

ORDINANCE No. 21-14

**ORDINANCE CREATING CHAPTER 360 OF THE JEFFERSON
TOWNSHIP MUNICIPAL CODE ENTITLED “POLITICAL
CAMPAIGN CONTRIBUTIONS AND CONTRACTING”**

WHEREAS, N.J.S.A. 40A:11-51 permits a municipality to adopt by Ordinance measures limiting the awarding of public contracts to business entities that have made political contributions and limiting the contributions that the recipient of such contract can make; and

WHEREAS, in the interest of good government, the people and the government of the Township of Jefferson desire to establish a policy that will avoid the perception of improper influence in public contracting and local elections;

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Jefferson, County of Morris, State of New Jersey, that there is hereby created within the Jefferson Township Municipal Code Chapter 360, known as “Political Campaign Contributions and Contracting” as follows:

SECTION A

§360.1 DEFINITIONS

As used in this Ordinance, the following definitions shall apply:

- (a) “Campaign Committee” means (i) every candidate for Township of Jefferson elective municipal office; (ii) every candidate committee established by or for the benefit of a candidate for Township of Jefferson elective municipal office; (iii) every joint candidate committee established in whole or in part by or for the benefit of a candidate for Township of Jefferson elective municipal office; (iv) every political committee, continuing political committee, or other form of association or organization that regularly engages in the support of candidates for a Township of Jefferson municipal office.
- (b) “Contribution” means a contribution reportable by the recipient under the “New Jersey Campaign Contributions and Expenditures Reform Act,” N.J.S.A. 19:44A-1, *et seq.*
- (c) “Contract for professional or extraordinary services” means all contracts for professional services and extraordinary unspecifiable services as such terms are used in N.J.S.A. 40A:11-5.
- (d) “Business Entity” shall mean (i) a firm; corporation; professional corporation; partnership; limited liability company; organization; association and any other manner and kind of business entity; (ii) any person who owns 10% or more of the equity or ownership or income interests in an entity as defined herein, and their spouses and child/children.

§360.2 PROHIBITION ON AWARDING PUBLIC CONTRACTS TO CERTAIN CONTRIBUTORS

- (a) The Township shall not enter into any agreement or otherwise contract to procure “professional services” as such term is defined in N.J.S.A. 40A:11-2(6), nor enter into a contract for “extraordinary unspecified services” as such term is defined in N.J.S.A. 40A:11-2(7) from any business entity if such entity has made any contribution to: (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Township of Jefferson or a holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Township of Jefferson political committee or political party committee, or (iii) to any continuing political committee or political action committee that regularly engages in the support of Township of Jefferson municipal candidates, in excess of the thresholds specified in subsection (b) herein within one calendar year immediately preceding the date of the contract or agreement.
- (b) The monetary thresholds of this Ordinance are: (i) a maximum of \$300 per calendar year for any purpose to any candidate or candidate committee for mayor and/or governing body, or \$500 per calendar year to any joint candidates committee for mayor and/or governing body, or \$300 per calendar year to any campaign committee as defined herein. However, for each business entity party to a contract for professional or extraordinary unspecified services as defined in subparagraph (a), or engaged in negotiations for a contract defined in subparagraph (a), when such business entity’s contribution is aggregated with all “persons” defined in the within Ordinance above, by virtue of their affiliation to that business entity, a maximum of \$2,500 to all Township of Jefferson candidates or campaign committees as defined herein, including holders of public office having ultimate responsibility for the award of any contract.
- (c) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be (i) the Township of Jefferson governing body, if the contract requires approval or appropriation from the governing body, or (ii) the Mayor of the Township of Jefferson, if the contract requires approval of the Mayor.
- (d) Rules regarding subcontractors. No person may be awarded a subcontract to perform under a contract subject to this Ordinance, if the subcontractor would be disqualified by paragraph (a) from receiving the contract at the time that the subcontract is awarded. Nor may any person who would be disqualified by paragraph (a) from receiving the contract perform substantially all of obligations described in a contract for professional or extraordinary services that is subject to this Ordinance.

§360.3 CONTRIBUTIONS MADE PRIOR TO THE EFFECTIVE DATE

No contribution or solicitation of contributions made prior to the effective date of this Ordinance shall be deemed to give rise to a violation of this Ordinance.

§360.4 CONTRACT RENEWAL

No contract subject to this Ordinance may be renewed, extended, or materially modified unless the resulting renewal, extension, or modification would be allowable under the provisions of this ordinance if it were an initial contract.

§360.5 CONTRIBUTION STATEMENT BY BUSINESS ENTITY

- (a) Prior to awarding any contract or agreement to procure professional services or extraordinary unspecified services from any business entity, the Township of Jefferson or its purchasing agents and departments, as the case may be, shall receive a sworn statement from said business entity, which is the intended recipient of said contract, that he/she/it has not made a contribution in violation of this Ordinance.
- (b) A business entity shall have a continuing duty to report to the Township of Jefferson any contributions that constitute a violation of this act that are made during the negotiation, proposal process or the duration of a contract. The Township of Jefferson purchasing agents and departments shall be responsible for informing the governing body within ten (10) business days after receipt of said report from the business entity.
- (c) The certification required under this subsection shall be made prior to entry into the contract or agreement with the Township of Jefferson, or prior to the provision of services or goods, as the case may be, and shall be in addition to any other certifications that may be required by any other provision of law.

§360.6 RETURN OF EXCESS CONTRIBUTIONS

A business entity that is a party to a contract for professional services or extraordinary unspecified services may cure a violation of this Ordinance, if, within 30 days after the date on which the applicable ELEC report is published, said business entity notifies the municipality in writing and seeks and receives reimbursement of the contribution from the recipient of such contribution.

§360.7 EXEMPTIONS

The contribution limitations prior to entering into a contract as set forth herein do not apply to contracts which (i) are awarded to the lowest responsible bidder after public advertising for bids and bidding therefor within the meaning of N.J.S.A. 40A:11-4, or (ii) are awarded in the case of emergency under N.J.S.A. 40A:11-6, or contracts awarded pursuant to a “Fair and Open Process” under N.J.S.A. 19:44A-20, *et seq.*

§360.8 PENALTY

Any person who knowingly, purposely, or recklessly violates any provision of this ordinance, or who conspires with another person to violate any provision of this ordinance, or who, with the purpose of promoting or facilitating a violation of this ordinance, solicits another person

to commit it, or aids or agrees, or attempts to aid another person in planning or committing it, shall be subject to punishment including fines and/or imprisonment as fixed by law for violations of the ordinances of the Township of Jefferson.

SECTION B

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistencies.

SECTION C

If any article, section, subsection, paragraph, phrase or sentence is, for any reason, held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

SECTION D

This Ordinance shall take effect immediately upon final publication as provided by law.

ATTEST:

COUNCIL OF THE TOWNSHIP
OF JEFFERSON

LORI HARVIN, CLERK

ROBERT BIRMINGHAM, VICE PRESIDENT

INTRODUCED: November 12, 2014

ADOPTED: December 3, 2014

RUSSELL W. FELTER, MAYOR

DATE AND TIME PRESENTED TO MAYOR FOR SIGNATURE: