

Ordinance 2023-19

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**AN ORDINANCE TO REPEAL ARTICLE 2-59, ENTITLED
“AWARDING OF PUBLIC PROFESSIONAL SERVICE CONTRACTS,”
OF PART 4, “ADMINISTRATIVE POLICIES AND PROCEDURES,”
OF CHAPTER 2, “ADMINISTRATION,” OF “THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF HIGHTSTOWN.”**

WHEREAS, pursuant to Ordinance No. 2004-25 (the “Pay-to-Play Ordinance”), the Borough of Hightstown (the “Borough”) established local pay-to-play restrictions which prohibited the award of public contracts to business entities that have made certain political contributions during the 12-month period prior to the award of the contract, and which also prohibited business entities from making certain political contributions during the term of their contracts with the Borough; and

WHEREAS, the Pay-to-Play Ordinance was enacted pursuant to the authority prescribed by N.J.S.A. 40A:11-51; and

WHEREAS, the Pay-to-Play Ordinance was codified at Article 2-59, entitled “Awarding of Public Professional Service Contracts,” of Part 4, “Administrative Policies and Procedures,” of Chapter 2, “Administration,” of “The Revised General Ordinances of the Borough of Hightstown” (also referenced as the “Borough Code”); and

WHEREAS, pursuant to P.L. 2023, c.30, known as the “Elections Transparency Act” (the “Act”), significant changes were made to New Jersey’s pay-to-play laws; and

WHEREAS, Section 37 of the Act repealed N.J.S.A. 40A:11-51, which previously authorized governmental entities to adopt pay-to-play regulations that are more restrictive than the State regulations; and

WHEREAS, pursuant to the Act, the new State pay-to-play regulations preempt all local pay-to-play restrictions; and

WHEREAS, following the State Legislature’s adoption of the Act, the New Jersey Department of Community Affairs, Division of Local Government Services, issued Local Finance Notice (LFN) 2023-14 on August 8, 2023 (the “LFN”); and

WHEREAS, the LFN recommends that, given the State’s preemption of local pay-to-play restrictions with the enactment of the Act, local pay-to-play ordinances that were adopted pursuant to the authority previously contained in N.J.S.A. 40A:11-51 should, as a matter of housekeeping, be repealed; and

WHEREAS, given the above, the Mayor and Council of the Borough deem it to be in the best interests of the Borough to repeal Article 2-59, "Awarding of Public Professional Service Contracts," of the Borough Code in its entirety.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Mayor and Council of the Borough of Hightstown, in the County of Mercer and State of New Jersey, that Article 2-59, entitled "Awarding of Public Professional Service Contracts," of Part 4, "Administrative Policies and Procedures," of Chapter 2, "Administration," of "The Revised General Ordinances of the Borough of Hightstown" is hereby repealed in its entirety, and shall be of no further force and effect.

BE IT FURTHER ORDAINED, that all other provisions of Chapter 2 of the Borough Code which are not referenced in this Ordinance shall remain unaffected/unchanged and remain in full force and effect.

BE IT FURTHER ORDAINED, that all parts and provisions of any Ordinance which are inconsistent with the provisions of this Ordinance shall be repealed to the extent of such inconsistency.

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.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon final passage and publication in accordance with the law, following the required twenty (20) day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).

Introduced: December 4, 2023

Adopted: December 18, 2023

ATTEST:


MARGARET RIGGIO
MUNICIPAL CLERK


SUSAN BLUTH
MAYOR