

ORDINANCE NO. 0-9-08



TOWNSHIP OF WINSLOW, NEW JERSEY

**ORDINANCE OF THE TOWNSHIP OF WINSLOW, COUNTY OF CAMDEN,
AND STATE OF NEW JERSEY, AMENDING CHAPTER 52 OF THE CODE OF
THE TOWNSHIP OF WINSLOW ENTITLED PERSONNEL POLICIES;
COMPENSATION AND ESTABLISHING PUBLIC CONTRACTING
("PAY-TO-PLAY") REFORM**

WHEREAS, The Township Committee of the Township of Winslow, County of Camden and State of New Jersey adopted Ordinance No. 0-7-77 as Article I of Chapter 19 of the 1970 Code of the Township of Winslow on March 9, 1977, amended in its entirety on June 22, 1988 by Ordinance No. 0-18-88; Ordinance No. 0-14-79 as Article II of Chapter 19 of the 1970 Code of the Township of Winslow on May 23, 1979, amended in its entirety August 24, 1983 by Ordinance No. 0-13-83; Ordinance No. 0-7-89 as Article III on March 22, 1989; and Ordinance No. 0-27-01 as Article IV on November 20, 2001; and

WHEREAS, professional business entities are exempt from public bidding requirements; and

WHEREAS, it has become common for professional business entities to make substantial political contributions to the election campaigns of the local government elected officers who are ultimately responsible for awarding professional service contracts or other contracts or agreements which are not subject to public bidding; and

WHEREAS, substantial local political contributions from professionals receiving discretionary contracts from the elected officials who receive such contributions raise reasonable concerns on the part of taxpayers as to their trust in the process of local government, if not the quality or cost of services received; and

WHEREAS, pursuant to P.L.2005, c.271, a municipality is authorized to adopt by ordinance measures limiting the awarding of public contracts to business entities that have made political contributions and limiting contributions that the holders of a contract can make during the term of a contract; and

WHEREAS, pursuant to N.J.S.A. 40A:11-5 and N.J.S.A. 40:48-2, municipalities have the right to establish rules and procedures for contracting with professional business entities; and

WHEREAS, The Township Committee has deemed it in the best interest of the public health, safety and welfare to amend Chapter 52 of the Code of the Township of Winslow to include a policy that sets maximum amounts that professional business

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entities may contribute politically beyond which they become ineligible to receive a public professional service contract from Winslow Township.

NOW THEREFORE, be it Ordained by the Township Committee of the Township of Winslow, County of Camden, State of New Jersey, as follows:

SECTION 1: Chapter 52 of the Code of the Township of Winslow is hereby amended, revised and supplemented by adding a new Article VI – “Public Contracting (“Pay-to-Play”) Reform” as follows:

ARTICLE VI – Public Contracting (“Pay-to-Play”) Reform

§52-39. Prohibition on Awarding Public Contracts to Certain Contributors.

(a) Any other provision of law to the contrary notwithstanding, Winslow Township or any of its purchasing agents or agencies or those of its independent authorities, the Planning Board and Zoning Board, as the case may be, shall not enter into an agreement or otherwise contract to procure professional, banking, insurance coverage services or any other consulting services, including those awarded pursuant to a "fair and open" process, from any professional business entity, if that entity has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, to any Winslow Township municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to any Winslow Township or Camden County party committee, or to any political action committee (PAC) that regularly engages in, or whose primary purpose is the support of municipal elections and/or municipal parties in excess of the thresholds specified in subparagraph (d) within one calendar year immediately preceding the date of the contract or agreement.

(b) No professional business entity which enters into negotiations for, or agrees to, any contract or agreement with the municipality or any department or agency thereof or of its independent authorities for the rendering of professional, banking or insurance coverage services or any other consulting services, including those awarded pursuant to a "fair and open" process, shall solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to any Winslow Township municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to any Winslow Township or Camden County party committee, or to any political action committee (PAC) that regularly engages in, or whose primary purpose is the support of municipal elections and/or municipal parties between the time of first communications between that business entity and the Township regarding a specific professional services agreement and the termination of negotiations or the completion of the contract or agreement, whichever is later.

(c) For purposes of this Ordinance, a "professional business entity" seeking a public contract means an individual, including the individual's spouse, if any, and any child living at home; person; firm; corporation; professional corporation; partnership; organization; or association. The definition of a business entity includes all principals who own 10% or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the entity as well as any subsidiaries directly controlled by the business entity.

(d) Any individual meeting the definition of "professional business entity" under this section may annually contribute a maximum of \$300 each for any purpose to any candidate for mayor or governing body, or to any elected office holder, or \$300 to the Winslow Township party, or \$500 to the Camden County party committee, or to a PAC referenced in this Ordinance, without violating subsection (a) of this section. However, any group of individuals meeting the definition of "professional business entity" under this section, including such principals, partners and officers of the entity in the aggregate, may not annually contribute for any purpose in excess of \$2,500 to all Winslow Township candidates and elected officeholders with ultimate responsibility for the award of the contract, and all Winslow Township or Camden County political parties and PACs referenced in the ordinance combined, without violating subsection (a) of this section.

(e) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be:

- (1) The Winslow Township Committee and the Mayor of Winslow Township, if the contract requires approval or appropriation from the Committee.
- (2) The Mayor of Winslow Township, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.
- (3) The Winslow Township Planning Board.
- (4) The Winslow Township Zoning Board.

§52-40. Contributions Made Prior to the Effective Date.

No contribution of money or any other thing of value, including in-kind contributions, made by a professional business entity to any municipal candidate for Mayor or Township Committee, or municipal or county party committee or PAC referenced in this Ordinance shall be deemed a violation of this Ordinance, nor shall an agreement for property, goods, or services, of any kind whatsoever, be disqualified thereby, if that contribution was made by the professional business entity prior to the effective date of this Ordinance.

§52-41. Contribution Statement by Professional Business Entity.

- (a) Prior to awarding any contract or agreement to procure services, including banking or insurance coverage services, with any professional business entity, the Township or any of its purchasing agents or agencies, the Planning Board and Zoning Board as the case may be, shall receive a sworn statement from the professional business entity made under penalty of perjury that the bidder or offeror has not made a contribution in violation of Section 52-39 of this Ordinance;
- (b) The professional business entity shall have a continuing duty to report any violations of this Ordinance that may occur during the negotiation or duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the Township and shall be in addition to any other certifications that may be required by any other provision of law.

§52-42. Return of Excess Contributions.

A professional business entity or Township candidate or officeholder or municipal or county party committee or PAC referenced in this Ordinance may cure a violation of Section 52-39 of this Ordinance, if, within 30 days after the date on which the applicable ELEC Report is published, the professional business entity notifies the Township Committee in writing and seeks and receives reimbursement of a contribution from the Township candidate or municipal or county party committee or PAC referenced in this Ordinance.

§52-43. Penalty

- (a) It shall be a breach of the terms of the Winslow Township professional service agreement for a business entity to: (i) make or solicit a contribution in violation of this Ordinance; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee of any candidate or holder of the public office of Winslow Township; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of this Ordinance; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of this Ordinance; or (viii) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this Ordinance.

(ix) Any professional business entity who violates subsection (a) above shall be disqualified from eligibility for future Winslow Township contracts for a period of four calendar years from the date of the violation.

SECTION 2: The Table of Contents of Chapter 52 shall be amended to add "Article VI – Public Contracting ("Pay-to-Play") Reform" and Sections 52-39 through 52-43 as set forth above.

SECTION 3: Except as set forth in Sections 1 and 2, the balance of Chapter 52 shall not be affected by this Ordinance.


SECTION 4: All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 5: If the provisions of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this Ordinance.

SECTION 6: This Ordinance shall take effect immediately upon final passage and publication in accordance with law.

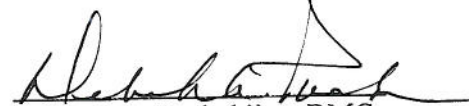
Introduced: February 19, 2008

Adopted: March 25, 2008


DEBORAH A. PUCHAKJIAN, RMC
MUNICIPAL CLERK


SUE ANN METZNER, MAYOR

Certified to be a true copy of an Ordinance adopted by the Mayor and Township Committee of the Township of Winslow at a regularly scheduled meeting on March 25, 2008, at the Winslow Township Municipal Building.


Deborah A. Puchakjian, RMC
Municipal Clerk

Dated: 3/26/08