

TOWN OF ST. JOHN, LAKE COUNTY, INDIANA

ORDINANCE NO. 1559

AN ORDINANCE ESTABLISHING AND ADOPTING A POLICY OF CONDUCT CONCERNING NEPOTISM IN EMPLOYMENT POLICIES AND PROCEDURES IN THE TOWN OF ST. JOHN; FURTHER ESTABLISHING AND ADOPTING A POLICY CONCERNING CONTRACTING WITH RELATIVES OF ELECTED OFFICIALS IN THE TOWN OF ST. JOHN, EACH CONSISTENT WITH THE MINIMUM REQUIREMENTS OF 2012 LEGISLATION PASSED AND APPROVED INTO LAW EFFECTIVE JULY 1, 2012, AND THERAFTER; REPEALING ALL ORDINANCES AND TOWN CODE PROVISIONS, OR PORTIONS THEREOF, IN CONFLICT HEREWITH; AND ALL MATTERS RELATED HERETO.

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana (the "Town Council"), has been informed and advised that in its 2012 Session, the Indiana General Assembly passed, and the Governor signed, HEA 1005, entitled **Nepotism; Conflict of Interest**; and

WHEREAS, the Town Council has been informed and advised that the provisions of Indiana Code §36-1-20.2, as added by P.L. 135-2012, SECTION 7, require the Town of St. John, Lake County, Indiana, a Unit of Local Government, to establish a policy concerning Nepotism; and

WHEREAS, the Town Council has been further informed and advised that the provisions of Indiana Code §36-1-21, as added by P.L. 135-2012, SECTION 8, require the Town of St. John, Lake County, Indiana, a Unit of Local Government, to establish a policy concerning contracting with relatives of Elected Officials; and

WHEREAS, the Town Council has been further informed and advised that the aforementioned provisions of newly enacted Indiana Law, namely, Indiana Code §36-1-20.2, entitled **Nepotism**, and Indiana Code §36-1-21, entitled **Contracting with a Unit**, respectively, are effective July 1, 2012; and

WHEREAS, the Town Council is informed and advised further that in each of the aforementioned new Indiana Code Chapters, the Town Council, as Legislative Body of the Town of St. John, is mandated to adopt a policy that includes, at the minimum, the requirements set forth in said aforementioned new Chapters of Indiana law; and

WHEREAS, the Town Council has been additionally informed and advised that in both of the new Indiana Code Chapters or provisions, the term "relative" is defined as a spouse, parent, step-parent, child (natural or adopted), step-child, brother, half-brother, sister, half-sister, step-brother, step-sister, niece, nephew, aunt, uncle, daughter-in-law or son-in-law; and

WHEREAS, the Town Council, being duly advised, and having given consideration to the newly promulgated and adopted Indiana Law, the mandate requirement to adopt policies that include, as a minimum, the requirements set forth in said new Chapters of Indiana law, and the mandate to comply, now concurs and agrees that it is in the best interests of the residents of the Town of St. John to adopt as its policy the minimum requirements of Indiana Code §36-1-20.2, entitled **Nepotism**, and Indiana Code §36-1-21, entitled **Contracting with a Unit**, as set forth in the new Chapters and provisions of the Indiana Code referenced herein.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA, STATES AS FOLLOWS:

SECTION ONE: That the Town Council now finds that it is required, necessary and appropriate to adopt a policy of conduct with regard to Nepotism in employment with the Town of St. John, as well as in contracting with the Town of St. John, in order to continue to provide local government services to the residents of the Town, as well as to comply with the new laws effective July 1, 2012, specified and set forth in the provisions of Indiana §36-1-20.2 and Indiana Code §36-1-21, respectively.

SECTION TWO: That the provisions of this Enabling Ordinance shall become effective for the Town of St. John July 1, 2012, and whereby the Town of St. John shall establish hereby a **Nepotism Policy** and a **Contracting with a Unit Policy**, that complies with the minimum requirements of Indiana Code §36-1-20.2 (hereinafter "**Nepotism Policy**"), as well as Indiana Code §36-1-21 (hereinafter "**Contracting with the Unit by a Relative Policy**"). The Town Council further decrees hereby that implementation of each of the **Nepotism Policy** and **Contracting with a Unit by a Relative Policy** will become effective and whereby implementation will commence instanter on July 1, 2012.

SECTION THREE: That the **Nepotism Policy** of the Town of St. John is hereby established effective July 1, 2012, by adoption of the minimum requirement provisions of Indiana Code §36-1-20.2, as the same currently exists, may be supplemented or amended thereto in the future, and as same exists hereafter. Such current minimum requirement provisions of Indiana Code §36-1-20.2, and as such are supplemented or amended thereafter and as same is law in the State of Indiana hereafter from time to time, are made a part hereof and incorporated herein as though fully set forth and incorporated herein. Further, a copy of the provisions of Indiana Code §36-1-20.2, entitled **Nepotism**, in effect July 1, 2012, is attached hereto.

SECTION FOUR: That the **Contracting with a Unit by a Relative Policy** of the Town of St. John is hereby established effective July 1, 2012, by adoption of the minimum requirement provisions of Indiana Code §36-1-21, as the same currently exists, may be supplemented or amended thereto in the future, and as same exists hereafter. Such current minimum requirement provisions of Indiana Code §36-1-21, and as such are supplemented or amended thereafter and as same is law in the State of Indiana hereafter from time to time, are made a part hereof and incorporated herein as though fully set forth and incorporated herein. Further, a copy of the provisions of Indiana §36-1-21, entitled **Contracting with a Unit by a Relative Policy**, in effect July 1, 2012, is attached hereto.

SECTION FIVE: That the Town Council hereby acknowledges and concurs that each of the provisions of Indiana Code §36-1-20.2 and Indiana Code §36-1-21 specifically permit a unit of local government such as the Town of St. John to adopt requirements that are "more stringent or detailed", and that the Town Council hereby finds that more details are necessary and appropriate.

SECTION SIX: That the Town Council further finds and declares that a single Member of the Town Council, as Legislative Body, shall not act for the Town Council to make or issue work assignments, compensation, grievances, advancement or a performance evaluation without prior authority of a majority of the entire Town Council, and therefore, without such authority by the majority, such individual Town Council Member will not be in the direct line of supervision. (please note the provisions of Indiana Code §36-4-6-11 & Indiana Code §36-5-2-9.4).

SECTION SEVEN: That the Town of St. John further finds and declares that a single Member of governing bodies with authority over employees in the Town shall not act for said governing bodies to make or issue work assignments, compensation, grievances, advancement or a performance evaluation without prior authority of a majority of the responsible governing body, when a statute

provides the majority is needed to act, and therefore, without such authority by the majority of said governing body, the single Member will not be in the direct line of supervision.

SECTION EIGHT: That all elected and appointed Officials and Employees of the Town of St. John are directed and required to cooperate fully in the implementation of the policies established by this Enabling Ordinance, and in demonstrating compliance with these same policies. The policies established hereby shall be incorporated by reference in the Town Personnel Policy Manual, as the same is amended from time to time, as well as in the Town Ethics Regulations Policy Ordinance, as same is amended from time to time.

SECTION NINE: That failure to abide by or cooperate with the implementation, compliance and certifications connected with the **Nepotism Policy** is a violation of this Ordinance, as same may be amended from time to time, and may result in the discipline, including termination, of an employee or transfer from the direct line of supervision or other curative action. Any elected or appointed Official of the Town of St. John who fails to abide by or cooperate with the implementation, compliance and/or mandated certification submission of either the **Nepotism Policy** or the **Contracting with a Unit by a Relative Policy** may be subject to sanctions, penalties or legal procedures and actions in conformance with by applicable law.

SECTION TEN: That the Policies established and adopted by this Enabling Ordinance are hereby directed to be implemented by any of the following, namely:

- a. Posting a copy of this Enabling Ordinance in its entirety in at least one (1) of the locations in the Town that posts employer posters or other notices to its Employees;
- b. Providing a copy of this Enabling Ordinance to each of its Employees and elected and appointed Officials, requesting from each distributee an acknowledgment of receipt of same and filing/depositing of such acknowledgment in the personnel employment file of each said Employee, or Elected and appointed Official;
- c. Providing or posting a Notice of the Adoption of this Enabling Ordinance in any other manner deemed appropriate;
- d. By any such other action or actions that would communicate the policies established by this Enabling Ordinance to the Town Employees and elected and appointed Officials.

Upon any of the aforesaid actions being made, the policies established hereby are deemed implemented by the Town of St. John, Lake County, Indiana. The Town Manager and Town Clerk-Treasurer are additionally directed to report the implementation actions to the Town Council in its regular Public Meeting in July, 2012, for the public record and report to the Town Council of such.

SECTION ELEVEN: That a copy of the provisions of Indiana Code §36-1-20.2 and Indiana Code §36-1-21, effective July 1, 2012, are annexed hereto, incorporated herein and made a part hereof.

SECTION TWELVE: That two (2) copies of Indiana Code §36-1-20.2 and Indiana Code §36-1-21, as supplemented or amended, are on file in the Office of the Clerk-Treasurer of the Town for inspection as may be required and requested by the provisions of Indiana Code §36-1-5-4.


SECTION THIRTEEN: That all existing Ordinances and Town Code provisions, or portions thereof, in conflict with the provisions of this Ordinance are hereby deemed null, void, and of no legal effect, and are specifically repealed.

SECTION FOURTEEN: If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance.

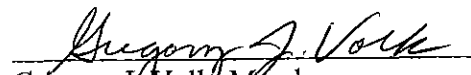
SECTION FIFTEEN: That this Ordinance shall take effect, and be in full force and effect, July 1, 2012, after its passage and adoption by the Town Council of the Town of St. John, Lake County, Indiana,.

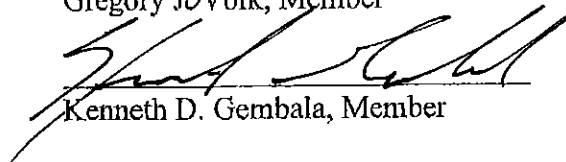
ALL OF WHICH IS APPROVED AND ADOPTED, THIS 27th DAY OF JUNE, 2012,
BY THE TOWN COUNCIL OF THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA

TOWN OF ST. JOHN, LAKE COUNTY,
INDIANA, TOWN COUNCIL


Michael S. Forbes, President

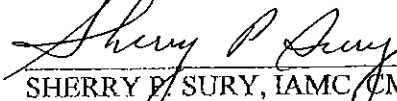
Mark Barenie, Vice-President


Gregory J. Volk, Member


Kenneth D. Gembala, Member

Larry Bustamante, Member

ATTEST:


SHERRY P. SURY, IAMC, CMC
Clerk Treasurer

Chapter 20.2. Nepotism

Sec. 1. This chapter applies to all units.

Sec. 2. An individual who is employed by a unit on July 1, 2012, is not subject to this chapter unless the individual has a break in employment with the unit. The following are not considered a break in employment with the unit:

(1) The individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave, or worker's compensation.

(2) The individual's employment with the unit is terminated followed by immediate reemployment by the unit, without loss of payroll time.

Sec. 3. For purposes of this chapter, the performance of the duties of:

(1) a precinct election officer (as defined in IC 3-5-2-40.1) that are imposed by IC 3; or

(2) a volunteer firefighter;

is not considered employment by a unit.

Sec. 4. As used in this chapter, "direct line of supervision" means an elected officer or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. The term does not include the responsibilities of the executive, legislative body, or fiscal body of a unit, as provided by law, to make decisions regarding salary ordinances, budgets, or personnel policies of the unit.

Sec. 5. As used in this chapter, "employed" means an individual who is employed by a unit on a full-time, part-time, temporary, intermittent, or hourly basis. The term does not include an individual who holds only an elected office. The term includes an individual who is a party to an employment contract with the unit.

Sec. 6. As used in this chapter, "member of the fire department" means the fire chief or a firefighter appointed to the department.

Sec. 7. As used in this chapter, "member of the police department" means the police chief or a police officer appointed to the department.

Sec. 8. (a) As used in this chapter, "relative" means any of the following:

- (1) A spouse.
- (2) A parent or stepparent.
- (3) A child or stepchild.
- (4) A brother, sister, stepbrother, or stepsister.
- (5) A niece or nephew.
- (6) An aunt or uncle.
- (7) A daughter-in-law or son-in-law.

(b) For purposes of this section, an adopted child of an individual is treated as a natural child of the individual.

(c) For purposes of this section, the terms "brother" and "sister" include a brother or sister by the half blood.

Sec. 9. (a) This chapter establishes minimum requirements regarding employment of relatives. The legislative body of the unit shall adopt a policy that includes, at a minimum, the requirements set forth in this chapter. However, the policy may:

- (1) include requirements that are more stringent or detailed than any provision in this chapter; and
- (2) apply to individuals who are exempted or excluded from the application of this chapter.

The unit may prohibit the employment of a relative that is not otherwise prohibited by this chapter.

(b) The annual report filed by a unit with the state board of accounts under IC 5-11-13-1 must include a statement by the executive of the unit stating whether the unit has implemented a policy under this chapter.

Sec. 10. Individuals who are relatives may not be employed by a unit in a position that results in one (1) relative being in the direct line of supervision of the other relative.

Sec. 11. (a) This section applies to an individual who:

- (1) is employed by a unit on the date the individual's relative begins serving a term of an elected office of the unit; and
- (2) is not exempt from the application of this chapter under section 2 of this chapter.

(b) Unless a policy adopted under section 9 of this chapter provides otherwise, an individual may remain employed by a unit and maintain the individual's position or rank even if the individual's employment would violate section 10 of this chapter.

(c) Unless a policy adopted under section 9 of this chapter provides otherwise, an individual described in subsection (b) may not:

(1) be promoted to a position; or

(2) be promoted to a position that is not within the merit ranks, in the case of an individual who is a member of a merit police department or merit fire department;

if the new position would violate section 10 of this chapter.

Sec. 12. This chapter does not abrogate or affect an employment contract with a unit that:

(1) an individual is a party to; and

(2) is in effect on the date the individual's relative begins serving a term of an elected office of the unit.

Sec. 13. Unless the policy adopted under section 9 of this chapter provides otherwise, a sheriff's spouse may be employed as prison matron for the county under IC 36-8-10-5 and the spouse may be in the sheriff's direct line of supervision.

Sec. 14. Unless the policy adopted under section 9 of this chapter provides otherwise, an individual:

(1) who served as coroner;

(2) who is currently ineligible to serve as coroner under Article 6, Section 2(b) of the Constitution of the State of Indiana;

(3) who, as coroner, received certification under IC 36-2-14-22.3; and

(4) whose successor in the office of coroner is a relative of the individual;

may be hired in the position of deputy coroner and be in the coroner's direct line of supervision.

Sec. 15. If the township trustee's office is located in the township trustee's personal residence, unless the policy adopted under section 9 of this chapter provides otherwise the township trustee may hire only one (1) employee who is a relative. The employee:

(1) may be hired to work only in the township trustee's office;

(2) may be in the township trustee's direct line of supervision; and

(3) may not receive total salary, benefits, and compensation that exceed five thousand dollars (\$5,000) per year.

Sec. 16. Each elected officer of the unit shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this chapter. An officer shall submit the certification to the executive of the unit not later than December 31 of each year.

Sec. 17. If the state board of accounts finds that a unit has not implemented a policy under this chapter, the state board of accounts shall forward the information to the department of local government finance.

Sec. 18. If a unit has not implemented a policy under this chapter, the department of local government finance may not approve:

- (1) the unit's budget; or
- (2) any additional appropriations for the unit;

for the ensuing calendar year until the state board of accounts certifies to the department of local government finance that the unit is in compliance with this chapter.

Chapter 21. Contracting With a Unit

Sec. 1. This chapter applies only to a unit.

Sec. 2. As used in this chapter, "elected official" means:

- (1) the executive or a member of the executive body of the unit;
- (2) a member of the legislative body of the unit; or
- (3) a member of the fiscal body of the unit.

Sec. 3. (a) As used in this chapter, "relative" means any of the following:

- (1) A spouse.
- (2) A parent or stepparent.
- (3) A child or stepchild.
- (4) A brother, sister, stepbrother, or stepsister.
- (5) A niece or nephew.
- (6) An aunt or uncle.

(7) A daughter-in-law or son-in-law.

(b) For purposes of this section, an adopted child of an individual is treated as a natural child of the individual.

(c) For purposes of this section, the terms "brother" and "sister" include a brother or sister by the half blood.

Sec. 4. (a) This chapter establishes minimum requirements regarding contracting with a unit. The legislative body of the unit shall adopt a policy that includes, at a minimum, the requirements set forth in this chapter. However, the policy may:

(1) include requirements that are more stringent or detailed than any provision in this chapter; and

(2) apply to individuals who are exempted or excluded from the application of this chapter.

The unit may prohibit or restrict an individual from entering into a contract with the unit that is not otherwise prohibited or restricted by this chapter.

(b) The annual report filed by a unit with the state board of accounts under IC 5-11-13-1 must include a statement by the executive of the unit stating whether the unit has implemented a policy under this chapter.

Sec. 5. (a) A unit may enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with:

(1) an individual who is a relative of an elected official; or

(2) a business entity that is wholly or partially owned by a relative of an elected official;

only if the requirements of this section are satisfied and the elected official does not violate IC 35-44-1-3.

(b) A unit may enter into a contract or renew a contract with an individual or business entity described in subsection (a) if:

(1) the elected official files with the unit a full disclosure, which must:

(A) be in writing;

(B) describe the contract or purchase to be made by the unit;

(C) describe the relationship that the elected official has to the individual or business entity that contracts or purchases;

(D) be affirmed under penalty of perjury;

(E) be submitted to the legislative body of the unit and be accepted by the legislative body in a public meeting of the unit prior to final action on the contract or purchase; and

(F) be filed, not later than fifteen (15) days after final action on the contract or purchase, with:

(i) the state board of accounts; and

(ii) the clerk of the circuit court in the county where the unit takes final action on the contract or purchase;

(2) the appropriate agency of the unit:

(A) makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered; or

(B) makes a certified statement of the reasons why the vendor or contractor was selected; and

(3) the unit satisfies any other requirements under IC 5-22 or IC 36-1-12.

(c) An elected official shall also comply with the disclosure provisions of IC 35-44-1-3, if applicable.

(d) This section does not affect the initial term of a contract in existence at the time the term of office of the elected official of the unit begins.

Sec. 6. Each elected officer of the unit shall annually certify in writing, subject to the penalties for perjury, that the officer is in compliance with this chapter. An officer shall submit the certification to the executive of the unit not later than December 31 of each year.

Sec. 7. If the state board of accounts finds that a unit has not implemented a policy under this chapter, the state board of accounts shall forward the information to the department of local government finance.

Sec. 8. If a unit has not implemented a policy under this chapter, the department of local government finance may not approve:

(1) the unit's budget; or

(2) any additional appropriations for the unit;

for the ensuing calendar year until the state board of accounts certifies to the department of local government finance that the unit has adopted a policy under this chapter.