



Redevelopment Pay-to-Play Reform Step by Step Guide



STEP 1: Research

Find out if your town has already adopted a redevelopment pay-to-play ordinance, or any other pay-to-play policies. You can do this by calling your Municipal Clerk and asking them, you can also file an Open Public Records ("OPRA") request.

To file a OPRA request, obtain a copy of the OPRA form from your municipal clerk. Think about what documents you would need to answer any questions relating to your presentation. Note that a request must be made for documents that exist, a clerk is not required to provide information or to create a new document. The clerk has seven days to respond to your request

Here is a sample of the documents you would ask for in an OPRA request relating to a Redevelopment Pay-to-Play Reform Law:

1. Any ordinance, resolution, executive order, or any other policy prohibiting contributions by business entities performing or entering into redevelopment agreements, i.e. a Redevelopment Pay-to-Play Policy.
2. Any ordinance, resolution, executive order, or any other policy prohibiting contributions by business entities performing or entering into professional services, i.e. a Pay-to-Play ordinance.
3. A list of all business entities and individuals that have entered into redevelopment agreements with the municipality in the last 5 years, and any currently under contract.

STEP 2: Get insider tips to increase chances of adoption.

Free online class & coaching will prepare you to make your proposal.

Take the free "Citizen Legislator" class which teaches you how to successfully gain adoption of a law at thecitizenscampaign.org/citizen_legislator.



Contact Renee at The Citizens Campaign for any assistance or to request a coach: Renee@thecitizenscampaign.org or (732) 548-9798 x9.



STEP 3: Organize and Empower!

Recruit others & build support

Invite your friends, family, and colleagues to join you in the effort to improve the redevelopment process in your community. Organize a meet-up, coffee klatch, or conference call and The Citizens Campaign team will teach you and your friends how to make a successful presentation to your local governing body.

STEP 4: Make a Proposal

Suggested Presentation Statement

Once you've finished your research and organized your neighbors and friends, you are ready to make a presentation. Download the model ordinance from The Citizens Campaign's best practices menu. Pick a date and notify the media you are making a presentation and proposal to the council. Send an email to your local officials and the municipal clerk with a copy of the model ordinance, any supplementary materials, as well as the date you will be making the presentation. Make sure to copy The Citizens Campaign on this email.



NOTE: If your town has already adopted a pay-to-play ordinance for professional service contracts, it would be good to thank them for adopting it, and note that this policy builds on what they have already done.

Sample Presentation Statement

Hello, my name is _____ and I am a citizen of _____ and I live at _____.

I am a participant in The Citizens Campaign, a non-partisan organization that teaches citizens to exercise a no-blame approach and offer constructive solutions to help their towns and school districts work better and cost less.

I am here tonight to present a model ordinance developed by The Citizens Campaign's Law and Policy Task Force prohibiting redevelopment contracts and permits from being awarded to individuals or businesses that made significant donations to the officials in charge of approving them. I have sent all the members of the Governing Body a copy of the model ordinance, as well as a memorandum which describes how the ordinance works. I will provide copies for members of the press and public as well.

For those who are not familiar, pay-to-play is the practice in which large campaign contributions are traded for lucrative government contracts. In the case of redevelopment, New Jersey has seen large-scale redevelopment projects become subject to political influence particularly

through the use of campaign contributions. Under the state redevelopment law, local officials have the authority to exercise eminent domain, award tax abatements, and other financial benefits to developers performing redevelopment work.

The ordinance I am proposing is designed to prevent the type of pay-to-play contracting that can undermine the redevelopment process. As we are all looking for ways to improve our city/town it is important that the public feel confident in the decisions made by their appointed and elected officials. Projects that are approved for redevelopment can affect our environment, our economy, and the overall characteristic of our city/town so it is very important we ensure that all decisions are made in the public's best interest.

The ordinance I am proposing helps ensure that these redevelopment decisions are reached through a fair and impartial process by severing the link between redevelopment agreements and political contributions.

The ordinance requires redevelopers to make sworn statements that they are acting within the law. Donors are also given the chance to become eligible for redevelopment again upon the reimbursement of any monies given in violation of the ordinance. By adopting this ordinance, we can make sure that our city/town's development is done solely in the public's best interests.

Redevelopment decisions have a profound impact on the quality of life of our citizens and it is critical that they be made based on the public interest, not as a reward to big contributors and politically connected players.

Therefore, I respectfully ask that you take a leadership role and adopt this important reform.

I thank you in advance for consideration of this ordinance.



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MEMO

Re: Redevelopment Pay-to-Play Reform
By: The Citizens Campaign Law and Policy Task Force

In 2005, in the US Supreme Court's ruling in *Kelo v. New London*, local governments were granted expanded powers to use eminent domain. Towns became able to justify eminent domain for economic growth and not just "public use." Considering the significance of this ruling, it became imperative that municipalities established guidelines to prevent political influence from becoming a determining factor when weighing whether to use eminent domain.

Using the framework of its "pay-to-play" model law, The Citizens Campaign developed a model ordinance establishing pay-to-play regulations applicable to those business entities seeking to enter into redevelopment agreements with public entities.

Redevelopment projects can have a major impact on a municipality's future. They affect the environment, the economy, and the overall quality of life in a city or town. Designating an area in need of redevelopment gives the municipality the power to use eminent domain. It is important to ensure that the decisions made in exercising this power, be in the best interests of the public, and not as a reward to big contributors and politically connected players.

The Citizens Campaign's model ordinance would prohibit the municipality from entering into a redevelopment agreement with any business or individual who made certain political contributions. Additionally, any professionals or lobbyists hired in connection with the developer's proposal, would also be barred from making donations during the term of their contract.

By adopting The Citizens Campaign's model ordinance, a municipality can ensure that its redevelopment plan is moving forward with the best interests of its citizens as its primary consideration.

When a redevelopment contract is awarded to a developer that made large campaign contributions, the integrity of the entire project is jeopardized. It is important to avoid any appearance of impropriety, especially when these decisions can have such long lasting effects on the character of a municipality.

The ordinance outlines ways that developers can cure their actions in order to regain eligibility for redevelopment contracts. Failure to cure a violation would result in a breach of contract – which does not mean the project ends – it would simply allow the town to impose a penalty of its choosing – such as monetary fines, public improvements, or other concessions.

It also requires developers to file annual disclosure statements, and to submit signed statements stating that they never made any such illegal contributions to the public officials.



A MODEL ORDINANCE FOR REDEVELOPMENT ("PAY-TO-PLAY") REFORM

Be it Ordained by the Mayor and Council of _____, County of _____, and State of New Jersey, as follows.

Preamble

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 redevelopment agreement; and

WHEREAS, political contributions from developers entering into agreements for redevelopment 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 redevelopment, including but not limited to redevelopment decisions on tax abatements, zoning densities, publicly funded infrastructure improvements, and acquisition of property rights pursuant to eminent domain; and

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* provides a mechanism to empower and assist local governments in efforts to promote programs for redevelopment; and

WHEREAS, N.J.S.A. 40A:12A-8 allows municipalities or a designated redevelopment entity to enter into agreements with redevelopers for planning, replanning, construction or undertaking of any project or redevelopment work without public bidding and at such prices and upon such terms as it deems reasonable within areas designated for redevelopment; and

WHEREAS, N.J.S.A. 40A:12A-11 provides that redevelopment entities are instrumentalities of the municipality; 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, the (Municipality) has previously or may declare certain areas of the (township/borough/city) to be Areas in Need of Redevelopment under the Local Redevelopment and Housing Law, and has or may adopt a Redevelopment Plan; and

WHEREAS, given the potential of negotiating with private parties or redevelopers and the entering into agreements with such redevelopers without a formal public bidding process, as permitted by the Local Redevelopment and Housing Law, it is necessary to establish certain

limitations on political contributions which may undermine public confidence in any redevelopment effort; and

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

THEREFORE, be it ordained by the Governing Body of the (Municipality), in the County of (County) and State of New Jersey, that the policy of the (Municipality) will be to create such a regulation which states that any entity or individual seeking to enter into a redevelopment agreement or amendment thereto or is otherwise seeking to obtain rights to develop pursuant to a redevelopment agreement, who makes political contributions to (Municipality) elected officials and local and county political committees, will be ineligible to receive such agreements, or rights from the (Municipality).

Section 1: Redevelopment Agreements Under the Local Redevelopment and Housing Law

I. Prohibition of entering into or amending redevelopment agreements with certain contributors

- (a) Any other provision of law to the contrary notwithstanding, the (Municipality) 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, amend an agreement, or otherwise contract with any redeveloper for the planning, replanning, construction or undertaking of any redevelopment project, including the acquisition or leasing of any public property in conjunction with the redevelopment of any area within the (Municipality) pursuant to the Local Redevelopment and Housing Law, if that redeveloper 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 (Municipality) candidate or holder of public office within the (Municipality) having responsibility for arranging, entering into, or approving the redevelopment agreement, or for appointing those who enter into the agreement on behalf of the (Municipality) or; to any municipal political campaign committee, or to any (County) party committee, or to any political action committee which regularly engages in the support of municipal elections and/or municipal parties or which engages in the support of (Municipality) municipal campaigns (PAC). For purposes of this section, the "applicable time period" shall be defined as the time period between the date that the property which is the subject of the redevelopment project has been included in a memorializing resolution adopted by the governing body directing the planning board to conduct a preliminary investigation to determine if the site is in need of redevelopment pursuant to and in accordance with the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.*, and the date of entering into the redevelopment agreement.
- (b) All redevelopment agreements or amendments thereto entered into by the (Municipality) shall contain a provision prohibiting redevelopers as defined in section (c) to solicit or make any contribution of money or pledge of a contribution including in-kind contributions, to any (Municipality) candidate or holder of public office within the (Municipality) having responsibility for arranging, entering into, or approving the redevelopment agreement, or for appointing those who enter into the agreement on behalf of the (Municipality) or; to any (Municipality) political campaign committee, or to

any (Municipality) or (County) Party Committee, or to any political action committee which regularly engages in the support of municipal elections and/or municipal parties or which engages in the support of (Municipality) municipal campaigns (PAC), between the time of first communication between that redeveloper and the municipality regarding a redevelopment project and the later of the termination of negotiations or the completion of all matters specified in the redevelopment agreement.

- (c) As defined in N.J.S.A. 40A:12A-3, a "redeveloper" means any person, firm, corporation or public body that shall enter into or propose to enter into a contract with a municipality or other redevelopment entity for the redevelopment or rehabilitation of an area in need of redevelopment, or an area in need of rehabilitation, or any part thereof, under the provisions of this act, or for any construction or other work forming part of a redevelopment or rehabilitation project.. For the purposes of this ordinance the definition of a redeveloper 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 redeveloper. 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 redevelopment agreement under the Act shall be:
1. The (Municipality) Council if the redevelopment agreement requires approval or appropriation from the Council or a public officer who is responsible for arranging and entering into the redevelopment agreement if that public officer is appointed by Council; or
 2. The Mayor of (Municipality) if the redevelopment agreement requires the approval of the Mayor or a public officer who is responsible for arranging and entering into the redevelopment agreement if that public officer is appointed by the Mayor; or
 3. A designated redevelopment entity, if the redevelopment agreement requires the approval of the redevelopment entity.

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 redeveloper to any (Municipality) candidate for Mayor or (Municipality) Council or (Municipality) political campaign committee shall be deemed a violation of this section nor shall an agreement for redevelopment projects of any kind whatsoever be disqualified thereby if that contribution or agreement was made by the redeveloper prior to the effective date of this section.

III. Notice given by Municipality; Sworn Statement of Redeveloper

- (a) It shall be the municipality's continuing responsibility to give notice of this Section when the municipality gives notice of redevelopment pursuant to 40A:12A-6 and when the municipality adopts a resolution directing the planning board to prepare a redevelopment plan and at the time that the municipality adopts the ordinance to implement the redevelopment plan.
- (b) Prior to arranging and entering into the redevelopment agreement with any redeveloper, the (Municipality) or any of its purchasing agents or agencies or independent authorities, as the case may be, shall receive a sworn statement from the

redeveloper that the redeveloper has not made any contribution in violation of Section 1(a) above. Furthermore, the redeveloper shall have a continuing duty to report any violations of this ordinance that may occur while arranging and entering into the redevelopment 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 redevelopers as well as professionals, consultants or lobbyists contracted or employed by the business entity ultimately designated as the redeveloper to provide services related to the:
- 1) Lobbying of government officials in connection with the examination of an area and its designation as an area in need of redevelopment or in connection with the preparation, consultation and adoption of the redevelopment plan.
 - 2) Obtaining the designation or appointment as redeveloper
 - 3) Negotiating the terms of a redevelopment agreement or any amendments or modifications thereto; and
 - 4) Performing the terms of a redevelopment 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 redeveloper who participates in, or facilitates, the circumvention of the contribution restrictions through consultants or professionals shall be deemed to be in breach.

V. Return of Excess Contributions

A redeveloper or municipal candidate or officeholder or municipal or 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 date on which the applicable ELEC Report is published, the redeveloper notifies the Municipal Council in writing and seeks and receives reimbursement of a contribution from the municipal candidate or municipal or county political party or PAC referenced in this ordinance.

VI. Penalty

- (a) It shall be a breach of the terms of the (Municipality) redevelopment agreement for a redeveloper 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 (Municipality); (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 redeveloper 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 redeveloper who violates (a) ii-viii shall be disqualified from eligibility for future (Municipality) redevelopment 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.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect immediately upon final passage and publication in accordance with the law.

BE IT FURTHER ORDAINED, that all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 2. Effective Date:

This ordinance shall become effective on _____.

Mayor

Municipal Clerk

Introduced:
Adopted:
Veto or Approval:
Final Publication: