

## ORDINANCE NO. 2012- 499

### AN ORDINANCE IMPLEMENTING 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 Town Council President does not submit a statement verifying such policy implementation.

THEREFORE, be it ordained by the Council of the Town of Battle Ground, Indiana, as follows:

SECTION 1. Be it ordained by the Council of the Town of Battle Ground, Indiana, as follows:

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 Town of Battle Ground 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 Town of Battle Ground for goods, services, and public works projects.

b. Definitions.

**Break in Employment.** Termination, retirement, or resignation of an employee from the Town. A break in employment does not occur due to absence from the workplace while on a paid or unpaid (1) 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 Town without loss of payroll time.

(2) **Town.** The Town of Battle Ground, Indiana and its boards and departments.

**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 actions taken by

(3)

the Town Council regarding the passage of annual salary ordinances, budgets, and personnel policies are excluded from this definition.

- (4) **Elected Official.** Town Clerk/Treasurer and members of the Town of Battle Ground Council.
- (5) **Employed.** An individual who works for or is appointed to any department or board of the Town on a full-time, part-time, temporary, intermittent, seasonal, hourly, or contractual basis.
- (6) **Member of the Police Department.** The police chief and any police officer appointed to the Battle Ground Police Department.
- (7) **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);  
Sister, brother, step-sister, step-brother (includes sister or brother
  - (D) by half-blood);
  - (E) Niece or nephew;
  - (F) Aunt or uncle; and
  - (G) Daughter-in-law or son-in-law.

c. Employment Policy

Individuals who are relatives, as defined in subsection (b) above, of

- (1) existing employees may not be employed by the Town 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 Town on July 1, 2012, is not subject to this nepotism policy unless the individual has a break in employment, as defined herein, with the Town.  
If an individual is employed by the Town and the individual's relative begins serving a term of
- (3) elected office, the individual may continue his/her employment with the Town 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.  
While an individual who is employed by the Town and the individual's relative begins serving a term of elected office may continue his/her

- (4) employment with the Town, 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.

- (5) The Town further finds that a single member of the legislative body cannot act for the body to make work assignments, compensation, grievances, advancement or a performance evaluation without prior authority of a majority of the body and therefore without such authority by the majority, he/she will not be in the direct line of supervision. *See [I.C. 36-4-6-11][36-5-2-9.4].*

The Town Nepotism Policy is hereby established effective July 1, 2012 by adopting the minimum requirements provisions of I.C. § 36-1-20.2, and including all future supplements and amendments thereto which become law from time to time, and making them a part hereof as if fully set out herein.

d. Contracting Policy. The Town 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 Town a full disclosure which must be:
  - (A) In writing; and
  - (B) Describe the contract or purchase to be made by the Town; 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 Town 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) Town 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.

The Town Contracting Policy is hereby established effective July 1, 2012 by adopting the minimum requirements provisions of I.C. § 36-1-21, and

(5)

including all future supplements and amendments thereto which become law from time to time, and making them a part hereof as if fully set out herein.

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 Town with the State Board of Accounts under I.C. § 5-11-13-1 must include a Town Council President's statement that the Town 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 Town Council President a certification in writing, subject to the penalties of perjury, that said officer has not violated the provisions of the Town'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 modified and amended accordingly.

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 the Town of Battle Ground Indiana and its approval by the Town Council President and publication as required by law.

PASSED, APPROVED AND ADOPTED by the Town Council of the Town of Battle Ground, Indiana on first reading this

21 day of

June , 2012.

Town Council of the Town of  
Battle Ground, Indiana:

Steve Egly  
Steve Egly, Presiding Officer

ATTEST:

Brian Brewer

Phyllis Hall  
Phyllis Hall  
Clerk/Treasurer

Becky Holladay  
Becky Holladay

Karen Pearson  
Karen Pearson

David Sturgeon  
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