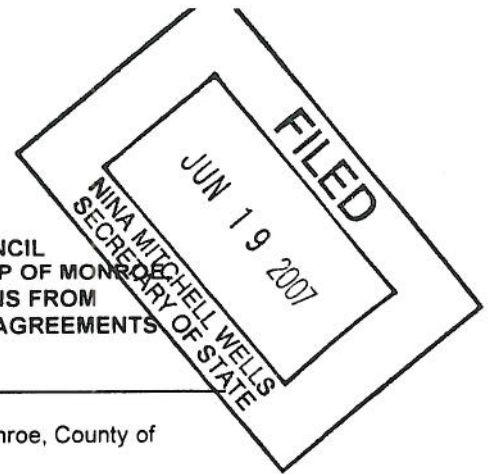


MONROE TOWNSHIP, MIDDLESEX COUNTY

ORDINANCE NO. 0-4-2007-009

ORDINANCE OF THE MONROE TOWNSHIP COUNCIL
AMENDING CHAPTER 108 OF THE CODE OF THE TOWNSHIP OF MONROE
PROHIBITING POLITICAL CAMPAIGN CONTRIBUTIONS FROM
DEVELOPERS SEEKING TO ENTER INTO DEVELOPMENT AGREEMENTS
WITH THE TOWNSHIP OF MONROE



BE IT ORDAINED by the Township Council of the Township of Monroe, County of Middlesex, and State of New Jersey ("Township"), as follows:

WHEREAS, Citizens' Campaign has recommended that the Township of Monroe promulgate its template Ordinance regarding "Political Campaign Contributions from Developers seeking to enter into Development Agreements"; and

WHEREAS, it has become more frequent for developers, sometimes at the request of candidates for local elected office or political party officials, to make substantial political contributions to the election campaigns for local government offices, and to the political parties which support them; and

WHEREAS, the local government officials are, once elected, responsible for deciding the terms of a development agreement pursuant to N.J.S.A. 40:55D-45.2(l), including phasing, density transfers or municipally funded infrastructure; and

WHEREAS, political contributions from developers entering into agreements for development projects approved by the elected officials who receive such contributions raise reasonable concerns on the part of taxpayers and residents as to their trust in the process of local development, including but not limited to development decisions for phasing, density transfers or municipally funded infrastructure; and

WHEREAS, both the exceptions to the Open Public Meetings Act, more specifically N.J.S.A. 10:4-12b, and N.J.S.A. 40A:12A-8 provide that negotiations for such agreements can be conducted in executive session, provided the full terms of any such agreements are discussed and approved in open session; and

WHEREAS, restriction against local political contributions contained herein does not impair in any way the remaining opportunities for such developers to speak, write and publish their sentiments about local elections and candidates or to volunteer or associate with campaigns of their own choosing;

NOW THEREFORE, BE IT ORDAINED by the Township Council of the Township of Monroe, in the County of Middlesex and State of New Jersey that the Code of the Township is hereby amended and supplemented as follows:

SECTION 1.

Purpose.

It is the purpose of this section to create a regulation which states that any entity or individual seeking to enter into a development agreement or amendment thereto, pursuant to N.J.S.A. 40:55D-44.2(l), including phasing, density transfers or municipally funded infrastructure, who makes political contributions to Monroe Township elected officials and local and county political committees will be ineligible to receive such agreements, or rights from the Township of Monroe.

SECTION 2.

Development Agreements Under N.J.S.A. 40:55D-45.2(l).

- I. **Prohibition of entering into or amending development agreements with certain contributors**
 - (a) Any other provision of law to the contrary notwithstanding, the Township of Monroe 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 pursuant to N.J.S.A. 40:55D-45.2(l), amend an agreement, or otherwise contract with any developer for the phasing, density transfers or municipally funded infra-structure within the municipality, if that developer has made any contribution of money or pledge of a contribution, including in-kind contributions, during the applicable time period as specified below, to a campaign committee of any Monroe Township candidate or holder of public office within the Township of Monroe having responsibility for arranging, entering into, or approving the development agreement, or for appointing those who enter into the agreement on behalf of Monroe Township or, to any Monroe Township political campaign committee, or to any Monroe Township or Middlesex County party committee, or to any political action committee (PAC) which regularly engages in the support of municipal elections and / or municipal parties or which engages in the support of Monroe Township municipal campaigns (PAC). For purposes of this section, the "applicable time period" shall be defined as the time period between the date of the beginning of the negotiation and during the full term of the developer's agreement.
 - (b) All development agreements pursuant to N.J.S.A. 40:55D-44.2(l) or amendments thereto entered into by Monroe Township shall contain a provision prohibiting developers as defined in section (c) to solicit or make any contribution of money or pledge of a contribution including in-kind contributions, to any Monroe Township candidate or holder of public office within the Township having responsibility for arranging, entering into, or approving the development agreement, or for appointing those who enter into the agreement on behalf of Monroe Township or, to any Monroe Township political campaign committee or to any Monroe Township or Middlesex County party committee or to any political action committee (PAC) which regularly engages in the support of municipal elections and / or municipal parties or which engages in the support of Monroe Township municipal campaigns (PAC), between the time of first communication between that developer and the municipality regarding a development project and the later of the termination of negotiations or the completion of all matters specified in the development agreement.
 - (c) A "developer" means any person, firm, corporation or public body that shall enter into or propose to enter into a contract with a municipality pursuant to N.J.S.A. 40:55D-45.2(l). For the purposes of this Ordinance the definition of a developer includes all principals who own ten percent (10%) or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the provider as well as any affiliates or subsidiaries directly controlled by the developer. Spouses and adult children at home shall also be included.

- (d) For the purposes of this section, the office that is considered to have responsibility for arranging and entering into the development agreement under the Act shall be:
1. The Monroe Township Council if the development agreement requires approval from the Council or a public officer who is responsible for arranging and entering into the development agreement if that public officer is appointed by Council; or
 2. The Mayor of Monroe Township if the development agreement requires the approval of the Mayor or a public officer who is responsible for arranging and entering into the development agreement if that public officer is appointed by the Mayor.

II. Contributions made prior to the effective date

No contribution of money or any other thing of value, including in-kind contributions, made by a developer to any Township candidate for Mayor or Township Council or Township political campaign committee shall be deemed a violation of this section nor shall an agreement for development projects, pursuant to N.J.S.A. 40:55D-45.2(l) be disqualified thereby if that contribution or agreement was made by the developer prior to the effective date of this ordinance.

III. Notice given by Municipality; Sworn Statement of Developer

- (a) It shall be the municipality's continuing responsibility to give notice of this Section when the municipality gives notice of the Ordinance to implement the development plan.
- (b) Prior to arranging and entering into the development agreement with any developer, the Township shall receive a sworn statement from the developer that the developer has not made any contribution in violation of Section 1(a) above. Furthermore, the developer shall have a continuing duty to report any violations of this ordinance that may occur while arranging and entering into the development agreement, and until all specified terms of the agreement have been completed. The certification required under this subsection shall be made prior to entry into the agreement with the municipality and shall be in addition to any other certifications that may be required by any other provision of law.

IV. Contribution Restrictions and Disclosure Requirement Applicability to Consultants

- (a) The contribution and disclosure requirements in this Ordinance shall apply to all developers as well as professionals, consultants or lobbyists contracted or employed by the business entity to provide services related to the:
 - 1) Lobbying of government officials in connection with the adoption of the development agreement.
 - 2) Negotiating the terms of a development agreement or any amendments or modifications thereto, pursuant to N.J.S.A. 40:55D-45.2(l).
 - 3) Performing the terms of the development agreement.

- (b) It shall be a breach of the consultant's contract, and shall require immediate termination, for a consultant to violate the contribution limits and disclosure requirements in this Ordinance.
- (c) A developer who participates in, or facilitates, the circumvention or the contribution restrictions through consultants or professionals shall be deemed to be in breach.

V. Return of Excess Contributions

A developer or municipal candidate or officeholder or Monroe Township or Middlesex County party committee or PAC referenced in this Ordinance may cure a violation of Section 1 of this Act, if, within 30 days after the general election, the developer notifies the Township Council in writing and seeks and receives reimbursement of a contribution from the municipal candidate or Monroe Township or Middlesex County political party or PAC referenced in this Ordinance.

VI. Penalty

- (a) It shall be a breach of the terms of the Townships development agreement for a developer to: (i) make or solicit a contribution in violation of this Ordinance; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee of any candidate or holder of the public office of the Township of Monroe ; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the developer itself, would subject that entity to the restrictions of this Ordinance; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of this Ordinance; or (viii) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this Ordinance.
- (b) Furthermore, any developer who violates Section (a) ii thru viii, shown above, shall be disqualified from eligibility for future Township development agreements for a period of four calendar years from the date of the violation.

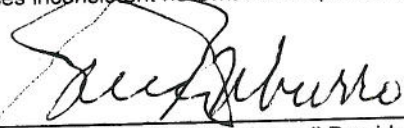
BE IT FURTHER ORDAINED that the provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

SECTION 3.

This Ordinance shall take effect immediately upon final passage and publication in accordance with the law.

SECTION 4.

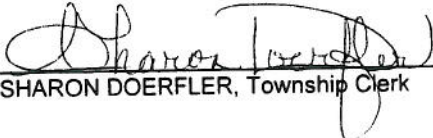
All other Ordinances or parts of Ordinances inconsistent herewith are repealed to the extent of such inconsistency.



 GERALD W. TAMBURRO, Council President

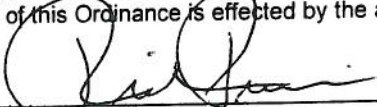
NOTICE

Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading at a meeting of the Monroe Township Council held on March 5, 2007. Said Ordinance will again be read and considered for final passage at a meeting of the Monroe Township Council to be held on April 4, 2007 at 7:30 p.m. in the Municipal Complex, 1 Municipal Plaza, Monroe Township, NJ 08831. At said time and place all persons having an interest in said Ordinance will be granted an opportunity to be heard concerning the same prior to its consideration for final passage by the Council.


SHARON DOERFLER, Township Clerk

MAYORAL APPROVAL

By virtue of the Optional Municipal Charter Law of 1950 and Chapter 3, Section 19 of the Code of the Township of Monroe, my approval of this Ordinance is effected by the affixing of my signature hereto.


RICHARD PUCCI, MAYOR

Date Signed 4-5-2007