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MAY 22 2012
CITY CLERK

GENERAL ORDINANCE NO. 6, 2012

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 7, PERSONNEL POLICIES AND PROCEDURES OF THE *TERRE HAUTE CITY CODE* TO IMPLEMENT A NEPOTISM POLICY.

WHEREAS, pursuant to Indiana House Enrolled Act No. 1005, effective July 1, 2012, all units of local government must implement and adopt a nepotism policy consistent with the provisions of Indiana Code § 36-1-20.2, *et seq.* and § 36-1-21, *et seq.*; and

WHEREAS, the Indiana Department of Local Government Finance will not approve a local governmental unit's annual budget or any additional appropriations for the ensuing calendar year if such nepotism policy is not implemented by the local governmental unit and the mayor submits a statement verifying such policy implementation.

THEREFORE, the Common Council of the City of Terre Haute hereby ordains as follows:

SECTION 1. *Terre Haute City Code*, Chapter 2, Article 7, is hereby amended by insertion of the following Section:

Sec. 2-74 City of Terre Haute Nepotism Policy.

a. Purpose. Decisions about hiring, promoting, evaluating, awarding salary increases, job assignment, terminating employees, and the awarding of contracts for goods, services, and public works projects should be based on the qualifications, performance, and ability of the employee or contractor. Every attempt to avoid favoritism and conflicts of interest in employment related and contractual decisions instills confidence of the electorate in its government. The purpose of this policy is to prohibit certain individuals from being employed by the City of Terre Haute in a position in which a relative, as defined in this Section, provides direct supervision. Additionally, this policy regulates contracting with relatives of individuals employed by the City of Terre Haute for goods, services, and public works projects.

b. Definitions.

- (1) **Break in Employment.** Termination, retirement, or resignation of an employee from the City. A break in employment does not occur due to absence from the workplace while on a paid or unpaid leave, including but not limited to: vacation, personal days, sick or family medical leave, or worker's compensation leave, or if the employment is terminated followed by immediate re-employment by the City without loss of payroll time.
- (2) **City.** The City of Terre Haute and its boards and departments.

- (3) **Direct Line of Supervision.** An elected officer or employee who is in a position to affect the terms and conditions of another individual's employment. Such affect may include, but is not limited to, making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. Decisions and action taken by the Mayor or City Council regarding the passage of annual salary ordinances, annual budgets, and personnel policies are excluded from this definition.
 - (4) **Elected Official.** The Mayor, City Judge, City Clerk, and members of the Terre Haute City Council.
 - (5) **Employed.** An individual who works for or is appointed to any department or board of the City on a full-time, part-time, temporary, intermittent, seasonal, hourly, or contractual basis.
 - (6) **Member of the Fire Department.** The fire chief and any firefighter appointed to the Terre Haute Fire Department.
 - (7) **Member of the Police Department.** The police chief and any police officer appointed to the Terre Haute Police Department.
 - (8) **Relative.** For the purposes of this Section, the term includes any of the following:
 - (a) Spouse;
 - (b) Parent or step-parent;
 - (c) Child or step-child (includes an adopted child);
 - (d) Sister, brother, step-sister, step-brother (includes sister or brother by half-blood);
 - (e) Niece or nephew;
 - (f) Aunt or uncle;
 - (g) Daughter-in-law or son-in-law; and
 - (h) Sister-in-law or brother-in-law.
- c. Employment Policy.

- (1) Individuals who are relatives, as defined in subsection b. above, of existing employees may not be employed by the City in a position that results in one (1) relative being in the direct line of supervision of the other relative.
- (2) An individual who is employed by the City on July 1, 2012, is not subject to this nepotism policy unless the individual has a break in employment, as defined herein, with the City.
- (3) If an individual is employed by the City and the individual's relative begins serving a term of elected office, the individual may continue his/her employment with the City and retain his/her position or rank even if that individual's position or rank would be in the direct line of supervision of the individual's relative.
- (4) While an individual who is employed by the City and the individual's relative begins serving a term of elected office may continue his/her employment with the City, that individual may not be promoted to a position or rank if the new position or rank would place that individual within the direct line of supervision of the individual's relative.

d. Contracting Policy. The City may enter into or renew a contract for the procurement of goods, services, or public works projects with a relative of an elected official or a business entity in which a relative has an ownership interest if:

- (1) The elected official files with the City a full disclosure which must be:
 - (a) In writing; and
 - (b) Describe the contract or purchase to be made by the City; and
 - (c) Describe the relationship the elected official has to the individual or business entity that provides the contract for goods, services or public works projects.
- (2) The appropriate City board or department:
 - (a) Issues a certified statement that the contract amount or purchase price was the lowest amount or price bid offered; or
 - (b) Issues a certified statement detailing the reasons why the particular vendor or contractor was selected.
- (3) City satisfies all other requirements of Indiana's public purchasing (I.C. § 5-22) or public works projects (I.C. § 36-1-12) statutes.
- (4) The elected official complies with disclosure provisions of I.C. § 35-44-1-3.

e. Submission of Compliance Statements. In addition to any other disclosures or certifications required by this Section, the following actions must be taken:

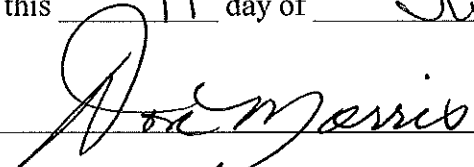
- (1) The annual report filed by the City with the State Board of Accounts under I.C. § 5-11-13-1 must include a Mayor's statement that the City has implemented a nepotism policy with regard to employment matters and the contracting for the procurement of goods and services.
- (2) Prior to December 31st of each year, each elected officer shall submit to the Mayor a certification in writing, subject to the penalties of perjury, that said officer has not violated the provisions of the City's nepotism policy with regard to employment matters and the contracting for the procurement of goods and services.

SECTION 2. All existing employment policies, employee handbooks, and all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

WHEREAS, an emergency exists for the immediate taking effect of the Ordinance, the same shall be in full force and effect on July 1, 2012, from and after its passage by the Common Council of Terre Haute, Indiana and its approval by the Mayor and publication as required by law.

Introduced by:  Neil Garrison, Councilman

Passed in open Council this 19th day of July, 2012.


 Don Morris, President

ATTEST:  Charles P. Hanley, City Clerk

Presented by me to the Mayor this 20th day of July, 2012.

 Charles P. Hanley, City Clerk

Approved by me, the Mayor, this 20th day of July, 2012.

 Duke A. Bennett, Mayor

ATTEST: Charles P. Hanley Charles P. Hanley, City Clerk

FILED


JUL 17 2012

CITY CLERK

MEMORANDUM

TO: Members of the City Council

FROM: Stephannie Gambill

DATE: July 12, 2012 

RE: *General Ordinance No. 8, 2012*

City Attorney Chou-il Lee is not available to attend the Sunshine Meeting this evening, but will be available to answer any questions regarding this ordinance upon his return on July 16 or at the Regular Meeting on July 19, 2012.

This memorandum serves to provide the rationale and a very basic explanation of this Gen. Ord. No. 8, 2012.

Indiana House Enrolled Act No. 1005 requires ALL units of government to formally implement a nepotism policy consistent with Indiana statutes. This policy will be retroactive to July 1, 2012. The ordinance before you addresses two (2) areas of nepotism: employment of relatives and the award of contracts to relatives.

This ordinance basically mirrors the Indiana statute except for the following addition: Under the definition of relative, "sister-in-law or brother-in-law" has been added to the City's definition.

With regard to employment of relatives, this policy prohibits relatives of current employees from being employed in the direct line of supervision of the current employee. The policy is effective as of July 1, 2012, and all employment relationships prior to 7/1/12 are "grandfathered" unless there is a break in employment as defined in the ordinance.

With regard to contracting, the City may not enter into or renew a contract for goods, services, or public works projects with a relative of an elected official or with a business entity in which a relative has an ownership interest unless certain conditions are met. Those conditions are detailed in Subsection 2-74 d.

Finally, the annual report filed with the State Board of Accounts (SBOA) must include a statement from the Mayor that the City has implemented this policy and prior to 12/31 of each year, each elected official must submit written certification to the Mayor that he/she has not violated the policy.

If the City fails to implement a nepotism policy and the Mayor fails to indicate in the annual report to the SBOA that such a policy has been implemented, the Department of Local Government Finance will not approve the annual budget or any additional appropriations for the ensuing calendar year.