

2nd reg. 5-3-04
Postponed

Adopted 10/11/04

General Code

TOWNSHIP OF LOWER, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

ORDINANCE NO. 2004-10

AN ORDINANCE OF THE TOWNSHIP OF LOWER REGULATING THE
AWARD OF PROFESSIONAL SERVICE CONTRACTS

WHEREAS, the Township Council of the Township of Lower desires to set a limit on the amount a professional business entity which provides or desires to provide professional services to the Township of Lower is permitted to contribute to the campaign of candidates running for public office, holders of public office and municipal party committees in the Township of Lower; and

WHEREAS, the Township Council desires, on the part of taxpayers to promote their trust in the process of local government, and to ensure that contracts have been awarded on the basis of merit; and

WHEREAS, the Township Council desires to decrease the cost of professional services and to increase the quality of those services received; and

WHEREAS, it is hereby the policy of the Township of Lower to set a maximum amount a professional business entity may contribute to a political campaign for a local public office, to holders of public office and to Township of Lower party committees.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Lower, County of Cape May, State of New Jersey as follows:

Section 1. A new Chapter, Chapter 95, entitled Regulation of Professional Service Contracts is hereby added the Revised General Ordinances of the Township of Lower and shall read as follows:

Chapter 95 REGULATION OF PROFESSIONAL SERVICE CONTRACTS.

95-1 Definitions.

As used in this Section:

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 (10%) percent or more of the equity in the corporation or business trust, partners, and officers in aggregate employed by the entity as well as any subsidiaries directly controlled by the business entity.

Professional Business Entity is a business entity as defined in this section which provides services by individuals are required to be professionally licensed under the laws or regulations of this State or which provides "extraordinary unspecifiable services" pursuant to N.J.S.A. 40A:11-5(1)(a)(ii).

95-2 Prohibition of Awarding Public Contract to Certain Contributors.

a) Any other provision of law to the contrary notwithstanding, the Township of Lower or any of its purchasing agents or agencies or those of its independent authorities, boards or commissions, as the case may be, shall not enter into an agreement or otherwise contract to procure services 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 a campaign committee of any candidate for, or holder of the office of Mayor or Council of the Township of Lower or to any Township of Lower political party committee, in excess of the thresholds specified in Section (c) of this Chapter within one (1) 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 Township of Lower or any department or agency thereof or of its

independent authorities, boards or commissions for the provision of professional services shall knowingly solicit or make any contribution of money or pledge of a contribution including in-kind contributions in excess of the thresholds specified in paragraph (c) of this Section to a campaign committee of any candidate for, or holder of the office of Mayor or Council of the Township of Lower or to any Township of Lower political party committee between the time of first communications between that business entity and the Township of Lower regarding a specific professional services agreement and the later of the termination of negotiations or the completion of the contract or agreement.

c) Notwithstanding paragraphs (a) and (b) above, any individual who is a professional business entity may annually contribute a maximum of TWO HUNDRED FIFTY (\$250.00) DOLLARS each for any purpose to any candidate for, or holder of the offices of Mayor or Council of the Township of Lower, or FIVE HUNDRED (\$500.00) DOLLARS to any Township of Lower political party committee, without violating this Section 95-2; provided, however, that no group of individuals meeting the definition of a professional business entity may, in the aggregate, contribute annually for any purpose in excess of TWO THOUSAND FIVE HUNDRED (\$2,500.00) DOLLARS to all Township of Lower candidates for, or holders of the offices of Mayor or Council and all Township of Lower political party committees combined without violating Section 95-2.

95-3 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 candidate for, or holder of the office of Mayor or Council of the Township of Lower, or Township of Lower political party committee shall be deemed a violation of this Section, nor shall an agreement for services be disqualified thereby if that contribution or agreement was made by the professional business entity prior to the effective date of this Chapter.

95-4 Contribution Statement Required By Professional Business Entity.

a) Prior to awarding any contract or agreement to procure services with any professional business entity, the Township or any of its purchasing agents or agencies or independent authorities, boards or commissions as the case may be, shall receive a sworn statement from the professional business entity made under penalty of perjury that the professional business entity has not made a contribution in violation of Section 95-2.

b) Prior to awarding any contract or agreement to procure services with any professional business entity, the Township or any of its purchasing agents or agencies or independent authorities, boards or commissions as the case may be, shall also receive a sworn statement from the professional business entity made under penalty of perjury disclosing all contributions made by the professional business entity during the immediately preceding twelve (12) months to any New Jersey State and/or County political party committees which contributions, when added to any contributions made to any Township of Lower political party committees during the same time period, exceed the sum of FIVE HUNDRED (\$500.00) DOLLARS.

c) The professional business entity shall have a continuing duty to report any violations of this Chapter that may occur and to report any additional contributions to New Jersey State and/or County political party committees above the amounts set forth in paragraph (b) of this Section during the negotiation or duration of a contract.

d) The sworn statement required under this Section 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.

95-5 Penalty.

a) All Township of Lower professional service agreements shall provide that it shall be a breach of the terms of the government contract for a professional business entity to violate Section 95-2 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.

b) Any professional business entity who knowingly fails to reveal a contribution made in violation of Section 95-2 or who 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 Township contracts for a period of four (4) calendar years from the date of the violation.

c) Nothing herein shall be deemed to apply to contributions made to any county or state campaign committee, candidate or officeholder, or to any county or state political party committee, however, such contributions are subject to the disclosure provision that may apply as set out in Section 95-4(c).

95-6 Procedures To Ensure Compliance With Regulation.

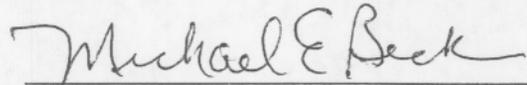
a) Neither the Chief Financial Officer nor his or her designee shall issue a certification of availability of funds without first receiving a certification from the Township Manager that the disclosures required by this Chapter have occurred and that such disclosures do not violate the contribution limits set forth herein.

b) No contract or agreement for professional services shall be signed and delivered to any professional business entity without full compliance with this Chapter.

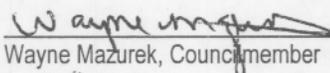
Section 2. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

Section 3. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provision of this Ordinance are hereby declared to be severable.

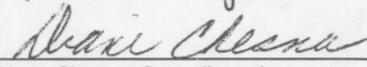
Section 4. This Ordinance shall become effective twenty (20) days after final passage and publication, according to law.



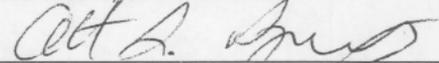
Michael E. Beck, Councilmember



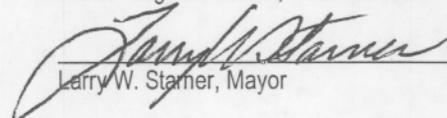
Wayne Mazurek, Councilmember



Diane Chesna, Councilmember

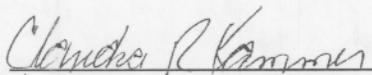


Arthur "Stig" Blomkvest, Councilmember



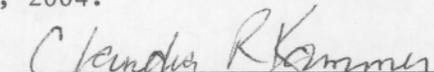
Larry W. Stamer, Mayor

Attest:


Claudia R. Kammer, Township Clerk

Adopted: Oct 4, 2004

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Township Council at a meeting held on October 4, 2004.


Claudia R. Kammer, Twp. Clerk