

NOTICE OF PENDING ORDINANCE

ORDINANCE NO. 11-1320

The ordinance published herewith was introduced and passed upon first reading at a meeting of the Borough Council of the Borough of Tinton Falls, in the County of Monmouth, State of New Jersey, held on May 17, 2011. This Ordinance will be further considered for adoption, after the public hearing is held thereon, at a meeting of the Borough Council to be held on Tuesday, June 21, 2011, **located in the Municipal Building, 556 Tinton Avenue, Tinton Falls, New Jersey, beginning at 7:30 o'clock P.M.** During the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available in the Clerk's Office to the members of the general public who shall request the same.

MAUREEN L. MURPHY, BOROUGH CLERK

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH
ORDINANCE NO. 11-1320**

**ORDINANCE AMENDING AND SUPPLEMENTING ORDINANCE NO. 05-1146
GOVERNING REGULATION OF POLITICAL CONTRIBUTIONS MADE BY
PROFESSIONAL SERVICE CONTRACTORS AND REDEVELOPERS**

WHEREAS, on March 15, 2005, the Borough of Tinton Falls ("the Borough") adopted Ordinance No. 05-1146, which was one of the earliest ordinances regulating pay-to-play practices in the State of New Jersey before such ordinances were even specifically authorized by law on January 6, 2006; and

WHEREAS, the Borough wishes to further strengthen and update Ordinance No. 05-1146 to address developments in the law and pay-to-play practices.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Tinton Falls that section 2-18D of the Revised General Ordinances of the Borough of Tinton Falls are hereby amended and supplemented as follows:

2-18D PAY-TO-PLAY RESTRICTIONS

2-18D.1 Preamble.

Professional business entities are exempt from public bidding requirements.

There is the potential for professional business entities **or redevelopers** to make substantial political contributions to the election campaigns of the local government elected officers who are ultimately responsible for awarding professional service contracts **or redevelopment agreements**.

Substantial local political contributions from professionals receiving discretionary contracts from the elected officials who receive such contributions raise reasonable concerns on the part of the taxpayers as to their trust in the process of local government, as well as the quality or cost of services received.

Pursuant to **P.L. 2005, c. 271**, municipalities have the right to establish rules and procedures for contracting with professional business entities.

The policy of the Borough of Tinton Falls will be set maximum amounts that professional business entities may contribute politically beyond which they become ineligible to receive a public professional service contract from the Borough.

2-18D.2 Prohibition an Awarding Public Contracts to Certain Contributors.

- a. Any other provision of law to the contrary notwithstanding, Tinton Falls or any of its purchasing agents or agencies, including all boards and commissions, or any of its independent authorities, 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 or purchase of tickets, advertisements or the like, which proceeds will be used by or on behalf of or, to a Tinton Falls campaign committee of any candidate or holder of the public office having ultimate responsibility for the award of the contract, or to any Tinton Falls of Monmouth County Party Committee, in excess of the thresholds specified in paragraph d. within two (2) calendar years immediately preceding the date of the contract or agreement or during the term of such a contract or agreement.
- b. No professional business entity which enters into negotiations for, or agrees to, any contract or agreement with the municipality or any department, board, commission or agency thereof or of its independent authorities for the rendition of professional services shall knowingly solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions or purchase of tickets, advertisements or the like, which proceeds will be used by or on behalf of or up to 1) any candidate or holder of the public office having ultimate responsibility for the award of the contract; or to 2) any Tinton Falls Party Committee; 3) any Monmouth County Party Committee (unless during the preceding calendar year no contribution of money or in-kind contribution in an amount sufficient to require reporting on the local campaign election law report has been made to the local candidate or Tinton Falls Party Committee by the Monmouth County Party Committee to which the professional business entity may have contributed; or 4) any political action committee (unless during the preceding calendar year no contribution of money or in-kind contribution in an amount sufficient to require reporting on the local campaign election law report has been made to the local candidate or political action committee by the Monmouth County Party Committee to which the professional business entity may have contributed) between the time of first communications between that business entity and the Borough regarding a specific professional services agreement and the later of the termination of negotiations or the completion of the contract or agreement.
- c. For purposes of this section, 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, association, **or redeveloper who has a redevelopment agreement with the Borough under the Local Housing & Redevelopment Law.** The definition of a business entity includes all principals who own **or maintain any equity interest** in the corporation or business trust, partner, 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 subsection may annually contribute a maximum **of three hundred (\$300.00) dollars each for any purpose to any candidate for Borough Council, or three hundred (\$300.00) dollars** to any Tinton Falls Party Committee, Monmouth County Party Committee or political action committee, without violating paragraph a. of the subsection. However, any group of individuals meeting the definition of "professional business entity" under this subsection, including such principals, partners, and officer of the entity in the aggregate, may not annually contribute for any purpose in excess of two

thousand five hundred (\$2,500.00) dollars to all Tinton Falls Candidates and officeholder with ultimate responsibility for the award of the contract, and all Tinton Falls or Monmouth County Political Parties and political action committees combined, without violating paragraph a. of this subsection.

- e. For the purpose of this subsection, the office that is considered to have ultimate responsibility for the award of the contract shall be the Office of the Mayor. However, the restrictions of this section apply to boards, commissions or agencies of the Borough whose appointments of professionals\ either require the approval of the Mayor or the borough Council or whose operating funds are subject to appropriation by the Borough Council.

2-18D.3 Wheeling Restrictions.

- a. No candidate committee for any candidate for Tinton Falls Mayor or Borough Council shall accept a contribution from a county committee of a political party, other than the county committee of the county in which the candidate or candidates reside, in excess of five hundred dollars (\$500) per election.**
- b. No candidate committee for any candidate for Tinton Falls Mayor or Borough Council shall accept a contribution from a state political party in excess of five hundred dollars (\$500) per election.**
- c. No candidate committee for any candidate for Tinton Falls Mayor or Borough Council shall accept a contribution from a legislative leadership committee in excess of five hundred dollars (\$500) per election.**
- d. No candidate committee for any candidate for Tinton Falls Mayor or Borough Council shall accept a contribution from a continuing political committee or PAC in excess of five hundred dollars (\$500) per election.**
- e. No candidate committee for any candidate for Tinton Falls Mayor or Borough Council accept a contribution from another candidate committee, other than from a candidate committee located in at least part of Monmouth county, in excess of five hundred dollars (\$500) per election.**
- f. No candidate committee for any candidate for Tinton Falls Mayor or Borough Council shall accept a contribution from a municipal political party committee, other than a municipal political party committee of a municipality located in Monmouth County, in excess of five hundred dollars (\$500) per election.**

2-18D.4 Contributions Made Prior to the Effective Date.

[No Change]

2-18D.5 Contribution Statement by Professional Business Entity.

[No Change]

2-18D.6 Return of Excess Contributions.

[No Change]

2-18D.7 Retroactivity of Future Clarifications Adopted.

[No Change]

2-18D.8 Vote Necessary for Section Repeal.

[No Change]

2-18D.9 Penalty.

[No Change]

Effective Date.

This ordinance shall take effect upon the final passage and publication according to law.