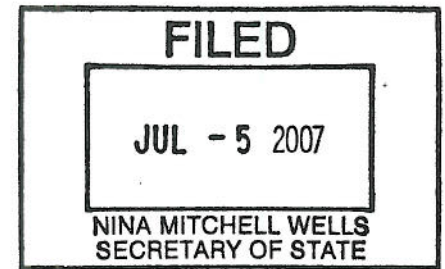


ORDINANCE NO. 06-27  
BOROUGH OF NORTH PLAINFIELD  
COUNTY OF SOMERSET  
STATE OF NEW JERSEY



**AN ORDINANCE TO REVISE, AMEND AND SUPPLEMENT THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF NORTH PLAINFIELD, CHAPTER II, ARTICLE IV, ENTITLED "MUNICIPAL PROCEDURES," TO ADD A NEW SECTION 2-40.1, ENTITLED "PAY TO PLAY"**

WHEREAS, the Borough of North Plainfield wishes to foster fair and open competition in the contracting process and eliminate the appearance of "buying" public contracts for goods and services through campaign contributions; and

WHEREAS, individuals and business entities that provide goods and services to various municipalities often make substantial political contributions to the election campaigns of the officials who ultimately determine the award of contracts for such goods and services, either directly to the candidate or through municipal or county political parties; and

WHEREAS, the Borough of North Plainfield is authorized, under the provisions of N.J.S.A. 40:48-2 and N.J.S.A. 40A:11-1, et seq. to establish rules and procedures for contracting with the providers of goods and services when those contracts are exempt from the New Jersey public bidding requirements.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey, that the Revised General Ordinances of the Borough of North Plainfield, Chapter II, Article IV, entitled "Municipal Procedures", is hereby revised, amended and supplemented to add a new Section 2-40.1 as follows:

**2-40.1 Pay to Play**

**A. Prohibition On Awarding Public Contracts to Certain Contributors.**

1. Any other provisions of law to the contrary notwithstanding, the Borough of North Plainfield shall not enter into any agreement or otherwise contract for goods or services from any business entity or professional business entity, where the transaction is not required to be bid

publicly under the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq., if that entity has made any contribution of money, including in-kind contributions, to any Borough of North Plainfield municipal candidate or holder of public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to any Borough of North Plainfield or Somerset County party committee or to any candidate seeking the office of Somerset County Freeholder, Surrogate or Sheriff, or to any political action committee (PAC) that regularly engages in the support of municipal elections and/or municipal parties in North Plainfield, in excess of the thresholds specified in Subsection 4, within one (1) calendar year immediately preceding the date of the contract except as amended by Section B below.

2. No business entity or professional business entity which enters into negotiations for or agrees to any contract or agreement with the Borough of North Plainfield for the provision of goods or services, where the transaction is not required to be bid publicly under the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq., shall make any contribution of money, including in-kind contributions, in excess of the amounts set forth in Subsection 4, to any Borough of North Plainfield municipal candidate or holder of public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to any Borough of North Plainfield or Somerset County party committee or to any candidate seeking the office of Somerset County Freeholder, Surrogate or Sheriff, or to any political action committee (PAC) that regularly engages in the support of municipal elections and/or municipal parties in North Plainfield.

3. For purposes of this chapter, a “business entity” or “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 also includes all principals who own any of the equity in the corporation or business or partnership, trust, partners and officers in the aggregate employed by the entity, as well as any subsidiaries directly controlled by the business entity.

4. Anyone meeting the definition of “business entity” or “professional business entity” under this section may annually contribute a maximum of \$300 each for any purpose to any and every candidate for Mayor or Council in the Borough of North Plainfield, or \$500 to the Borough of North Plainfield or Somerset County party committee or \$500 to a single or joint campaign account for Somerset County Freeholder or \$500 to a candidate for Surrogate or \$500 to a candidate for Sheriff, or \$500 to a PAC referenced in this Ordinance without violating Subsection 1 or 2 of this section.

5. For purposes of this section, the office considered to have ultimate responsibility for the award of the contract shall be:

(a) The Borough of North Plainfield Council and the Mayor of the Borough of North Plainfield, if the contract requires approval or appropriation from the Council,

(b) The Mayor of the Borough of North Plainfield, 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.

**B. 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 Council in North Plainfield or North Plainfield municipal or Somerset County party committee or any candidate for Somerset County Freeholder, Somerset County Sheriff or Somerset County Surrogate or PAC referenced in this chapter 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 business entity or professional business entity prior to the effective date of this Ordinance.

**C. Contribution Statement By Business Entity.**

1. Prior to awarding any contract or agreement to provide goods or services to any business entity or professional business entity, the Borough shall receive a sworn statement from the business entity or professional business entity, made under penalty of perjury, that the entity has not made a contribution in violation of Section 1 of this chapter.

2. The business entity or 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 Section shall be made prior to execution of a contract or agreement with the Borough and shall be in addition to any other certifications that may be required by any other provision of law.

**D. Return of Excess Contributions.**

A business entity or professional business entity or Borough candidate or officeholder or North Plainfield municipal or Somerset county party committee or PAC referenced in this Chapter may cure a violation of Section A of this chapter if, within thirty (30) calendar days, excluding Sundays and holidays, after contribution and award of a contract, the business entity or professional business entity notifies the Mayor or designee, in writing, and seeks and receives reimbursement of a contribution from the Borough candidate or candidate for Somerset County Freeholder, Somerset County Sheriff and/or Somerset County Surrogate or North Plainfield municipal or Somerset county political party or PAC referenced in this chapter.

**E. Breach of Contract and Disqualification of Contractor**

1. All Borough contracts or agreements for goods or services that are exempt from the public bidding requirements of the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq., shall provide that it shall be a breach of the terms of the contract for a business entity or professional business entity to violate this subsection or to knowingly conceal or misrepresent contributions given or received, or to make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution.

2. Any business entity or professional business entity that knowingly fails to reveal a contribution made in violation of this subsection, or that knowingly makes or solicits contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution, shall be disqualified from eligibility for future Borough contracts for a period of two (2) calendar years from the date of the determination of the violation and shall have any contract with the Borough then in effect immediately terminated.

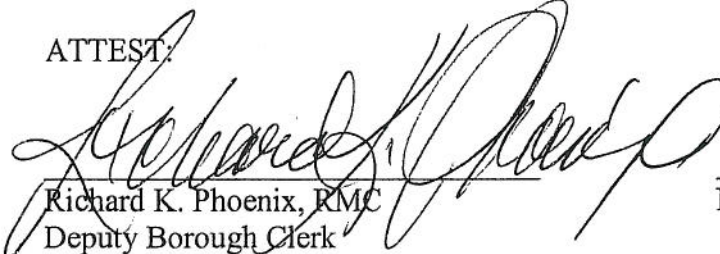
NOW, THEREFORE, BE IT FURTHER ORDAINED that:

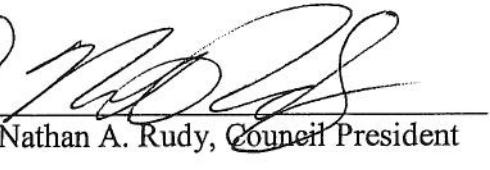
1. All ordinances or portions of ordinances which are inconsistent with this Ordinance shall be repealed as to their inconsistencies only.
2. If any provision or paragraph of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this Ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.
3. This Ordinance shall take effect, after final passage, twenty (20) calendar days following action or inaction by the Mayor as provided by law or an override of a mayoral veto by the council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this Ordinance shall take effect at an earlier date.

INTRODUCED: October 23, 2006  
PASSED: October 23, 2006  
PUBLISHED: October 26, 2006  
ADOPTED: November 13, 2006  
ROLL CALL: AYES: Hitchcock, Righetti, Singleterry, Stabile, Rudy  
NAYS: None  
ABSTAIN: None  
ABSENT: Giordano, Jones

APPROVED BY THE MAYOR: November 13, 2006

ATTEST:


  
Richard K. Phoenix, RMC  
Deputy Borough Clerk

  
Nathan A. Rudy, Council President

  
Janice G. Allen, Mayor

CERTIFICATION

I, Gloria Pflueger, RMC/MMC, Borough Clerk of the Borough of North Plainfield, County of Somerset, State of New Jersey, do hereby certify the foregoing to be a true copy of an ordinance adopted by a majority of the full membership of the Council of the Borough of North Plainfield at its meeting on November 13, 2006.

  
Gloria Pflueger, RMC/MMC  
Borough Clerk