# TOWNSHIP OF MAPLEWOOD

# ORDINANCE

#2339-06

## AN ORDINANCE
## TO PROHIBIT PROFESSIONAL SERVICE PROVIDERS FROM MAKING POLITICAL CONTRIBUTIONS TO ELECTED OFFICIALS WITHIN THE TOWNSHIP OF MAPLEWOOD

"Interpretive Statement"

*This ordinance will prohibit the providers of professional services from making political contributions to Maplewood Township elected officials who are responsible for awarding professional service contracts.*

WHEREAS, professional service contracts are exempt from public bidding requirements under the New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq; and

WHEREAS, it has become common for professional service providers 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 other contracts or agreements which are not subject to public bidding; and

WHEREAS, local political contributions from professionals receiving discretionary contracts from the elected officials who receive such contributions may raise reasonable concerns on the part of taxpayers as to their trust in the process of local government, if not the quality or cost of services received; and

WHEREAS, pursuant to N.J.S.A. 40A:11-5 and N.J.S.A. 40:48-2, municipalities have the right to establish rules and procedures for contracting with professional service providers; and

WHEREAS, nothing contained herein shall be interpreted to impair in any way the right of a professional service provider secured by the First Amendment of the Constitution of the United States of America and further secured by Article1, Paragraph 6 of the Constitution of the State of New Jersey to exercise its right to freedom of speech and its right to speak, write and publish its sentiments on all subjects;

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Maplewood, County of Essex, State of New Jersey, that the policy of the Township of Maplewood will be to create a regulation which states that a professional service provider which makes political contributions to elected officials who are responsible for awarding professional service contracts shall be ineligible to receive a public professional service contract from the Township of Maplewood.

**FIRST:** **Awarding of Public Contracts to Certain Contributors**

(a) Any other provision of law to the contrary notwithstanding, the Township of Maplewood or any of its purchasing agents or agencies or those of its independent authorities, as the case may be, shall not enter into an agreement or otherwise contract to procure services, from any professional service provider, if that provider has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, to any Township of Maplewood municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, to any Township of Maplewood party committee, or to any political action committee (PAC) that regularly engages in the support of municipal elections and/or municipal parties within one (1) calendar year immediately preceding the date of the contract or agreement.

(b) No professional service provider which enters into negotiations for, or agrees to, any contract or agreement with the Township of Maplewood or any department or agency thereof or of its independent authorities for the rendition of professional, banking or insurance coverage services or any other consulting services shall solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to any Township of Maplewood municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to any Township of Maplewood party committee, or to any political action committee (PAC) that regularly engages in the support of municipal elections and/or Municipal parties between the time of first communications between that business entity and the Township of Maplewood regarding a specific professional services agreement and the later of the termination of negotiations or the completion of the contract or agreement.

(c) No professional service provider shall make a contribution to an Essex County party committee or organization at least sixty (60) calendar days prior

to any contribution being made by an Essex County party committee or organization to any Township of Maplewood municipal candidate or holder of public office having ultimate responsibility for the award of a contract, or campaign committee supporting such candidate or officeholder, or to any Township of Maplewood party committee, or to any political action committee (PAC) that regularly engages in the support of municipal elections and/or municipal parties.

(d) For purposes of this ordinance, a "professional service provider" seeking a public contract means an individual including the individual's spouse, if any, and any child living at home; person; firm; corporations; professional corporation; partnership; organization or association. The definition of a business entity includes all principals who own one percent (1%) or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the entity as well as any subsidiaries directly controlled by the business entity.

(e) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be:

(1) The Township Committee of the Township of Maplewood or a public officer who is responsible for the award of a contract if that public officer is appointed by the Township Committee.

**SECOND: 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 service provider to any municipal candidate for Maplewood Township Committee, or municipal party committee or PAC referenced in this ordinance shall be deemed a violation of this section, nor shall an agreement for property, goods, or services, or any kind whatsoever, be disqualified thereby, if that contribution was made by the professional service provider prior to the effective date of this ordinance.

**THIRD: Contribution Statement by Professional Business Entity**

(a) Prior to awarding any contract or agreement to procure services, including banking or insurance coverage services, with any professional service provider, the Township or any of its purchasing agents or agencies, as the case may be, shall receive a sworn statement from the professional service provider made under penalty of perjury that the bidder or offeror has not made a contribution in violation of this ordinance.

(b) The professional service provider 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 subsection shall be made prior to entry into the contract or agreement with the Township of Maplewood and shall be in addition to any other certifications that may be required by any other provision of law.

FOURTH: Penalty

(a) All Township of Maplewood professional service agreements shall provide that it shall be a breach of the terms of the government contract for a professional service provider, as defined in this ordinance to violate this ordinance or to knowingly conceal or misrepresent contributions given or received, or to make or solicit contributions through intermediaries or any Essex County Party Committee for the purpose of concealing or misrepresenting the source of the contribution.

(b) Any professional service provider, as defined in this ordinance who knowingly fails to reveal a contribution made in violation of this ordinance, or who knowingly makes or solicits contributions through an intermediary, including but not limited to an Essex County Party Committee, for the purpose of concealing or misrepresenting the source of the contribution, shall be disqualified from eligibility for future Township of Maplewood contracts for a period of four (4) calendar years from the date of the violation.

FIFTH: Severability

If any section, paragraph, subparagraph, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the specific section, paragraph, subparagraph, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SIXTH: Repeal of Prior Ordinances

Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance be and the same are hereby repealed to the extent of any such inconsistencies.

SEVENTH: Effective Date

This Ordinance shall take effect after final passage and publication according to law.

**PUBLIC NOTICE** is hereby given that the foregoing proposed Ordinance was introduced and read by title for the first time at a meeting of the Township Committee of the Township of Maplewood, held on March 7, 2006 and that Committee met again on March 21, 2006, at 8:00 p.m. at the Municipal Building, 574 Valley Street, Maplewood, New Jersey, at which time and place the Committee proceeded to consider the said Ordinance on second reading and final passage.

Elizabeth J. Fritzen

ELIZABETH J. FRITZEN, R.M.C.
Township Clerk