

ORDINANCE NO. 3569 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

AMEND CITY CODE SECTION 25-3.08 PERTAINING TO THE EMPLOYMENT OF RELATIVES

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1: WHEREAS, in order to maintain confidence in City government, it is imperative that citizens can be assured that City employment is free from nepotism, patronage, and favoritism; and

WHEREAS, nepotism, patronage, and favoritism are demoralizing and dispiriting to the dedicated, hard working employees of the City; and

WHEREAS, it is the policy of the City to not discriminate in its employment and personnel actions with respect to its employees and applicants on the basis of marital or registered domestic partner status. Notwithstanding this policy, the City of Monterey expressly finds that in specific circumstances the employment of relatives is contrary to appropriate goals of safety and efficiency; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the draft ordinance does not involve the approval of a "project" because the ordinance and its implementation do not result in a direct or indirect physical change in the environment or in a reasonably foreseeable indirect physical change in the environment. (See Pub. Resources Code Section 21065; CEQA Guidelines Sections 15357, 15377, 15378.)

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: Monterey City Code, Chapter 25, Section 3.08 is hereby amended to read as follows:

"25-3.08 Employment of Relatives

- a. It is the policy of the City of Monterey to not discriminate in its employment and personnel actions with respect to its employees and applicants on the basis of marital or registered domestic partner status. Notwithstanding this policy, the City of Monterey expressly finds that in specific circumstances the employment of relatives is contrary to appropriate goals of safety and efficiency. Thus, for reasons of supervision, safety, security and/or morale, the following restrictions shall apply.
- b. Definitions:
 1. "Employee" means any person who receives a City payroll check for services, full or part time, rendered to the City of Monterey.
 2. "Immediate Family Member" means an individual's spouse, Registered Domestic Partner, parent, step-parent, parent-in-law, child, step-child, brother, sister, stepbrother, and step-sister. The term "Immediate Family Member" also includes an individual who falls within one of these categories by an adoption or registered domestic partnership.

3. "Registered Domestic Partner" is as defined by in California Family Code section 297.
- c. No active Councilmember or Employee shall employ, appoint, recommend for appointment or in any other manner participate in or attempt to participate in the hiring, promotion, demotion, termination, discipline, or performance evaluation of any Immediate Family Member.
 - d. In order to minimize operational concerns regarding supervision, safety, security or morale, Immediate Family Members may only be employed within the same City department subject to approval of the Department Head, the Human Resources Director, and the City Manager or his/her designee, and the following additional conditions:
 1. No Employee shall be assigned as a direct supervisor of an Immediate Family Member.
 2. The City Manager, Assistant City Manager, Human Resources Director, and City Attorney may not have Immediate Family Members employed in their respective department. This does not prohibit an Immediate Family Member from performing unpaid volunteer duties for the City.
 3. Immediate Family Members of Councilmembers may hold positions in the City except for the City Manager, City Attorney, or Department Head positions.
 - e. In order to minimize operational concerns regarding supervision, safety, security or morale, whenever the employment status of two Employees results in either (1) an Immediate Family Member directly supervising another; or (2) the City Manager, Assistant City Manager, Human Resources Director, or City Attorney having an Immediate Family Members employed in their respective department, the City will attempt to do any of the following:
 1. Redefine the reporting relationships of the related Employees within the department to minimize the conflict or, if that is not feasible, transfer one Immediate Family Member to a similar classified position in another division or department. Any discharge or transfer that results in a reduction in salary or compensation shall not be considered disciplinary in nature and, notwithstanding other provisions in the Personnel Ordinance, shall not be the subject of any form of administrative appeal.
 2. In lieu of a departmental transfer, or in situations where no similar counterpart classification exists to which an Immediate Family Member can be transferred, the City may request the voluntary resignation of one of the Employees. If one of the Employees does not voluntarily resign, the Employee with the least seniority with the City may be discharged by the respective Department Head.

f. It is the duty of all Employees in a situation prohibited under this Section to immediately notify their supervisor either in person or through the chain of command that a situation exists in which the involved Employee may be in violation of this Section. The City reserves the right to investigate and determine whether the Employee has violated this Section. Employees who do not comply with any reporting obligation under this Section may be subject to disciplinary action for their failure to report. Employees will have thirty (30) calendar days from the effective date of this Section to report any situations that they are currently in to their supervisor(s) that would violate this policy.”

SECTION 3: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 20th day of June, 2017, by the following vote:

AYES:	5	COUNCILMEMBERS:	Albert, Barrett, Haffa, Smith, Roberson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:



[Signature]

Mayor of said City