder and/or permittee is found to have violated the provisions of this Chapter on more than 3 occasions in a calendar year, the site holder and/or permittee shall, in addition, be

deemed ineligible to place, use or employ a Clothing Bin, Donation Bin or Recycling Bin within the Town of Colonie pursuant to this Chapter for a period of five years, and the Town of Colonie may remove any or all of such site host and/or permittee's Clothing Bins, Donation Bins or Recycling Bins upon 10 days advance notice.

E. A violation of this Chapter shall include, but not be limited to:

1. Unpermitted placement of a Clothing Bin, Donation Bin or Recycling Bin.
2. Failure to adequately or timely respond to a maintenance request pursuant to this Chapter.
3. Failure to maintain a Clothing Bin, Donation Bin or Recycling Bin pursuant to this Chapter.
4. Failure to adhere to Clothing Bin, Donation Bin or Recycling Bin placement and removal provisions pursuant to this Chapter.
5. Failure to adhere to all permitting requirements pursuant to this Chapter.

§ 63-10 Severability

In the event that any provision of this chapter shall be deemed illegal or otherwise unenforceable by a court of competent jurisdiction, then only that specific provision shall not be enforced, and all other sections and provisions shall remain in full force and effect.

SECTION ____. SEQR DETERMINATION.

The Town hereby determines that this amendment is an Unlisted action that will not have a significant effect on the environment and, therefore, no other determination or procedure under the State Environmental Quality Review Act ("SEQRA") is required.

SECTION ____. EFFECTIVE DATE.

This local law shall become effective upon its filing in the Office of the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2016 of the **Town of Colonie** was duly passed by the Town Board on February 25, 2016 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer'.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (Town) _____ of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not disapproved)(repassed (Name of Legislative Body) after disapproval) by the _____ and was deemed duly adopted on _____ 20____ in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (_____) (Town) (_____ of _____) was duly passed by the _____ on _____ 20____, and was (approved)(not disapproved)(repassed after (Name of Legislative Body) disapproval) by _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on I 9 in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the _____ (Town) (_____ of _____) was duly passed by the (Name of Legislative Body) on _____ 20____ and was (approved)(not disapproved)(repassed after (disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of 20____ in accordance with the applicable provisions of law.

***Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20__, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____, 20__, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

Clerk of the Town or officer designated by local legislative body
Date:

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF ALBANY

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature Town of Colonie Town Attorney
Date: