

ORDINANCE NUMBER 02-2021

AN ORDINANCE OF THE CITY OF LAMBERTVILLE, COUNTY OF HUNTERDON, STATE OF NEW JERSEY ESTABLISHING REGULATIONS FOR THE AWARD OF PUBLIC CONTRACTS TO POLITICAL CONTRIBUTORS

WHEREAS, the City of Lambertville (the “**City**”) is a public body corporate and politic of the State of New Jersey; and

WHEREAS, the Governing Body of the City desires to amend the City Code of Ordinances (the “**Code**”) Chapter 2, Administrative Code, to add Article XIII, Public Contracts, to ensure adequate regulation of political contributions made to elected City officials; and

WHEREAS, the Governing Body has determined that such regulations are necessary to ensure public confidence in the award of public contracts to certain political contributors performing business within the City; and

WHEREAS, the Governing Body has determined that it would be in the best interest of the City to amend Chapter 2 of the Code as follows:

ARTICLE XIII PUBLIC CONTRACTS

§ 2-13 PUBLIC CONTRACTS TO CERTAIN CONTRIBUTORS.

§ 2-13.1 Prohibition on Awarding Public Contracts to Certain Contributors.

a. Any other provision of law to the contrary notwithstanding, the City, 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 professional or insurance coverage services or any other consulting 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 any City of Lambertville municipal candidate or holder of the public office having ultimate responsibility for the award of contract, or campaign committee supporting such candidate or officeholder, or to any City of Lambertville party committee, or to any political action committee that regularly engages in the support of municipal elections and/or municipal parties (PAC) 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 City or any department or agency thereof or of its independent authorities for the rendition of professional or insurance coverage services or any other consulting service shall solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to any City of Lambertville 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 City of Lambertville party committee, or to any 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 City 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" is an entity seeking or performing a public contract for professional or insurance coverage services or any other consulting services and which may be an individual including the individual's spouse, if any, and any child living at home; a person; firm; corporation; professional corporation; partnership; organization; or association. The definition of a business entity includes all principals who own five (5%) percent 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.

d. For the purpose of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be:

1. The Governing Body of the City of Lambertville and the Mayor of the City of Lambertville if the contract requires approval or appropriation from the Governing Body.
2. The Mayor of the City of Lambertville, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of the contract is appointed by the Mayor.

§ 2-13.2 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 municipal candidate for Mayor or Governing Body, or municipal party committee or PAC referenced in this section shall be deemed a violation of this section, nor shall an agreement for property, goods, or services, of any kind whatsoever, be disqualified thereby, if that contribution was made by the professional business entity prior to the effective date of this section.

§ 2-13.3 Contribution Statement by Professional Business Entity.

a. Prior to awarding any contract or agreement to procure professional services or insurance coverage services or any other consulting services, with any professional business entity, the City or any of its purchasing agents or agencies, as the case may be, shall receive a sworn statement from the professional business entity made under penalty of perjury that the bidder or offer or has not made a contribution in violation of Section 2-13.1.

b. The professional business entity shall have a continuing duty to report any violations of this section that may occur during the negotiation or duration of a contract. The certification required under this section shall be made prior to entry into the contract or agreement with the City and shall be in addition to any other certifications that may be required by any other provision of law.

§ 2-13.4 Return of Excess Contributions.

A professional business entity or City candidate or officeholder or municipal party committee or PAC referenced in this section may cure a violation of Section 2-13.1, if, within sixty (60) days after the contribution, the professional business entity notifies the Governing Body in writing and seeks and receives reimbursement of a contribution from the City candidate or municipal political party or PAC referenced in this section.

§ 2-13.5 Emergency Exceptions.

Notwithstanding the foregoing, the Governing Body recognizes that the New Jersey Legislature has provided for the occurrence of certain emergencies, and further recognizes that, therefore, the procedure outlined above, might not be capable of being achieved in the event of an emergency or similar time constraints. Thus, should such a situation arise, and time does not permit resort to this procedure, and the immediate performance of services is necessary, then an award for same may be made in accordance with the provisions of the Local Public Contracts Law relating to emergency contracts, and such rules and regulations as made be promulgated, from time to time, by the Governing Body with regard to same. No such emergency contracts, however, may be awarded without submission to the City Clerk of a certification establishing the basis for the deviation from the procedures outlined herein.

§ 2-13.6 Penalty.

a. It shall be a breach of the terms of the City of Lambertville professional service agreement for a business entity to:

1. Make or solicit a contribution in violation of this section;

2. Knowingly conceal or misrepresent a contribution given or received;
 3. Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
 4. Make or solicit any contribution on the condition or with the agreement that it will be contributed to campaign committee of any candidate or holder of the public office of the City of Lambertville;
 5. 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 business entity itself, would subject that entity to the restrictions of this section;
 6. Fund contributions made by third parties, including consultants, attorneys, family members, and employees;
 7. Engage in any exchange of contributions to circumvent the intent of this section; or
 8. Directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this section.
- b. Furthermore, any professional business entity who violates paragraph a. above shall be disqualified from eligibility for future City of Lambertville contracts for a period of four (4) calendar years from the date of the violation.

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the City of Lambertville, as follows:

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. The Governing Body hereby amends Chapter 2 of the Code as set forth herein above.
3. It is the intent of the Governing Body to incorporate the additions, amendments and/or supplements contained in this Ordinance into the Code. All of the remaining provisions in Chapter 2 of the Code shall remain unchanged and have full force and legal effect.
4. If any section, paragraph, subdivision, clause, sentence, phrase, or provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.
5. A copy of this Ordinance shall be available for public inspection at the offices of the City Clerk, and shall be provided to the Secretary of State of the State of New Jersey.
6. This Ordinance shall take effect after twenty (20) days of its final passage by the Governing Body, upon approval by the Mayor and publication as required by law.

INTRODUCTION AND FIRST READING: February 18, 2021

PUBLIC HEARING AND SECOND READING: March 18, 2021