

ORDINANCE 2014-12-10

Town of Borden
Regarding Nepotism in Employment and in Contracting with a Unit
(Effective July 1, 2012)

WHEREAS, in 2012 the Indiana Legislature passed, and the Governor signed, HEA 1005 entitled Nepotism; Conflict of Interest;

WHEREAS, Indiana Code 36-1-20.2, as added by P.L. 135-2012, SECTION 7, requires the Town of Borden to establish a policy concerning nepotism;

WHEREAS, Indiana Code 36-1-21, as added by P.L. 135-2012, SECTION 8, requires the Town of Borden to establish a policy concerning contracting with relatives of elected officials;

WHEREAS, these two new chapters, Indiana Code 36-1-20.2 Nepotism and Indiana Code 36-1-21 Contracting with a Unit, respectively, are effective July 1, 2012;

WHEREAS, in both of the new Indiana Code chapters, the municipal legislative bodies are mandated to adopt a policy that includes, as a minimum, the requirements set forth in those new chapters;

WHEREAS, in both of the new Indiana Code chapters "relative" is defined as a spouse, parent, stepparent, child (natural or adopted), stepchild, brother, half-brother, sister, half-sister, stepbrother, stepsister, niece, nephew, aunt, uncle, daughter-in-law or son-in-law;

WHEREAS, after thoughtful consideration and in order to comply with the two new chapters of the Indiana Code mentioned above, the Borden Town Council believes it is in the best interests of its citizens to adopt as its policies the minimum requirements of Indiana Code 36-1-20.2 Nepotism and Indiana Code 36-1-21 Contracting with a Unit as stated in the said new chapters of the Indiana Code as a new section in the Town of Borden Code of Ordinances as Title III, Chapter 34, Section 34.36; and

NOW, THEREFORE, Borden Town Council ordains and amends the Town of Borden Code of Ordinances, Title III, Chapter 34 to include the following:

Section 34.36 Anti-Nepotism Policies

1. The Borden Town Council finds that it is necessary and desirous to adopt a policy of conduct with regard to nepotism in the employment with the Town of Borden and in contracting with the Town of Borden in order to continue to be able to provide local government services to its residents and to comply with the new laws effective July 1, 2012 known as Indiana Code 36-1-20.2 and Indiana Code 36-1-21, respectively.

2. On July 1, 2012, the Town of Borden shall have a Nepotism and a Contracting with a Unit policy that complies with the minimum requirements of Indiana Code 36-1-20.2 (hereinafter

“Nepotism Policy”) and Indiana Code 36-1-21 (hereinafter “Contracting with a Unit by a Relative Policy”) and implementation will begin.

3. The Town of Borden’s Nepotism Policy is hereby established effective July 1, 2012 by adopting the minimum requirements provisions of Indiana Code 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. In addition a copy of Indiana Code 36-1-20.2 Nepotism in effect on July 1, 2012 is attached hereto.

4. The Town of Borden’s Contracting with a Unit by a Relative Policy is hereby established effective July 1, 2012 by adopting the minimum requirements provisions of Indiana Code 36-1-21, 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. In addition a copy of the Indiana Code 36-1-21 Nepotism in effect on July 1, 2012 is attached hereto.

5. The Borden Town Council finds that both Indiana Code 36-1-20.2 and Indiana Code 36-1-21 specifically allow a unit to adopt requirements that are “more stringent or detailed” and that more detailed are necessary.

6. The Borden Town Council 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, IC 36-4-6-11, IC 36-5 -2-9.4.

7. The Borden Town Council finds that a single member of governing bodies with authority over employees in the Town cannot act for the governing body to make work assignments, compensation, grievances, advancement or a performance evaluation without prior authority of a majority of the body, when a statute provides that a majority is needed to act, and therefore, without such authority by the majority, the single member will not be in the direct line of supervision.

8. All elected and appointed officials and employees of the Town of Borden are hereby directed to cooperate fully in the implementation of the policies created by this Ordinance and in demonstrating compliance with these same policies.

9. Failure to abide by or cooperate with the implementation, compliance and certifications connected with the Nepotism Policy is a violation and may result in the discipline, including termination, of an employee or a transfer from the direct line of supervision or other curative action. An elected or appointed official of the Town who fails to abide by or cooperate with the implementation, with the compliance and with mandated certifications of either the Nepotism Policy may be subject to action allowed by law.

10. Failure to abide by or cooperate with the implementation, compliance and certifications connected with the Contracting with Unit by a Relative Policy is a violation and

may result in the discipline, including termination, of an employee or a curative action. An elected or appointed official of the Town who fails to abide by or cooperate with the implementation, with the compliance and with mandated certifications of either the Nepotism Policy or the Contracting with Unit by a Relative Policy may be subject to action allowed by law.

11. The polices created by this Ordinance are hereby directed to be implemented by any of the following actions: a) posting a copy of this Ordinance in its entirety in at least one of the locations in the Town Hall where it posts employer posters or other notices to its employees; b) providing a copy of this Ordinance to its employees and elected and appointed officials; c) providing or posting a notice of the adoption of this Ordinance; or d) any such other action or actions that would communicate the polices established by this Ordinance to its employees and elected and appointed officials. Upon any of taking these actions these policies are deemed implemented by the Town.

12. 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.

13. Two (2) copies of Indiana Code 36-1-20.2 and Indiana Code 36-1-21, and as supplemented or amended, are on file in the office of the Clerk-Treasurer for the Town of Borden for public inspection as maybe required by Indiana Code 36-1-5-4.

Passed and adopted this 11 day of NOV, 2014 by Borden

Town Council, Borden, Clark County, Indiana.

BORDEN TOWN COUNCIL


Rudy Cook


Paul Brewer


Ruth Sparks

ATTEST:


Mindi Holmes, Clerk-Treasurer