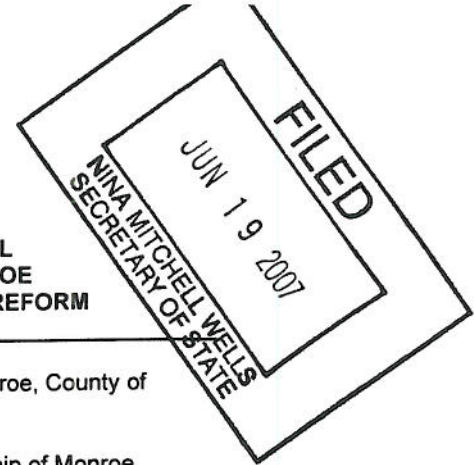


MONROE TOWNSHIP, MIDDLESEX COUNTY

ORDINANCE NO. 0-4-2007-008

ORDINANCE OF THE MONROE TOWNSHIP COUNCIL  
AMENDING THE CODE OF THE TOWNSHIP OF MONROE  
ESTABLISHING "PUBLIC CONTRACTING/PAY-TO-PLAY" REFORM



**BE IT ORDAINED** by the Township Council of the Township of Monroe, County of Middlesex, and State of New Jersey ("Township"), as follows:

**WHEREAS**, Citizens' Campaign has recommended that the Township of Monroe promulgate its template Ordinance regarding "Public Contracting / Pay-to-Play"; 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 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 the 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;

**NOW, THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Monroe, in the County of Middlesex and State of New Jersey that Chapter 24 of the Code of the Township of Monroe entitled "Code of Ethics" be and is hereby supplemented as follows:

**SECTION 1.**

**24-7. Purpose.**

It is the purpose of this Chapter to set maximum amounts that professional business entities may contribute to politically beyond which they become ineligible to receive a public professional service contract from the Township of Monroe.

**24-8. Prohibition on Awarding Public Contracts to Certain Contributors.**

- (a) Any other provision of law to the contrary notwithstanding, the Township or any of its purchasing agents or agencies or those of its independent authorities, 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 Monroe 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 Monroe Township or Middlesex County party committee, or to any political action committee (PAC) that regularly engages in, or who's primary purpose is the support of municipal elections and / or municipal parties in excess of the thresholds specified in subsection (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 rendition 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 Monroe Township municipal candidate or holder of the public office having ultimate responsibility for the award of a contract, or campaign committee supporting such candidate or officeholder, or to any Monroe Township or Middlesex County party committee, or to any political action committee (PAC) that regularly engages in, or who's 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 later of the termination of negotiations or the completion of the contract or agreement.
- (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; 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 to any candidate for mayor or governing body, or \$300 to the Monroe Township party, or \$500 to the Middlesex 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 Monroe Township candidates and officeholders with ultimate responsibility for the award of the contract, and all Monroe Township or Middlesex County political parties and PACs referenced in this 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 Monroe Township Council and the Mayor of Monroe Township, if the contract requires approval or appropriation from the Council.
  - (2) The Mayor of Monroe 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.

**24-9. 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 Monroe Township candidate for Mayor or Council, or Monroe Township or Middlesex County party committee or PAC referenced in this ordinance shall be deemed a violation of this section, 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 section.



#### **24-10. 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, 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 1 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.

#### **24-11. Return of Excess Contributions**

A professional business entity or Monroe Township candidate or officeholder or Monroe Township or Middlesex County party committee, or PAC referenced in this Ordinance may cure a violation of Section 1 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 Council in writing and seeks and receives reimbursement of a contribution from the Monroe Township candidate or Monroe Township or Middlesex County political party or PAC referenced in this Ordinance.

#### **24-12. Penalty**

- (a) It shall be a breach of the terms of the Monroe Township's 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 the Monroe 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.
- (b) Furthermore, any professional business entity that violates §24-12.5(a) ii thru viii shall be disqualified from eligibility for future Monroe Township contracts for a period of four (4) calendar years from the date of the violation.

#### **SECTION 2.**

Any ordinance inconsistent with the terms of this Ordinance is hereby repealed to the extent of such adjudication.

#### **SECTION 3.**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

**SECTION 4.**


This Ordinance shall take effect upon final passage and publication as provided by law.

**SO ORDAINED**, as aforesaid.

  
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GERALD W. TAMBURRO, Council President

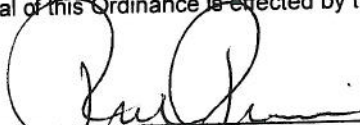
**NOTICE**

Notice is hereby given that the foregoing Ordinance was introduced at a meeting of the Monroe Township Council held on March 5, 2007 and that the Ordinance herein will be considered on second reading for final passage at a meeting of the Monroe Township Council to be held on April 4, 2007 at 7:30 p.m. in the Municipal Complex, One Municipal Plaza, Monroe Township, NJ 08831. At said time and place all persons having an interest in the foregoing Ordinance will be granted an opportunity to be heard concerning the same prior to its consideration for final passage by the Council.

  
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SHARON DOERFLER, Township Clerk

**MAYORAL APPROVAL**

By virtue of the Optional Municipal Charter Law of 1950 and Chapter 3, Section 19 of the Code of the Township of Monroe, my approval of this Ordinance is effected by the affixing of my signature hereto.

  
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RICHARD PUCCI, MAYOR

Date Signed 4-5-2007

3 02 PAY TO PLAY - PUBLIC CONTK REFORM