

ORDINANCE 2298

AN ORDINANCE OF THE BOROUGH OF SOUTH PLAINFIELD, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY AMENDING CHAPTER 71, OFFICERS AND EMPLOYEES OF THE CODE OF THE BOROUGH TO CREATE A NEW SECTION ENTITLED "ANTI-NEPOTISM POLICY"

WHEREAS, the Mayor and Council of the Borough of South Plainfield deem it in the best interests of the public health, safety and welfare to provide fair and equal opportunities of employment and to safeguard against potential undue influence or favoritism; and

WHEREAS, the Mayor and Council wish to amend the Code of the Borough of South Plainfield to accomplish such purposes by establishment of an Anti-Nepotism Policy;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of South Plainfield, County of Middlesex, State of New Jersey that the Borough Code shall be amended to add to Chapter 71 titled Officers and Employees, Article III to be titled Anti-Nepotism Policy as follows:

Section 71-16 - Purpose.

The purpose of this policy is to ensure equal opportunity and effective employment practices to include recruiting, testing, hiring compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security while maintaining positive morale by avoiding actual or perceived favoritism, discrimination or other actual or potential conflicts of interest between officers and employees of the Borough.

Section 17-17 - Definitions.

A. **Business Relationship** - Service as an employee, tenant, landlord, independent contractor, compensated consulting, owner, board member, shareholder or investor in an outside business, company, partnership, corporation, venture or any other transaction where the employee's annual interest, compensation, investment or obligation is greater than \$250.00.

B. **Conflict of Interest** - Any actual, perceived or potential conflict of interest in which it reasonably appears that an employee's action, inaction or decisions are or may be influenced by the employee's personal and/or business relationship with another employee.

C. **Nepotism** - The practice of showing favoritism to relatives over others in appointment, employment, promotion or advancement by any public official to influence these personnel decisions.

C. **Personal Relationships** - Marriage, cohabitation, co-parenting, dating or any other intimate relationship beyond mere friendship or coworkers.

D. **Public Official** - A supervisor, officer or employee vested with authority by law, rule or regulation or to whom authority has been delegated.

E. **Relative** – A spouse, domestic partner, cohabitant, parent, child, adopted child, sibling, grandparent, grandchild, aunt, uncle, niece, nephew, first cousin, in-law (applies to parents and siblings of a spouse), half-relative (applies to parents and siblings), or a person with whom a significant committed relationship exists (living together for more than 12 months).

F. **Subordinate** - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

G. **Supervisor** - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

Section 17-18 - Restrictions and Assignments

A. The Borough of South Plainfield will not prohibit all personal or business relationships between employees. However, to minimize the potential for nepotism or other inappropriate conflicts of interest, the following restrictions shall apply:

1. Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they have a personal or business relationship.
 - a. If extraordinary circumstances require that a supervisor/ subordinate relationship exists temporarily (i.e., an employee is held over past their normal shift hours to complete a report), the involved supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to a supervisor where no conflict exists.
 - b. When personnel and circumstances permit, the Borough of South Plainfield will make reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Borough reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.
 - c. Supervisory personnel will make reasonable efforts to avoid scheduling employees to the same shift as a relative, or someone with whom they have a business or personal relationship.

2. Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they have a personal or business relationship.
3. Training Officers and other trainers will not be assigned to directly train relatives or persons with whom they are involved in a personal or business relationship. Training Officers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully documented as complete and the employee is off probationary status.
4. To avoid actual or perceived conflicts of interest, employees of the Borough of South Plainfield shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of, or as a direct result of, any official contact.
5. Except as required in the performance of official duties or in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should have known is under criminal investigation, is a convicted felon, parolee, fugitive or registered sex offender, or who engages in intentional violations of state or federal laws.

Section 17-19 - Employee Responsibilities

A. Prior to entering into any personal or business relationship or other circumstance that the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his or her immediate supervisor in writing.

1. If the employee's immediate supervisor is the person with whom the relationship is with, it shall be the responsibility of that immediate supervisor to notify their supervisor in writing.
 - a. Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide official information or services to any relative or individual with whom the employee is involved in a personal or business relationship, the employee shall immediately notify his or her immediate supervisor.

Section 17-20 - Supervisor's Responsibilities

A. Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such

violations whenever reasonably possible.

Section 17-21 - Restriction of Hiring, Promoting and Supervision of Employees

The following restrictions shall apply to the hiring and promotion of employees to employment positions of the Borough of South Plainfield. Unless otherwise prohibited by law, but notwithstanding the terms of any collective bargaining agreement to the contrary, the following shall apply:

- A. No person who is a relative of an elected official or an executive shall be appointed, hired or employed to work for the Borough of South Plainfield in any unclassified position.
- B. No person shall be employed by or transferred to a position of employment within the Borough where such person will be supervisor of or be supervised by their relative who is an existing employee within the same department.
- C. No elected official or executive in any department may participate in the promotion process or hiring process in that department of any existing employee who is a relative of such elected official or executive, unless otherwise required by law or New Jersey Department of Personnel Rules. Such elected official or executive shall abstain from participation in such personnel action as it applies to such relative.

This Ordinance shall take effect upon final passage and publication in accordance with New Jersey law.