

# Ordinance 2004-27

BOROUGH OF HIGHTSTOWN  
COUNTY OF MERCER  
STATE OF NEW JERSEY

**AN ORDINANCE OF THE BOROUGH OF HIGHTSTOWN REQUIRING CONTRIBUTION DISCLOSURE STATEMENTS IN APPLICATIONS FOR MAJOR ZONING VARIANCES AND FOR OTHER MUNICIPAL APPROVALS, AND AMENDING AND SUPPLEMENTING SECTION 26-9, ENTITLED "SUBDIVISION AND SITE PLAN CHECKLISTS," OF CHAPTER 26, "LAND USE PROCEDURES," OF THE "REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, COUNTY OF MERCER, NEW JERSEY"**

**WHEREAS**, municipal Master Plans include well thought out, long term decisions about the development capacity of the community; and

**WHEREAS**, municipal Master Plans are implemented through the enactment of local land use ordinances; and

**WHEREAS**, deviations from these local ordinances by way of variances pursuant to N.J.S.A. 40:55D-70d and N.J.S.A. 40:55D-70c, as well as exceptions and waivers pursuant to N.J.S.A. 40:55D-51, provide opportunities for significant private gain; and

**WHEREAS**, openness in government and a fair and impartial variance, waiver and exception process, as well as the land use application process in general, is crucial to assuring the continuing integrity of the municipal Master Plan, its implementing ordinances and the integrity of the land use application process; and

**WHEREAS**, disclosure of political contributions by property owners, developers and professionals will enhance the Borough's existing commitment to openness in government and provide further guarantees for a fair and impartial application and approval process; and

**WHEREAS**, disclosure of political contributions by property owners, developers and professionals will effectuate the purposes of the Municipal Land Use Law to promote morals and the general welfare; and

INTRO DATE: 11/1/04							ADOPT DATE: 11/15/04						
	Move	2nd	Aye	Nay	Abstain	Absent		Move	2nd	Aye	Nay	Abstain	Absent
HOLTZCLAW			✓										✓
LAUDENBERGER		✓	✓					✓	✓				
QUATTRONE			✓							✓			
SCHNEIDER			✓							✓			
SIKORSKI	✓		✓					✓		✓			
THOMPSON			✓							✓			
PATTEN													

ADVERTISE INTRO: 11/4/04

ADVERTISE ADOPT: 11/18/04

EFFECTIVE DATE:

**WHEREAS**, the Mayor and Borough Council of the Borough of Hightstown, having considered the foregoing, believe that it is in the best interests of the residents of the Borough of Hightstown to enact the within Ordinance, and to amend the "Revised General Ordinances of the Borough of Hightstown, Mercer County, New Jersey" accordingly.

**NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED**, that it is accordingly found and declared that the paramount public interest in enhancing the Borough's commitment to openness in government, and in providing further guarantees for a fair and impartial land use process, and in promoting morals and the general welfare through the integrity of the municipal planning process, requires the disclosure of political contributions by property owners, developers, and professionals within the Borough as a component of making application to the Borough for certain approvals, and requires the supplementation of all of the existing and future municipal application checklists to mandate the listing of specified political contributions made by property owners, developers and the professionals whose services they use in applications for major zoning variances, waivers and/or exceptions.

**BE IT FURTHER ORDAINED**, that Section 26-9, entitled "Subdivision and Site Plan Checklists," of Chapter 26, "Land Use Procedures," of the "Revised General Ordinances of the Borough of Hightstown, Mercer County, New Jersey," is hereby amended and supplemented in order to establish a new Subsection 26-9-5, thereof, to be entitled "Contribution Disclosure Statement Required for all Checklists," as follows:

**Subsection 26-9-5 Contribution Disclosure Statement Required for all Checklists.**

**a. Purpose.**

The purpose of this Section is to enhance the Borough's commitment to openness in government and to provide further guarantees for a fair and impartial variance, waiver and exception application process, and the land use application process in general, by requiring the disclosure of political contributions made by property owners, developers and professionals as part of the application process for certain approvals under the Municipal Land Use Law. Such disclosure will effectuate the purposes of the Municipal Land Use Law to promote the morals and general welfare of the community, through ensuring additional guarantees of openness in government and a fully informed public.

**b. Definitions.** The following terms shall have the meanings indicated:

1. Application Checklist – The term "Application Checklist" means the list of submission requirements adopted by Ordinance and provided by the Municipal Agency to a developer pursuant to N.J.S.A. 40:55D-10.3.
2. Developer – The term "Developer" means a developer as defined by N.J.S.A. 40:55D-4, i.e. the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
3. Professional – The term "Professional" means any person or entity whose principals are required to be licensed by New Jersey Law and who supplies legal representation, expert testimony or written reports in support of an application. Professionals shall include both any individuals supplying the representation, testimony or reports and the firms or entities in which said individuals practice.
4. Contribution – The term "Contribution" means every loan, gift, subscription, advance or transfer of money or other thing of value, including any item of real property or personal property, tangible or intangible (but not including services provided without compensation by individuals volunteering a part or all of their time on behalf of a candidate, committee or organization), made to or on behalf of any candidate, candidate committee, joint candidates committee, political committee, continuing political committee or political party committee of, or pertaining to, the Borough of Hightstown, including any Mercer County Party Committee or political action committee

(PAC) that is organized for the primary purpose of promoting or supporting Borough of Hightstown municipal candidates or officeholders, and any pledge, promise or other commitment or assumption of liability to make such transfer. For purposes of reports required under the provisions of the Ordinance, any such commitment or assumption shall be deemed to have been a contribution upon the date when such commitment is made or liability assumed.

5. Contribution Disclosure Statement – The term "Contribution Disclosure Statement" means a list specifying the amount, date, and the recipient of any and all contributions made to or on behalf of any candidate, candidate committee, joint candidates committee, political committee, continuing political committee or political party committee of, or pertaining to, the Borough of Hightstown, including any Mercer County Party Committee or political action committee (PAC) that is organized for the primary purpose of promoting or supporting Borough of Hightstown municipal candidates or officeholders, made prior to filing the application with or seeking approval from the Borough, and required to be reported pursuant to N.J.S.A. 19:44A-1, et seq. The disclosure shall include all such contributions made during the time period measuring from one (1) year prior to filing the application seeking approval from the Borough through to the time of filing said application. Additionally, there shall be a continuing disclosure responsibility to require continuing disclosure of any such contributions made following the filing of the "Contribution Disclosure Statement" and during the pendency of the application and/or approval process.

6. Municipal Agency – The term "Municipal Agency" shall mean the Borough Planning Board. If the Borough shall ever re-create a separate Municipal Zoning Board in the future, then the term "Municipal Agency" shall also refer to the Borough Zoning Board.

**c. General Provisions.**

1. Disclosure Requirements.

- i. Any applicant for a variance pursuant to N.J.S.A. 40:55D-70d or a variance pursuant to N.J.S.A. 40:55D-70c in conjunction with any application for a subdivision not considered a minor subdivision pursuant to local ordinance or a site plan not considered a minor site plan pursuant to local ordinance, as well as any application for a subdivision not considered a minor subdivision pursuant to local ordinance or site plan not considered a minor site plan pursuant to local ordinance requiring waivers or exceptions pursuant to N.J.S.A. 40:55D-51, shall include in its application with and/or submit to the Municipal Agency a Contribution Disclosure Statement for all Developers involved in the said application; all associates of said Developers who would be subject to disclosure pursuant to N.J.S.A. 40:55D-48.1 or 40:55D-48.2; and all Professionals who apply for or provide testimony, plans, or reports in support of said application or who have an enforceable proprietary interest in the property or development which is the subject of the application or whose fee in whole or part is contingent upon the outcome of the application. Regardless of whether the owner of the property which is the subject of the application falls in any of the categories established in the preceding sentence, the applicant shall include in its application to the Municipal Agency a Contribution Disclosure Statement for said owner.
- ii. During the pendency of the application process until the final approval(s) associated with the application is granted, any applicant required to comply with this ordinance shall amend its Contribution Disclosure Statement to include continuing disclosure of all contributions within the scope of the disclosure requirement of the above paragraph.

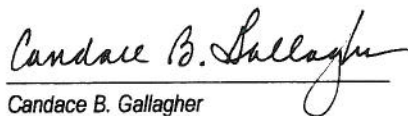
2. Inclusion of Contribution Disclosure Statements as an Element of all Application Checklists within the Borough of Hightstown.
- i. All Application Checklists previously adopted within the Borough of Hightstown pursuant to N.J.S.A. 40:55D-10.3, including but not limited to those referenced in Section 26-9, "Subdivision and Site Plan Checklists," of the Borough Code, are hereby revised to require that all applications for variance relief pursuant to N.J.S.A. 40:55D-70d, as well as for relief pursuant to N.J.S.A. 40:55D-70c, or for relief pursuant to N.J.S.A. 40:55D-51 in applications for site plan and subdivision approval not considered to be minor site plans or minor subdivisions pursuant to local ordinance, shall include the Contribution Disclosure Statements specified in paragraph 1 of this section.
  - ii. The Borough's Municipal Agency shall amend its Application Checklists to include the Contribution Disclosure Statements specified in paragraph 1 of this section.
  - iii. An application shall not be deemed complete by the administrative official or accepted for public hearing by the Municipal Agency until the required Contribution Disclosure Statements are submitted.
3. Availability of Contribution Disclosure Statements. All Contribution Disclosure Statements shall be available in the office of the administrative officer for review by any member of the public.
4. Intent of Contribution Disclosure Statements. It is the intent of this Ordinance that Contribution Disclosure Statements shall serve solely as a means to inform the public and shall not serve in any manner as evidence relevant to the decision-making criteria for granting or denying requested variances or other approvals. Such decisions shall continue to be governed strictly under the relevant criteria set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., or other relevant law.

**BE IT FURTHER ORDAINED**, that if any sentence, paragraph or section of this ordinance, or the application thereof to any persons or circumstances shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any sentence, paragraph or section of this ordinance shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of this ordinance.

**BE IT FURTHER ORDAINED**, that this ordinance shall become effective immediately upon final passage and publication in accordance with the law.

**BE IT FURTHER ORDAINED**, that all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

ATTEST:

  
\_\_\_\_\_  
Candace B. Gallagher  
Municipal Clerk

  
\_\_\_\_\_  
Robert F. Patten  
Mayor