

**ORDINANCE 2017 - 31**

**ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 10, SECTION 20 OF THE TOWNSHIP CODE, ENTITLED "AWARD OF PUBLIC CONTRACTS"**

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey, as follows:

**SECTION 10-20** of the Township Code entitled "Award of Public Contracts" be and hereby is deleted in its entirety and replaced with the following:

**10-20 AWARD OF PUBLIC CONTRACTS AND POLITICAL CONTRIBUTIONS**

**§10-20.1. Purpose.**

The purpose of this Chapter is to comply with the provisions of N.J.S.A. 19:44A-20.3 et seq.

**§10-20.2. Definitions.**

As used in this Chapter, unless otherwise noted, the terms set forth in this Chapter shall have the meanings delineated within N.J.S.A. 19:44A-20.7.

**§10-20.3. Prohibition on Awarding Public Contracts to Certain Contributors.**

- A. The Township of Barnegat, or any agency or instrumentality thereof, shall not enter into a contract having an anticipated value in excess of \$17,500.00, as determined in advance and certified in writing by the Township of Barnegat, with a business entity, except a contract that is awarded pursuant to a fair and open process, if, during the preceding one-year period, that business entity has made a contribution that is reportable by the recipient under N.J.S.A. 19:44A-1 et seq., to any municipal committee of a political party in the municipality if a member of the political party is serving in an elective public office of the Township of Barnegat when the contract is awarded, or to any candidate committee of any person serving in an elective office of the municipality when a contract is awarded.
- B. A business entity that has entered into a contract having an anticipated value in excess of \$17,500.00 with the Township of Barnegat or any agency or instrumentality thereof, except a contract that is awarded pursuant to a fair and open process, shall

**DASTI, MURPHY  
McGUCKIN, ULAKY,  
KOUTSOURIS & CONNORS**

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620 WEST LACEY ROAD  
P.O. BOX 1057  
FORKED RIVER, N.J. 08731

not make a contribution, reportable by the recipient under N.J.S.A. 19:44A-1 et seq., to any municipal committee or political party in the municipality if a member of a political party is serving in an elective office of that municipality when the contract is awarded, or to any candidate committee of any person serving in an elective public office of that municipality when the contract is awarded during the term of the contract.

- C. No such committee shall accept such a contribution from a business entity during the term of its contract with the municipality.

**§10-20.4. Certain Contributions Deemed as Contributions by Business Entity.**

When a business entity is a natural person, a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by an person or other business entity having an interest therein shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by: all principals, partners, officers, or directors of the business entity or their spouses; any subsidiaries directly or indirectly controlled by the business entity; or any political organization organized under Section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee, shall be deemed to be a contribution by the business entity.

**§10-20.5. Return of Excess Contributions.**

If a business entity makes a contribution that would cause it to be ineligible to receive a public contract, or in the case of a contribution made during the term of a public contract, that would constitute a violation of the Pay to Play Acts, the business entity may request in writing within sixty (60) days of the date on which the contribution was made that the recipient thereof repay the contribution and, if repayment is received within those sixty (60) days, the business entity would again be eligible to receive a contract, or would no longer be in violation, as appropriate.

**§10-20.6. Public Exigency.**

Nothing contained in this Chapter shall be construed as prohibiting the awarding of a contract when the public exigency requires the immediate delivery of goods or performance of emergency services.

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§10-20.7. **Duty to Report Contributions.**

Prior to awarding any contract, except a contract that is awarded pursuant to a fair and open process, the Township of Barnegat shall require the business entity to which the contract is to be awarded to provide a written certification that it has not made a contribution that would bar the award of a contract pursuant to this Chapter. A business entity shall have a continuing duty to report to the Election Law Enforcement Commission any contributions that constitute a violation of this Chapter that are made during the duration of a contract.

§10-20.8. **Violations; Civil Penalties.**

Violations of this Chapter shall result in penalties as prescribed with N.J.S.A. 19:44A-20.10 and N.J.S.A. 19:44A-20.11.

**SECTION 2.** All ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

**SECTION 3.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 4.** This Ordinance shall take effect upon publication in an official newspaper of the Township, as required by and in conformance with law.

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**NOTICE**

**NOTICE IS HEREBY GIVEN** that the foregoing Ordinance was introduced and passed by the Township Committee of the Township of Barnegat on first reading at a meeting held on the **13th day of November, 2017 at 6:30 p.m.** The Ordinance will be considered for second and final reading at a meeting of the Township Committee which is scheduled for the **5th day of December, 2017 at 6:30 p.m.**, or as soon thereafter as the matter may be reached, at the Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey, at which time the public is invited to ask questions, raise objections, or provide public comment with regard to the proposed adoption of this Ordinance.

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**MICHELE RIVERS, RMC**  
Municipal Clerk

**CERTIFICATION**

I, Michele Rivers, Municipal Clerk of the Township of Barnegat, County of Ocean, State of New Jersey do hereby certify by my hand and seal that the foregoing ordinance, namely Ordinance 2017-31 was introduced and passed on first reading at a meeting held on the 14th day of November 2017, and finally adopted by the Township Committee of said Township after public hearing at their regular meeting held on the 5<sup>th</sup> day of December 2017 at the Municipal Complex, 900 West Bay Avenue, Barnegat, New Jersey.

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Michele Rivers, RMC  
Municipal Clerk

Prepared by:

**DASTI, MURPHY  
McGUCKIN, ULAKY,  
KOUTSOURIS & CONNORS**

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