

ORDINANCE NO. 28204

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING  
TITLE 12 OF THE SAN JOSE MUNICIPAL CODE BY  
ADDING A NEW CHAPTER 12.20 TO ESTABLISH RULES  
PROHIBITING NEPOTISM AND TO ESTABLISH RULES  
REGARDING CONSENSUAL PERSONAL  
RELATIONSHIPS IN THE WORKPLACE FOR THE  
MAYOR AND MEMBERS OF THE CITY COUNCIL**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

Title 12 of the San José Municipal Code is hereby amended to add a new chapter, to be numbered, entitled and to read as follows:

**CHAPTER 12.20  
NEPOTISM AND CONSENSUAL PERSONAL RELATIONSHIPS**

**Part 1**

**Purpose and Scope of Application**

**12.20.100 Purpose**

The purpose of this Chapter is to mitigate against actual or perceived favoritism, bias, and potential conflicts of interest created from the hiring, appointment or supervision by a Public Official of his or her relatives and from consensual personal relationships between a public official and subordinates in the workplace.

**12.20.110 Scope of Application**

This Chapter shall apply to the Mayor and City Council.

**Part 2**  
**Definitions**

**12.20.200 Definitions**

The definitions set forth in this Part shall govern the application and interpretation of this Chapter.

**12.20.210 Consensual Personal Relationship**

A Consensual Personal Relationship means a consensual sexual or romantic relationship between an employee and a Public Official who is in a position of authority and supervision over the employee. This can include direct or indirect reporting relationships where the Public Official is in a higher level position within the same chain of command as the employee or subordinate.

**12.20.220 Immediate Family Members**

“Immediate Family Members” include the following:

- A. By Blood: Parent, child, grandparent, grandchild, brother, sister, nieces, nephews, uncles, aunts, great grandchildren, or great grandparents.
- B. By Marriage: Husband, wife, stepparent, stepchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, half sister, or half-brother.
- C. By Law: Guardianship relationships and adoptive parent/child relationships.
- D. Domestic Partner: Individuals registered with the Human Resources Department and/or the State of California.

**12.20.230 Public Official**

“Public Official” means any of the members of the City Council including the Mayor.

**12.20.240 Supervisor**

“Supervisor” shall mean a Public Official having the authority to hire, terminate, transfer, lay off, reward, evaluate, discipline, or assign work to and direct other employees, or to effectively recommend such action if the exercise of such authority requires independent judgment.

**Part 3**

**Prohibition - Nepotism**

**12.20.300 Hiring and Employment**

No Public Official shall appoint, employ or participate in a hiring or employment decision involving any person who is an Immediate Family Member nor use his or her position to influence another City or Redevelopment Agency official or employee regarding a hiring or employment decision involving a member of the Public Official’s immediate family.

**12.20.310 Supervision**

No Public Official shall directly or indirectly supervise an Immediate Family Member. This prohibition applies even in situations where the employment relationship was established or formed before a marriage.

**Part 4**

**Consensual Personal Relationships**

**12.20.400 Responsibility**

Where a consensual personal relationship exists, the Public Official will bear the primary burden of accountability, and must ensure that he or she does not exercise any supervisory or evaluative function related to the employee or subordinate. In such a case, the Public Official has the responsibility to ensure that the employee is provided alternative employment arrangements outside of the Public Official's chain of command.

**Part 5**

**Enforcement**

**12.20.500 Complaints**

- A. Complaints alleging a violation of this Chapter by the Mayor may be made to the City Attorney. Complaints alleging a violation by a member of the Mayor's staff may be made to the Mayor or City Attorney in accordance with the City's Nepotism Policy, and Discrimination and Harassment Policy which apply to City employees.
- B. Complaints alleging a violation of this Chapter by a Councilmember may be made to the Mayor or City Attorney. Complaints alleging a violation by a member of a Councilmember's staff may be made to the Councilmember or the City Attorney in accordance with the City's Nepotism Policy, and Discrimination and Harassment Policy which apply to City employees.
- C. Complaints alleging a violation of this Chapter by a City Council Appointee may be made to the Mayor in accordance with the City's Nepotism Policy, and

Discrimination and Harassment Policy which apply to Council Appointees.

**12.20.510 Review and Investigation of Complaints**

Complaints alleging a violation of this Chapter shall not be subject to review and investigation by the San Jose Elections Commission.

PASSED FOR PUBLICATION of title this 11<sup>th</sup> day of December, 2007, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CORTESE, LICCARDO,  
NGUYEN, OLIVERIO, PYLE, WILLIAMS; REED

NOES: NONE

ABSENT: CONSTANT

DISQUALIFIED: NONE

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk