

**FILED**

JAN 31 2006

SECRETARY OF STATE

**Long Branch, New Jersey  
ORDINANCE NO. 18-05**

AN ORDINANCE TO AMEND AND SUPPLEMENT ORDINANCE NO. 13-05, KNOWN AS "AN ORDINANCE REQUIRING PUBLIC CONTRACTING REFORM, AND AMENDING AND SUPPLEMENTING THE 'REVISED GENERAL ORDINANCES OF THE CITY OF LONG BRANCH, NEW JERSEY' ACCORDINGLY," AS ADOPTED ON MAY 10, 2005.

**WHEREAS**, on May 10, 2005, the City of Long Branch adopted Ordinance No. 13-05, known as "An Ordinance Requiring Public Contracting Reform, and Amending and Supplementing the 'Revised General Ordinances of the City of Long Branch, New Jersey' Accordingly" (the "Ordinance"); and

**WHEREAS**, the Ordinance places certain limitations upon the annual amount(s) of contributions that professionals may make to the political campaigns of the local elected officials who are ultimately responsible for the award of discretionary no-bid contracts for municipal professional services; and

**WHEREAS**, the intention of the Ordinance is to ensure trust in the process of local government, if not the quality or cost of services received, and to minimize any perceptions or concerns on the part of the public that discretionary no-bid contracts for municipal professional services are being awarded to professionals as a reward for having made substantial political contributions, or that the award of such contracts was influenced, even to a minor degree, by the payment of such contributions; and

**WHEREAS**, it is hereby found and declared that the practice of "wheeling," whereby one political organization channels campaign donations to another political organization with the intention to conceal or misrepresent the source of the contribution, may be utilized as a loophole to circumvent the proscriptions contained within the Ordinance; and

**WHEREAS**, the City Council of the City of Long Branch, in a continuing effort to ensure the integrity of the award of public professional service contracts, has therefore determined that it would be in the best interests of the City, and its residents, to amend the

WHEREAS, the City Council of the City of Long Branch finds that it is in the best interest of the City and its residents to require that a contribution of more than fifty dollars (\$50.00) received by a candidate be reported in the manner set forth by the laws and regulations of the State of New Jersey.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, that Ordinance No. 13-05, known as "An Ordinance Requiring Public Contracting Reform, and Amending and Supplementing the 'Revised General Ordinances of the City of Long Branch, New Jersey' Accordingly," which was adopted on May 10, 2005, is hereby amended and supplemented as follows (Additions are shown with underline; deletions are shown with ~~strikeout~~):

#### SECTION 1

##### Prohibition on Awarding Professional Contracts to Certain Contributors

- (a) The City of Long Branch shall not enter into an agreement for professional services with any individual and/or professional business entity if that individual or entity has solicited or made any contribution of money or pledge of a contribution including in-kind contributions, to a campaign of any City of Long Branch candidate for Council or Mayor, in excess of the threshold specified in subsection (d) of this Section within one calendar year immediately preceding the date of the contract or agreement unless cured pursuant to Section 3. The prohibition set forth in this Paragraph shall also apply to any solicitation or contribution of money or pledge of a contribution including in-kind contributions made during the applicable time period to any City of Long Branch or Monmouth County Party Committee, or to any political action committee (PAC) that is organized for the primary purpose of promoting or supporting City of Long Branch candidates for Council or Mayor, so long as the solicitation or contribution was made with the intention on the part of the contributor to conceal or misrepresent the source of the contribution.

- (b) No professional business entity which enters into negotiations for or agrees to any

contributions, to any City of Long Branch candidate or holder of public office having ultimate responsibility for the award of the contract, in excess of the amount set forth herein. This Section is to include any and all professionals who provide political contributions to any candidate for an office whether or not that candidate is presently in office or seeks office. The prohibition set forth in this Paragraph shall also apply to any solicitation or contribution of money or pledge of a contribution including in-kind contributions to any City of Long Branch or Monmouth County Party Committee, or to any political action committee (PAC) that is organized for the primary purpose of promoting or supporting City of Long Branch candidates for Council or Mayor, so long as the solicitation or contribution was made with the intention on the part of the contributor to conceal or misrepresent the source of the contribution.

- (c) For purpose 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 ten percent (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 five hundred dollars (\$500.00) per candidate for Mayor and/or Council Member on an annual basis whether or not that individual has a professional services contract in place or not to the maximum extent of three thousand dollars (\$3,000) per annum per business entity. This section shall apply to any presently sitting Councilperson and/or the Mayor of the City of Long Branch and shall also apply to any individual who seeks to run for the office of Council person and/or Mayor of the

- (i) Any individual that owns less than ten (10%) percent of a professional business entity which contracts with the City of Long Branch shall not be treated as a part of that entity.
- (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 City of Long Branch, if the contract requires approval or appropriation from the Council.
  - (2) The Mayor of the City of Long Branch, 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.

**SECTION 2**  
**Contributions Made Prior to 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 Council, or to any municipal or county party committee, or to any political action committee (PAC) that is organized for the primary purpose of promoting or supporting City of Long Branch candidates for Council or Mayor, shall be deemed a violation of this section, nor shall an agreement for property, good 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.

**SECTION 3**  
**Penalty**

(a) All City of Long Branch professional service agreements shall provide that it shall be a breach of the terms of the government contract for a professional business entity as defined in Section 1(c) to violate Section 1(b) or to knowingly conceal or misrepresent contributions given or received, or to make or solicit contributions through intermediaries for the purpose of

or solicits contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution, shall be subjected to a fine in the sum of \$2,500 so far as the first offense and for any second offense, shall be disqualified from eligibility for future City of Long Branch contracts for a period of four calendar years from the date of the violation.

(c) There shall be no breach of contract in the event a contribution is questioned and as a result of the questioning of the contribution the individual and/or business entity who makes the contribution requests that the contribution be returned by the campaign committee, ~~or~~ the candidate or the political action committee to whom such contribution was made. In the event of any disputes as to whether or not a campaign contribution is proper the matter shall be submitted to arbitration before a retired Judge of the Superior Court of New Jersey.

#### **SECTION 4** **Reporting Requirements**

Any contribution received by a candidate committee, joint candidates committee, or political committee, during an election fund report period of more than fifty dollars (\$50.00) or aggregate contributions received by such a committee in an election from a contributor totaling more than fifty dollars (\$50.00) during such a report period shall be reported by providing the information set forth in N.J.A.C. 19:25-10.2

#### **SECTION 45** **Severability**

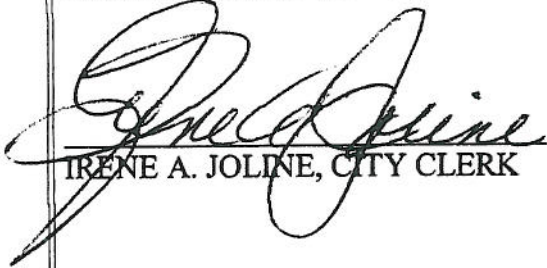
If any provision of this law, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this law to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this law are severable.

#### **SECTION 56** **Effective Date**

**SECTION 67**  
**Repealer**

All other Ordinance or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

INTRTODUCED: 6-14-05



IRENE A. JOLINE, CITY CLERK

ADOPTED: 6-28-05



ADAM SCHNEIDER, MAYOR