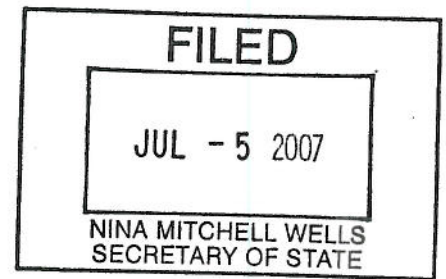


ORDINANCE NO. 06-28
BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY



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 2-40.2, ENTITLED "PAY TO PLAY-REDEVELOPERS"

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

WHEREAS, individuals and business entities that seek to serve as redevelopers often make substantial political contributions to the election campaigns of the officials who ultimately determine the award of such redevelopment contracts, either directly to the candidate or through municipal or county political parties; and

WHEREAS, contracting with redevelopers for the redevelopment of any area within the Borough pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq. is exempt from the requirements of public bidding; 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:12A-1, et seq. to establish rules and procedures for contracting with redevelopers.

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 2-40.2 as follows:

2-40.2 Pay to Play-Redevelopers

A. Definitions.

“Redeveloper” shall have the same meaning as set forth in N.J.S.A. 40A:12A-3 and shall include any business entity, as defined in Section 2-40.1(A)(3) of the Borough Code, that shall enter into or propose to enter into an agreement with the Borough for the redevelopment of an area in need of redevelopment, or any part thereof, under the provisions of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., or for any construction or other work forming a part of a redevelopment project in the Borough. The term “redeveloper” shall also include any business entity employed by or under agreement with a redeveloper to provide goods or services related to: (1) obtaining the designation or appointment as redeveloper by the Borough; (2) negotiating the terms of a redevelopment agreement with the Borough, or any amendments or modifications thereto; (3) lobbying of the Borough and/or its officials in connection with the examination of an area and its designation as an area in need of redevelopment or in connection with the preparation, consultation and adoption of a redevelopment plan; and, (4) performing the terms of a redevelopment agreement with the Borough.

B. Prohibition On Awarding Redevelopment Contracts to Certain Redevelopers.

1. Any other provisions of law to the contrary notwithstanding, the Borough of North Plainfield shall not enter into any agreement or otherwise contract with any redeveloper for the planning, replanning, construction or undertaking of any redevelopment project, including the conveyance or leasing of any public property in conjunction with the redevelopment of an area within the Borough, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., if that redeveloper has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, to any candidate for the office of Borough of North Plainfield Council, or to any Borough of North Plainfield or Somerset County party committee, in excess of the thresholds specified in Subsection 3, within one (1) calendar year immediately preceding the date of the contract except as amended by Section C below.

2. No redeveloper which enters into negotiations for or agrees to any contract or agreement with the Borough of North Plainfield for the planning, replanning, construction or undertaking of any redevelopment project, including the conveyance or leasing of any public property in conjunction with the redevelopment of an area within the Borough, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., shall solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, in excess of the amounts set forth in Subsection D, to any candidate for the office of Borough of North Plainfield Council, or to any Borough of North Plainfield or Somerset County party committee.

3. Any individual meeting the definition of “redeveloper” under this section may annually contribute a maximum of \$300 each for any purpose to any and every candidate for Mayor or Council, or \$500 to the Borough of North Plainfield or Somerset County party committee without violating Subsection A or B of this section.

4. The limitations set forth in this section shall not apply in the event the subject agreement is awarded to a redeveloper after public bidding undertaken in accordance with the Local Public

Contracts Law, N.J.S.A. 40A:11-1, et seq. or the Local Lands and Buildings Law, N.J.S.A. 40A:12-1, et seq.

C. Contributions Made Prior to the Effective Date.

No contribution of money or any other thing of value, including in-kind contributions, made by a redeveloper to any candidate for the office of Borough of North Plainfield Council or to any Borough of North Plainfield or Somerset County party committee shall be deemed a violation of this section, nor shall an agreement for a redevelopment project, of any kind whatsoever, be disqualified thereby, if that contribution was made by the redeveloper prior to the effective date of this Ordinance.

D. Contribution Statement By Redeveloper.

1. Prior to entering into or approving any contract or agreement with any redeveloper, the Borough shall receive a sworn statement from the redeveloper, made under penalty of perjury, that the redeveloper has not made a contribution in violation of Section A of this chapter. Such statement shall be submitted within five (5) calendar days of the redeveloper's application to the Borough of North Plainfield Planning Board for the redevelopment project.

2. The redeveloper shall have a continuing duty to report any violations of this Ordinance that may occur during the negotiation or duration of a redevelopment contract. The certification required under this Section shall be made prior to entry into a redevelopment 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.

E. Return of Excess Contributions.

A redeveloper or candidate for the office of Borough of North Plainfield Council or Borough of North Plainfield or Somerset County party committee 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 redeveloper notifies the Borough of North Plainfield Council, in writing, and seeks and receives reimbursement of a contribution from the Borough candidate or Borough or County party committee.

F. Breach of Contract and Disqualification of Contractor

1. All Borough redevelopment contracts or agreements shall provide that it shall be a breach of the terms of the contract for a redeveloper 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 redeveloper 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.

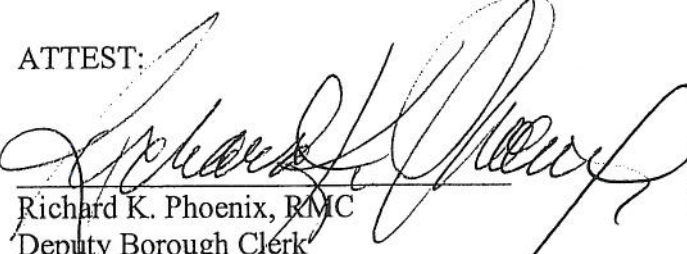
2. If any provision or paragraph of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this Ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.


3. This Ordinance shall take effect, after final passage, twenty (20) 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