



ORDINANCE NO. 2006-38

**ORDINANCE AMENDING
CHAPTER II, "ADMINISTRATION",
SUBSECTION 2-65, "PAYMENT OF CLAIMS BY BOROUGH" AND
SUBSECTION 2-76, "CONFLICTS OF INTEREST"
OF THE REVISED GENERAL ORDINANCES
OF THE BOROUGH OF RED BANK**

BE IT ORDAINED by the Governing Body of the Borough of Red Bank that Chapter II "Administration", is amended and supplemented as follows:

SECTION ONE: Chapter II, Subsection 2-65, "Payment of Claims by Borough", is amended and supplemented as follows: *[Editor's Note: Only those definitions that are being added, modified, or that are necessary to understand the Ordinance, are fully set forth herein. Strikethroughs denote deletions, underlined text denotes additions]*

2-65 PAYMENT OF CLAIMS BY BOROUGH.

2-65.1 Presentation of Detailed Bill. Any person claiming payment from the Borough shall present a detailed bill of items or demand to the Borough Clerk specifying particularly how the bill or demand is made up, duly certified by the party claiming payment that it is correct.

2-65.2 Definitions. For the purposes of this section:

- a. *Agreement to Purchase Goods or Services ... [No Change]*
- b. *Borough ... [No Change]*
- c. *Campaign Contribution shall mean "Red Bank Campaign Contribution", "Red Bank Political Committee Contribution", "County Campaign Contribution" and/or "Pass-Through Campaign Contribution", as defined herein;*
- d. *Certification of Eligibility of Participating Officials ... [No Change]*
- e. *Contribution shall mean any contribution, whether in the form of money, free service or pledge, including without limitation any in-kind contributions, or purchases of tickets, advertisements or the like, directly or indirectly (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). The term "directly or indirectly" as used herein shall further mean and include any campaign contributions made through intermediaries or third-parties for the purpose of concealing the source of the contribution(s).*
- f. *County Campaign Contribution shall mean any contribution, whether in the form of money, free service or pledge, including without limitation any in-kind contributions, or purchases of tickets, advertisements or the like, directly or indirectly (but not including services provided without*

~~the term of money, free service or privilege, including without limitation, in-kind contributions, or purchases of tickets, advertisements or the like, directly or indirectly (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), to any county political organization or county campaign committee or fund within the County of Monmouth; the term "directly or indirectly" as used herein shall further mean and include any campaign contributions made through intermediaries or third parties for the purpose of concealing the source of the contribution(s).~~

- g. *Entity ... [No Change]*
- h. *Ineligible Vendor ... [No Change]*
- i. *Ineligible Vendor List ... [No Change]*

- j. *Pass-Through Campaign Contributions* shall mean any contribution, whether in the form of money, free service or pledge, including without limitation any in-kind contributions, or purchases of tickets, advertisements or the like, directly or indirectly (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), to any campaign committee or election fund of any candidate for, or holder of the office of, Mayor or Council of the Borough, or to any Red Bank Political Committee that is received from the election fund or other campaign account of any elected official or candidate for any office other than mayor or council of the Borough, or from any local, county or state party committee or organization, or any political action committee or fund of any kind, whether within or without Red Bank or Monmouth County;
- k. *Red Bank Campaign Contribution* shall mean any contribution, whether in the form of money, free service or pledge, including without limitation any in-kind contributions, or purchases of tickets, advertisements or the like, directly or indirectly (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), to any campaign committee or election fund of any candidate for, or holder of the office of, Mayor or Council of the Borough; the term "directly or indirectly" as used herein shall further mean and include any campaign contributions made through intermediaries or third parties for the purpose of concealing the source of the contribution(s).
- l. *Red Bank Political Committee Contribution* shall mean any contribution, whether in the form of money, free service or pledge, including without limitation any in-kind contributions, or purchases of tickets, advertisements or the like, directly or indirectly (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), to any Red Bank Political Committee, as defined herein; the term "directly or indirectly" as used herein shall further mean and include any contributions made through intermediaries or third parties for the purpose of concealing the source of the contribution(s);
- m. *Red Bank Political Committee* shall mean any municipal party committee, or partisan political club, or organization within the Borough.
- n. *Vendor ... [No Change]*
- o. *Vendor's Certification of Eligibility* shall mean a certification in lieu of affidavit pursuant to which each Vendor shall list each and every Red Bank Campaign Contribution, Red Bank Political Committee Contribution and each County Campaign Contribution the Vendor has made during the preceding three-years.
- p. *Verification of Vendor Eligibility ... [No Change]*

2-65.3 through 2-65.17 ... [No Change]

2-65.18 Chief Financial Officer to Maintain a List of Ineligible

Officer shall update the List of Ineligible Vendors within five (5) business days of the receipt of any certifications or information as required in this Section, or of any reports or supplemental reports of Red Bank Campaign Contributions, Red Bank Political Committee Contributions, or Pass-Through Contributions required to be filed pursuant to Section 2-76.7.

2-65.19 Contributions Made Prior to Effective Date ...

[No Change]

SECTION TWO: Chapter II, Subsection 2-76, is amended and supplemented as follows:

2-76 CONFLICTS OF INTEREST.

2-76.1 Restrictions on Eligibility of Borough Officials to Participate in, or Vote on, Matters Involving Certain Vendors, Developers, Alcoholic Beverage Licensees, or Mercantile License Holders. No Borough Official, including without limitation, the Mayor or any member of the Council, shall be eligible to vote on or participate in any matter with respect to which he or she has a Conflict of Interest as provided herein.

2-76.2 Definitions. For the purposes of this section:

- a. *Alcoholic Beverage Licensee ... [No Change]*
- b. *Borough ... [No Change]*
- c. *Borough Land Use Agency* shall mean the Borough of Red Bank Planning Board and Zoning Board of Adjustment.
- d. *Campaign Contribution* shall mean "Red Bank Campaign Contribution", "Red Bank Political Committee Contribution", "County Campaign Contribution", "Red Bank Major Developer Contribution", and/or "Pass-Through Campaign Contribution" as defined herein, but shall not include other political contributions.
- e. *Conflict Disclosure Statement* shall mean a statement on a form provided by the Borough setting forth any business, financial, or family relationships between the property owner, Developer, any associate of the Developer and/or any Development Professional and any current member of the Borough Land Use Agency before whom the application for development is pending or any professional of that Borough Land Use Agency.
- f. *Contribution* shall mean any contribution, whether in the form of money, free service or pledge, including without limitation any in-kind contributions, or purchases of tickets, advertisements or the like, directly or indirectly (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). The term "directly or indirectly" as used herein shall further mean and include any campaign contributions made through intermediaries or third-parties for the purpose of concealing the source of the contribution(s).

- h. *Developer, Minor* shall mean any individual, or entity, who is not a Major Developer, as defined herein, but who makes any application to the Borough's Planning Board, or Zoning Board of Adjustment, for:
1. a Any bulk variance relief; or
 2. f For a subdivision of a property into not more than two lots; or
 3. f For conditional use or minor site plan approval;
 4. The term "Developer, Minor" shall include anyone
 - (a) w Who owns, or is the contract purchaser, of any property that is the subject of any such application, described in this definition; and
 - (b) i In the case of a Minor Developer who is an Individual:
 - (1) his or her spouse; and
 - (2) any child living at home; and
 - (3) any entities of which any of them are principals holding a Ten Percent (10%) or greater interest; and
 - (c) In the case of a Developer that is an Entity, the term shall also include:
 - (1) each and every principal of the said entity who has an ownership interest in excess of Ten Percent (10%) in the entity, or in any parent or subsidiary of the entity; and
 - (2) their spouses, if any; and
 - (3) any child living at home.
- i. *Developer, Major* shall mean any individual or Entity who makes any application to the Borough's Planning Board for:
1. a Any subdivision of a property or properties into more than two lots, or
 2. f For major site plan approval; or
 3. a Any application to the Borough's Zoning Board of Adjustment for any use variance approval; or
 4. The term "Developer, Major" shall include anyone
 - (a) w Who owns or is the contract purchaser of any property that is the subject of any such application; or

that is the subject of any such application; or

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- (b) w Who engages directly or indirectly in negotiations with the Borough relating to the ~~Municipal Land Use Law~~ a request for a change in zoning for a particular property, or
- (c) w Who owns or is the contract purchaser of, any property that is the subject of, or would directly be affected by a proposed change in zoning, or of the Master Plan, and
- (d) i In the case of a Major Developer who is an individual:
 - (1) his or her spouse, and
 - (2) any child living at home, and

- (3) any Entities of which any of them are principals holding a Ten Percent (10%) or greater interest; and
 - (e) ‡ In the case of a Developer that is an entity, the term shall also include:
 - (1) each and every principal of the said entity who has an ownership interest in excess of Ten Percent (10%) in the entity, or in any parent or subsidiary of the entity, and
 - (2) their spouses, if any, and
 - (3) any child living at home.
- j. *Developer* shall mean any Major Developer or Minor Developer.
- k. *Developer's Agreement ... [No Change]*
- l. *Development Matter* shall mean any application for development pending before the Borough Planning Board or Zoning Board of Adjustment of the Borough, or any application or proposal to change the Borough's zoning regulations or Master Plan.
 - 1. With respect to a *Major Developer*, the term "relating to a Development Matter" shall mean that the Major Developer is the applicant, owner or contract purchaser of property that is the subject of an application for development pending before the Borough Planning Board or Zoning Board of Adjustment of the Borough, or of any application or proposal to change the Borough's zoning regulations or Master Plan.
 - 2. With respect to a *Minor Developer*, the term "relating to a Development Matter" shall mean that the Minor Developer is the applicant, owner or contract purchaser of property that is the subject of an application for development pending before the Borough Planning Board or Zoning Board of Adjustment of the Borough.
 - 3. With respect to a *Development Professional*, the term "relating to a Development Matter" shall mean that the Development Professional has rendered or is rendering professional services for a Minor or Major Developer in connection with that Development Matter.
- m. *Development Professional* shall mean:
 - 1. any licensed professional, including but not limited to attorneys, architects, engineers, surveyors and planners, or any entity that provides such professional services, who is representing a Developer, or who has performed professional services for a Developer relating to a Development Matter; and

Developer, or who has performed professional services for a Developer relating to a Development Matter; and

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2. in the case of a Development Professional who is an individual, the term shall also include:
 - (a) his or her spouse and
 - (b) any child living at home, and
 - (c) any entities of which any of them are principals holding a Five Percent (5%) or greater interest; and
3. in the case of a Development Professional that is an entity, the term shall also include:

- (a) each and every principal of the said entity who has an ownership interest in excess of Five Percent (5%) in the entity, or
- (b) in any parent or subsidiary of the entity, and
- (c) their spouses, if any, and
- (d) any child living at home.
- n. *Entity ... [No Change]*
- o. *Ineligible Official ... [No Change]*
- p. *Pass-Through Campaign Contributions* shall mean any contribution, whether in the form of money, free service or pledge, including without limitation any in-kind contributions, or purchases of tickets, advertisements or the like, directly or indirectly (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), to any campaign committee or election fund of any candidate for, or holder of the office of, Mayor or Council of the Borough, or to any Red Bank Political Committee that is received from the election fund, or other campaign account, of any elected official or candidate for any office other than mayor or council of the Borough, or from any local, county or state party committee or organization, or any political action committee or fund of any kind, whether within or without Red Bank or Monmouth County;
- q. *Political Contribution Disclosure Statement* shall mean a list on a form provided by the Borough Clerk specifying the amount, date, and the recipient of any and all Red Bank Major Developer Political Contributions, as defined herein, in excess of the amount required to be reported pursuant to N.J.S.A. 19:44A-1, et. seq. made by the Major Developer during the three (3) year period preceding the date an application for development is filed with a Borough Land Use Agency.
- r. *Red Bank Major Developer Contribution* shall mean any Red Bank Campaign Contribution, or Red Bank Political Committee Contribution made by a Major Developer as defined herein whether in the form of money, free service or pledge, including without limitation any in-kind contributions, or purchases of tickets, advertisements or the like, directly or indirectly (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) during the preceding three years, and any other contribution made during the preceding three years by the Major Developer to that is made to or on behalf of any other election fund, or other election fund or other campaign, account of any elected official or candidate for any office in the State of New Jersey, including but not limited to the Office of Mayor or Council of the Borough, or from any local, county or state party committee or political organization, or committee or, any political action committee or fund of any kind, whether within or without Red Bank or Monmouth County, and from which election fund, campaign account, organization or political action committee or

~~within or without Red Bank or Monmouth County, and from which election fund, campaign account, organization or political action committee or fund a candidate for the Office of Mayor or Council within the Borough of Red Bank has reported receiving a contribution pursuant to Section 2-76.7 during the same calendar year in which the contribution was made listed by the Borough Clerk on the Political Contribution Disclosure Statement form prepared in accordance with Section 2.76.10(c).~~

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- s. ~~Red Bank Campaign Contribution shall mean any contribution, whether in the form of money, free service or pledge, including without limitation any in-kind contributions, or purchases of tickets, advertisements or the like; directly or indirectly (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), to any campaign committee or election fund of any candidate for, or holder of the office of,~~

Mayor or Council of the Borough; the term "directly or indirectly" as used herein shall further mean and include any campaign contributions made through intermediaries or third parties for the purpose of concealing the source of the contribution(s).

- t. ~~Red Bank Political Committee Contribution shall mean any contribution, whether in the form of money, free service or pledge, including without limitation any in kind contributions, or purchases of tickets, advertisements or the like, directly or indirectly (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), to any Red Bank Political Committee, as defined herein; the term "directly or indirectly" as used herein shall further mean and include any contributions made through intermediaries or third parties for the purpose of concealing the source of the contribution(s);~~
- u. ~~Red Bank Political Committee shall mean any municipal party committee or partisan political club or organization within the Borough.~~
- v. ~~Redevelopment Plan ... [No Change]~~
- w. ~~Vendor ... [No Change]~~

2-76.3 Ineligibility of Elected Officials to Participate in or Vote on Specific Matters Involving Certain Campaign Contributors. [No Change]

2-76.4 General Ineligibility of any Elected Official Who Receives Excess County Campaign Contributions or Pass-Through Campaign Contributions to Participate or Vote on Certain Categories of Matters [No Change]

2-76.5 Red Bank and County Campaign Contribution Limits Affecting Vendor Eligibility and Conflicts of Interest.

- a. Campaign Contribution limits affecting the eligibility of Vendors, pursuant to Section 2-65.12 and Section 2-65.13, to enter into or be paid pursuant to Agreements for the Purchase of Goods or Services are as follows:
1. The maximum combined amount of Red Bank Campaign ~~Committee~~ Contributions that may be made by a Vendor during any calendar year shall not exceed \$400, and this limit shall include all contributions made to each candidate for mayor and/or council from the same party or campaign ticket and without regard to whether the said candidates maintain a joint campaign account;
 2. The maximum combined amount of Red Bank Campaign Contributions and Red Bank Political Committee Contributions that may be made by a Vendor during any calendar year shall not exceed \$500, and this limit shall include all contributions made to each candidate for mayor and/or council and each Red Bank Political Committee from the same party or campaign ticket and without regard to whether the said candidates or Red Bank

Political Committee from the same party or campaign ticket and without regard to whether the said candidates or Red Bank Political Committee maintain a joint campaign or other bank account;

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3. The maximum amount of County Campaign Contributions that may be made by a Vendor shall not exceed \$2,500 during any calendar year to either party;
- b. Campaign Contribution limits affecting the eligibility of elected officials to participate in or vote on specific matters involving Development Matters or Alcoholic Beverage Licensees, are as follows:
1. Any candidate for the office of mayor or council who receives a Red Bank Campaign Contribution in excess of \$400 from any Developer or Development Professional during a single calendar

year shall have a Conflict of Interest, and shall be ineligible to vote or participate in matters relating to the said Developer or Development Professional as provided in Section 2-76.3(A) or (B), respectively.

2. Any candidate for the office of mayor or council who receives a Red Bank Campaign Contribution in excess of \$400 from any Alcoholic Beverage Licensee during a single calendar year, shall have a Conflict of Interest, and shall be ineligible to vote or otherwise participate in matters involving the said Alcoholic Beverage Licensee as provided in Section 2-76.3(C);
3. The limits set forth in Section 2-76.5(b) shall apply jointly to all candidates for mayor and/or council for the same party or on the same ticket, unless the said candidates maintain entirely separate election fund accounts, and run entirely uncoordinated campaigns.

2-76.6 Contributions Made Prior to the Effective Date. [No Change]

2-76.7 Reporting Obligations of Candidates for Office of Mayor or Council.

- a. Each and every candidate for the Office of Mayor or Council within the Borough of Red Bank shall file with the Borough Clerk a true and correct copy of each and every campaign finance report they are required to file with the Election Law Enforcement Commission, and shall do so not later than the date that the said report is due to be filed with the New Jersey Election Law Enforcement Commission.
- b. In connection with each campaign report submitted to the Borough Clerk pursuant to subparagraph (a) above, each candidate for the office of Mayor or Council shall attach a supplemental certification, on a form to be provided by the Borough Clerk, pursuant to which the candidate shall certify the following:
 1. that he or she has personally inspected the records of contributions made to his or her campaign account or election fund and to the account of any Red Bank Political Committee for the same party of which he or she is a member;
 2. that the information contained on the attached report is, after due inquiry, accurate in all material respects;
 3. identifying (i) each and every individual who either individually or in combination with his or her spouse, or any child living in the same household, or any corporation, professional corporation, limited liability company or partnership of which any of them are principals owning an interest of Five Percent (5%) or greater, from whom he or she has received a Red Bank Campaign Contribution or a Red Bank Political Committee Contribution cumulatively in excess of \$400 during that calendar year; and (ii) each and every Pass-Through Campaign Contribution, regardless of amount, he or she has received from any political action committee, county or [x]

Pass-through Campaign Contribution, regardless of amount, if
or she has received from any political action committee, county or
municipal committee or political club, including any Red Bank
Political Committee, or from any election fund relating to any
public question or from any election fund of any candidate for an
office other than the office of the Mayor or Council of the Borough
of Red Bank; [2]

2-76.8 Curing Violations; Return of Excess Contributions.

[No Change]

**2-76.9 Reasons for Abstention by Ineligible Official to Be Set Forth
On the Record, and Recorded in the Minutes of the Meetings.** With respect
to each and every vote or matter as to which the Mayor or any member of the

Council, or of a Borough Land Use Board, is deemed to have a Conflict of Interest and to be an Ineligible Official by virtue of the operation of Sections 2-76.3 through 2-76.5, or in the case of members of the Borough Land Use Board, by virtue of a financial or other interest or relationship disclosed in the Conflict Disclosure Statement required to be filed pursuant to Section 2-76.11, the reasons for the abstention shall be set forth by the Borough Clerk or Board Secretary, as the case may be, in public and on the record and shall be recorded in the minutes, and noted on any resolution memorializing the same, and in any contract or other agreement executed in accordance therewith.

2-76.10 Requirement that Major Developers Disclose Certain Campaign Contributions at the Time of Making Development Application to a Municipal Land Use Agency.

- a. Each Major Developer shall prepare, execute and include in its application to a Borough Land Use Agency file with the Borough Clerk at least (10) days prior to a public hearing before a Municipal Land Use Agency a Political Contribution Disclosure Statement, on a form to be prepared by the Borough Clerk in accordance with subsection (c) for all Major Developers involved in the Development Matter that is pending before the Municipal Land Use Agency the subject of the said application; provided that nothing contained herein shall be construed to require the filing of a Political Campaign Disclosure Statement by any person or entity that is not subject to disclosure pursuant to N.J.S.A. §§40:55D-48.1 or 40:55D-48.2.
- b. ~~During the pendency of the application process until the final approval associated with the application is granted or denied,~~ Any Major Developer required to comply with this ordinance shall amend its Political Contribution Disclosure Statement as necessary to reflect Political Contributions made after the initial filing date of the Statement application so that the information contained therein is at all times accurate and current.
- c. The Political Campaign Disclosure Statement form prepared by the Borough Clerk in accordance with this Section shall list the sources of each Pass-Through Contribution reported by candidates for the Office of Mayor and Council of the Borough pursuant to Section 2-76.7 during the three (3) year period next preceding the year of the application.

~~2-76.11 Requirement that All Developers File Conflict Disclosure Statements at the Time of Making Development Application to a Municipal Land Use Agency.~~

- a. ~~Each Developer shall include in its application to a Borough Land Use Agency a Conflict Disclosure Statement for all Developers involved in the Development Matter that is the subject of the said application; provided that nothing contained herein shall be construed to require the filing of a Conflict Disclosure Statement by any person or entity that is not subject~~

~~that nothing contained herein shall be construed to require the filing of a Conflict Disclosure Statement by any person or entity that is not subject to disclosure pursuant to N.J.S.A. 40:55D-48.1 or 40:55D-48.2.~~

- b. ~~During the pendency of the application process until the final approval associated with the application is granted or denied, any Developer required to comply with this ordinance shall amend its Conflict Disclosure Statement as necessary to reflect new financial or other interests or relationships established after the filing date of the application so that the information contained therein is at all times accurate and current.~~

~~2-76.12 — Inclusion of Political Contribution Disclosure Statements and Conflict Disclosure Statements as Elements of the Application Checklist.~~

- a. ~~The Borough Land Use Agencies shall adopt and utilize an Application Checklist, which is hereby authorized pursuant to N.J.S.A. 40:55d-10.3, and which checklist shall include, but not necessarily be limited to, the requirements that the Political Contribution Disclosure Statements and Conflict Disclosure Statements be filed in accordance with Sections 2-76.10 and 2-76.11, herein, respectively.~~
- b. ~~An application shall not be deemed complete by the administrative official or accepted for public hearing by the Municipal Land Use Agency until the required Contribution Disclosure Statements and Conflict Disclosure Statements are submitted.~~

2-76.4311 Availability of Contribution Disclosure Statements and Conflict Disclosure Statements. All Contribution Disclosure Statements and Conflict Disclosure Statements shall be available for review by any member of the public in the office of the administrative officer for the relevant Borough Land Use Agency.

2-76.4312 Intent of Contribution Disclosure Statements and Conflict Disclosure Statements. It is the intent of this ordinance that Political Contribution Disclosure Statements and Conflict 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.

SECTION THREE: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Administration ordinance are ratified and remain in full force and effect.

SECTION FOUR: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION FIVE: This Ordinance shall take effect immediately upon its passage and adoption according to law.

First Reading: July 24, 2006

Final Reading: August 14, 2006