ORDINANCE NO. 2016-01
(REVISED)

AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER IX, CONFLICTS OF INTEREST
OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF BELMAR,
IN THE COUNTY OF MONMOUTH, NEW JERSEY

WHEREAS, on July 28, 2004, the Borough of Belmar enacted what is known as the "Belmar Pay-to-Play Reform Law" which ordinance imposed limits on campaign contributions and related campaign financing restrictions and restrictions upon elected officials; and

WHEREAS, the Mayor and Borough Council believe that certain restrictions have been shown to be too restrictive upon elected officials in the discharge of their duties to the public and wish to change those provisions.

NOW, THEREFORE, BE IT ORDAINED by the Borough of Belmar, County of Monmouth, New Jersey, that Chapter IX, Conflicts of Interest, of the Revised General Ordinances of the Borough of Belmar, are hereby amended and supplemented as follows:

Section I. Chapter IX, Conflicts of Interest ***shall be deleted in its entirety and replaced with the following:***

CHAPTER IX CONFLICTS OF INTEREST

9-1 DEFINITIONS.

Any term not defined herein shall have the meaning ascribed to it in Sections 4-10, 4-19 et seq. and 9-6 et seq. of the Borough Ordinances, as they may be amended and supplemented from time-to-time. Terms not defined shall have their usual and customary meanings, unless a different meaning clearly appears from the context. The following terms whenever used or referred to in this section shall have the following respective meanings, unless a different meaning clearly appears from the context:

Alcoholic beverage licensee, Belmar shall mean any individual or entity who owns or is negotiating for the purchase of, or has an application pending for a license or permit for the sale of alcoholic beverages within the Borough of Belmar, whether or not the license is active, and any person or entity that is the owner of any property on which the license is currently active, or any property to which an application is pending with the Borough for the place-to-place transfer of the license. In the case of any alcoholic beverage licensee who is an individual, the term shall also include the individual's spouse, if any, and any child living at home, as well as any entity by whom any of them are employed or in which any of them has an ownership interest in excess of five (5%) percent. In the case of any alcoholic beverage licensee that is an entity, the term shall also include each and every principal who owns any interest in the said entity, or any parent or subsidiary of the entity, and their spouses, if any, and any child living at home; and any employee of the entity;

Alcoholic beverage licensee, other shall mean any individual or entity who owns or is negotiating for the purchase of, or has an application pending for a license or permit for the sale of alcoholic beverages in a municipality other than the Borough and at premises located within one-quarter (1/4) mile of any border of the Borough of Belmar, or in the case of a municipality that borders the Borough of Belmar across the Shark River or any inlet or channel thereof, at premises located within one-quarter (1/4) mile of the Shark River or its inlet or channels, and any person or entity that is the owner of any property on which the said license is currently active. In the case of any alcoholic beverage licensee who is an individual, the term shall also include the individual's spouse, if any, and any child living at home, as well as any entity by whom any of them are employed or in which any of them has an ownership interest in excess of five (5%) percent. In the case of any alcoholic beverage licensee that is an entity, the term shall also include each and every principal who owns any interest in the said entity, or any parent or

subsidiary of the entity, and their spouses, if any, and any child living at home; and any employee of the entity.

Belmar campaign contribution shall mean any contribution, whether in the form of money, free service or pledge, including without limitation any in-kind contributions, or purchases of tickets, advertisements or the like, directly or indirectly, to any campaign committee or election fund of any candidate for, or holder of any elected office of the Borough, or to any municipal or party committee or political club or organization within the Borough; the term "directly or indirectly" as used herein shall further mean and include any campaign contributions made through intermediaries or third-parties for the purpose of concealing the source of the contribution(s). Borough shall mean the Borough of Belmar as a municipal entity, and any elected official, municipal officer, municipal employee, or any agent, department, board or commission of the Borough of Belmar.

Campaign contribution shall mean any Belmar campaign contribution.

Development, major shall mean any individual or entity who makes any application to the Borough's Planning Board for any subdivision of a property or properties into more than two (2) lots, or for major site plan approval; or any application to the Borough's Zoning Board of Adjustment for any use variance approval; or who owns or is the contract purchaser of any property that is the subject of any such application, or who owns, or is the contract purchaser of, a property located within a designated redevelopment area that has been specifically designated by the Belmar Planning Board as being in need of redevelopment; or who engages directly or indirectly in negotiations with the Borough relating to, or has in fact entered into, a master or presumptive redeveloper's agreement pursuant to any redevelopment plan or the Municipal Land Use Law, or who owns or is the contract purchaser of, any property that is the subject of, or would directly be affected by a proposed change in zoning or of the master plan, and in the case of a major developer who is an individual, his or her spouse and any child living at home, and any entities of which any of them are principals holding a five (5%) percent or greater interest; and in the case of a developer that is an entity, the term shall also include each and every principal of the said entity who has an ownership interest in excess of five (5%) percent in the entity, or in any parent or subsidiary of the entity, and their spouses, if any, and any child living at home.

Development matter shall mean any application for development pending before the Borough Planning Board or Zoning Board of Adjustment of the Borough, any application or proposal to change the Borough's zoning regulations or master plan, or any proposed development pursuant to a redevelopment plan, or any master or presumptive redeveloper's agreement. With respect to a major developer, the term relating to a development matter shall mean that the major developer is the applicant, owner or contract purchaser of property that is the subject of an application for development pending before the Borough Planning Board or Zoning Board of Adjustment of the Borough, or of any application or proposal to change the Borough's zoning regulations or master plan, or is the presumptive or master redeveloper, owner or contract purchaser of property located within a designated redevelopment area that has been specifically designated by the Belmar Planning Board as being in need of redevelopment. With respect to a minor developer, the term relating to a development matter shall mean that the minor developer is the applicant, owner or contract purchaser of property that is the subject of an application for development pending before the Borough Planning Board or Zoning Board of Adjustment of the Borough. With respect to a development professional, the term relating to a development matter shall mean that the development professional has rendered or is rendering professional services for a minor or major developer in connection with that development matter.

Development, minor shall mean any individual or entity who is not a major developer, as defined herein, but who makes any application to the Borough's Planning Board or Zoning Board of Adjustment for any bulk variance relief, for a subdivision of a property into not more than two (2) lots, or for conditional use or minor site plan approval; or who owns or is the contract purchaser of any property that is the subject of any such application; or who owns, or is the contract purchaser of, a property located within a designated redevelopment area but which property has not been specifically designated as being in need of redevelopment; and in the case of a minor developer who is an individual, his or her spouse and any child living at home, and any entities of which any of them are principals holding a five (5%) percent or greater interest;

and in the case of a developer that is an entity, the term shall also include each and every principal of the said entity who has an ownership interest in excess of five (5%) percent in the entity, or in any parent or subsidiary of the entity, and their spouses, if any, and any child living at home.

Development professional shall mean any licensed professional, including but not limited to attorneys, architects, engineers, surveyors and planners, or any entity that provides such professional services, who is representing a minor or major developer or who has performed professional services for a minor or major developer relating to a development matter, and any principal owning not less than a five (5%) percent interest in the entity.

ELEC Commission shall mean the New Jersey Election Law Enforcement Commission or any State agency, commission or body having similar regulatory and/or enforcement functions under the ELEC Laws.

ELEC Law(s) shall mean the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. and the related regulations under N.J.A.C. 19:25-1.1, et seq. as they may be amended and supplemented from time-to-time.

Elected office except where described more narrowly in this section, shall mean any governmental position which requires being elected by the voters within the Borough. A candidate for elected office shall mean a person who has filed, or on whose behalf has been filed, a petition with the Clerk of any County, for the purpose of appearing on the ballot, whether in a primary, general or municipal, for an elected office.

Elected official shall mean any person who holds a position in the Borough of Belmar which requires being elected by the voters of the Borough of Belmar.

Entity shall mean any corporation, professional corporation, joint venture, general or limited partnership, trust or limited liability company, or subsidiary or parent of any of the foregoing. Ineligible official shall mean any elected official or department head of the Borough of Belmar who has a "conflict of interest" pursuant to Chapter IX of the Revised Development Regulations of the Borough of Belmar.

Municipal official or municipal employee shall mean any person, other than an elected official, who works for or holds a position with the Borough of Belmar.

Redevelopment plan shall mean any plan, or amendment thereto, adopted by ordinance of the Mayor and Council pursuant to and in accordance with Redevelopment and Housing Law, Chapter 79, P.L. 1992, including without limitation the Seaport Redevelopment Plan adopted pursuant to Borough Ord. 2003-18 and/or any successor or amendment thereto.

Vendor shall mean any individual person or entity who either negotiates, bids or otherwise seeks to enter into an agreement to purchase goods or services as defined herein. In the case of any vendor who is an individual person, the term shall also include the individual's spouse, if any, and any child living at home, as well as any entity by whom any of them are employed or in which any of them have an ownership interest in excess of five (5%) percent. In the case of any vendor who is an entity, the term shall also include each and every principal of the said entity who has an ownership interest in excess of five (5%) percent in the entity, or any parent or subsidiary of the entity, and their spouses, if any, and any child living at home.

9-2 DISCLOSURE OF PERSONAL INTEREST.

Any elected official, municipal official or municipal employee who has or may have any interest, direct or indirect, in any measure, indebtedness or action and who participates in discussion with or gives an official opinion to the Borough Council or to any municipal agency, board or authority with respect thereto shall disclose on the records of the Borough Council or agency, board or authority the nature and extent of such interest. Such personal interests shall be described in writing and filed with the Borough Clerk, and shall be subject to inspection pursuant to the Open Public Records Law. (Ord. No. 1991-1 § 9-1; Ord. No. 2004-14 § 2; Ord. No. 2005-19 § III)

9-3 PROHIBITED ACTIVITIES.

a. No municipal official or municipal employee shall engage in political activity during his or her hours of duty with respect to any candidate.

b. No elected official, municipal official or municipal employee shall use or permit others to use the facilities of the Borough for the preparation, storage or distribution of campaign material.

c. Nothing in this chapter shall be construed to prevent an elected official from campaigning, or engaging in political activity, at any time.

d. No elected official, municipal official or municipal employee shall use or permit others to use the facilities of the Borough for the conduct of private business. With the approval of the Mayor and Council, nonprofit public service and civic organizations shall be allowed to use such Borough facilities as may be deemed appropriate and as may be permitted pursuant to law.

e. No elected official, municipal official or municipal employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the Borough, nor shall he/she use such information to advance the financial or other private interest of himself/herself or others. The Borough Council may, as it deems appropriate, determine by resolution what information shall be deemed confidential for the purpose of this subsection.

9-4 BELMAR CONTRIBUTION LIMITS AFFECTING VENDOR ELIGIBILITY.

a. Campaign contribution limits affecting the eligibility of vendors and professional vendors, pursuant to Section 4-19, to enter into or be paid pursuant to agreements to purchase goods or services and agreements to purchase professional services are as follows:
   1. The maximum combined amount of Belmar campaign contributions that may be made by a vendor during any calendar year shall not exceed three hundred ($300.00) dollars and this limit shall include all contributions made to each candidate for elected office from the same party or campaign ticket and without regard to whether the said candidates maintain a joint campaign account.
   2. The maximum combined amount of Belmar campaign contributions that may be made by a professional vendor during any calendar year shall not exceed three hundred ($300.00) dollars, and this limit shall include all contributions made to each candidate for elected office from the same party or campaign ticket and without regard to whether the said candidates maintain a joint campaign account.

b. Campaign contribution limits affecting the eligibility of elected officials to participate in or vote on specific matters involving development matters, Belmar alcoholic beverage licensees or other alcoholic beverage licensees, are as follows:
   1. Any candidate for Belmar elected office who receives:
      a. A Belmar campaign contribution in excess of three hundred ($300.00) dollars from any minor developer or development professional during a single calendar year shall have a conflict of interest, and shall be ineligible to vote or participate in matters relating to the said minor developer or development professional as provided in Section 9-4;
      b. Any Belmar campaign contribution from any major developer shall have a conflict of interest, and shall be ineligible to vote or participate in matters relating to the said major developer as provided in 9-4.
   2. Any candidate for Belmar elected office who receives:
      a. Any Belmar campaign contribution from any Belmar alcoholic beverage licensee during a single calendar year, shall have a conflict of interest, and shall be ineligible to vote or otherwise participate in matters involving the said Belmar alcoholic beverage licensee as provided in Section 9-4;

b. Any Belmar campaign contribution from any other alcoholic beverage licensee shall have a conflict of interest, and shall be ineligible to vote or otherwise participate in matters involving the said other alcoholic beverage licensee as provided in Section 9-4.

3. The limits set forth in Section 9-6. shall apply jointly to all candidates for any elected office for the same party or on the same ticket, unless the said candidates maintain entirely separate election fund accounts, and run entirely uncoordinated campaigns.

9-5 REPORTING OBLIGATIONS OF CANDIDATES FOR ELECTED OFFICE.

a. Each and every candidate for any elected office within the Borough of Belmar shall file with the Borough Clerk a true and correct copy of each and every campaign finance report they are required to file with the New Jersey Election Law Enforcement Commission, and shall do so not later than the date that the said report is due to be filed with the New Jersey Election Law Enforcement Commission.

b. Each and every campaign committee for a candidate for any elected office within the Borough of Belmar shall, in addition to the requirements of Section 9-8a., file with the Borough Clerk a true and correct copy of each and every campaign contribution received which is less than the amount required to be reported to the ELEC Commission and shall be filed no later than the date that the said report is due to be filed with the New Jersey Election Law Enforcement Commission. Said information is to be filed with the Borough Clerk on the same reporting form used to report campaign contributions to the ELEC Commission. Each filing shall also be accompanied with the supplemental certification required by Section 9-8b.

9-6 CURING VIOLATIONS; RETURN OF EXCESS CONTRIBUTIONS.

Any vendor, major developer, minor developer, development professional, Belmar alcoholic beverage licensee, and any candidate or elected official may cure a campaign contribution made in excess of the limits set forth in Sections 9-5 of this Chapter as follows:

a. Any vendor, major developer, minor developer, development professional, Belmar alcoholic beverage licensee and other alcoholic beverage licensee may cure a campaign contribution made in excess of the limits set forth in Sections 9-5 or 9-6 of this Chapter, and any candidate or elected official may cure any such contribution, if, within thirty (30) days after the receipt of the campaign contribution, the said vendor, major developer, minor developer, development professional, Belmar alcoholic beverage licensee and other alcoholic beverage licensee, or the candidate or elected official who originally received the said contribution, notifies the Chief Financial Officer in writing that it has received a reimbursement or made a reimbursement in the case of a candidate or elected official, of a contribution in excess of that allowed in Sections 9-5 or 9-6, and by attaching a true and correct copy of the check received in reimbursement, or issued in reimbursement in the case of a candidate or elected official.

b. After the effective date of Ordinance No. 2011-06, being April 27, 2011, any candidate or elected official who has received written notification, or has been notified during the public comment section of a public meeting, of the receipt of a contribution in excess of that allowed in Sections 9-5 or 9-6 or is in violation of any other provision of Chapter IX may cure said violation within thirty (30) days of such notice by reimbursing the contribution as provided for in Section 9-9a. and/or complying with any other provision of Chapter IX.

c. Any candidate or elected official who has received any campaign contribution in excess of that allowed in Sections 9-5 or 9-6 or is in violation of any other provision of Chapter IX at any time prior to the effective date of Ordinance No. 2011-06, being April 27, 2011, may cure such a violation within thirty (30) days after the effective date of Ordinance No. 2011-06 being not later than May 27,

2011, by reimbursing the contribution as provided for in Section 9-9a. and/or complying with any other provision of Chapter IX.

9-7 PENALTY, INELIGIBILITY OF ANY ELECTED OFFICIAL.

Any campaign committee for a candidate for any elected office within the Borough of Belmar which has not filed the required reports and supplemental certifications required by Section 9-8 shall be fined two hundred fifty ($250.00) dollars.

SECTION II. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION III. All Ordinances or parts of ordinances inconsistent with or in conflict with the ordinance are hereby repealed to the extent of such inconsistency.

SECTION IV. This Ordinance shall take effect 20 days after final passage, adoption and publication according to law.