

CITY OF PERTH AMBOY
CITY ADVERTISEMENT

NOTICE IS HEREBY GIVEN THAT AT A REGULAR MEETING OF THE MUNICIPAL COUNCIL OF THE CITY OF PERTH AMBOY, HELD ON FEBRUARY 24, 2010, THE FOLLOWING ORDINANCE WAS INTRODUCED AND READ ON FIRST READING AND SAID ORDINANCE REMAINS ON FILE IN THE OFFICE OF THE MUNICIPAL CLERK FOR PUBLIC INSPECTION.

NOTICE IS FURTHER GIVEN THAT SAID ORDINANCE WILL BE FURTHER CONSIDERED FOR FINAL PASSAGE BY SAID MUNICIPAL COUNCIL AT A REGULAR MEETING OF THAT BODY, TO BE HELD AT PERTH AMBOY CITY HALL, 260 HIGH STREET, PERTH AMBOY, NJ ON MARCH 10, 2010, AT 7:00 PM AT WHICH TIME AND PLACE ALL PERSONS INTERESTED THEREIN WILL BE GIVEN AN OPPORTUNITY TO BE HEARD CONCERNING SAME.

Elaine M. Jasko
City Clerk

ORDINANCE CONCERNING LICENSED PROFESSIONALS

WHEREAS, the Council of the City of Perth Amboy finds and declares it to be in the best interests of the public that licensed professionals appointed or reappointed to City office, or retained to provide professional advice or services to the City or any of its agencies, be required to fully and publicly disclose their disciplinary records and professional malpractice litigation histories as a condition for holding such office or being so retained; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Perth Amboy, in the County of Middlesex and State of New Jersey, that:

1. Definitions:

A. As used in this ordinance, the term "professional" shall mean any person within the definition of "licensed person" as set forth in N.J.S.A. 2A:53A-26 and any person licensed by the New Jersey State Board of Real Estate Appraisers, the New Jersey State Board of Professional Planners or the New Jersey State Board of Psychological Examiners, who is appointed to City office or retained to provide professional advice or services to the City or any of its agencies.

B. As used in this ordinance, the term "licensing authority" shall mean the board, commission or other government entity authorized to license or discipline the professionals subject to this ordinance.

C. As used in this ordinance, the term "authorization and release form" or "form" shall mean a form that authorizes and directs a licensing agency to release to the City information, for the professional named in the form, concerning any and all disciplinary matters involving the professional, regardless of whether that information is considered confidential, including but not limited to matters where discipline was imposed, matters that resulted in a consent judgment or diversion, matters that did not result in discipline being imposed, and matters pending before or being investigated by the licensing authority

The form shall include a statement by which the professional expressly waives any right to confidentiality and releases, discharges and exonerates the licensing authority from any and all liability of every nature and kind arising out of furnishing, collecting or disclosing the professional's disciplinary information. In the case of attorneys, the form shall be the Disciplinary Authorization and Release Form issued by the Office of Attorney Ethics. For other professions, the form shall be the authorization and release form created by the licensing authority. If a licensing authority has not created its own form, the form shall be created by the City Attorney.

2. Within seven days after being appointed or retained, a professional shall execute an authorization and release form, witnessed and acknowledged by a notary public or an attorney at law, and deliver the fully completed and executed form to the City Clerk. The Clerk shall promptly transmit the form, after retaining a copy, to the appropriate licensing authority along with a request for any and all records relating to any and all disciplinary matters regarding the professional or a statement that no such records are on file. Excepted from subsequent requests on the same professional, made in accordance with 3 below, shall be those records furnished in response to any previous requests made in accordance with this ordinance.

If a professional association, corporation, firm or other entity is appointed or retained, the authorization for the appointment, reappointment or retention shall specify one or more individual professionals of that firm who will be subject to this ordinance. The authorization shall also contain a restriction that no professional services called for by the appointment or retention shall be rendered by any professionals other than those specified.

3. The procedure set forth in 2 shall be repeated annually, and shall apply to any professional who was reappointed to office or who otherwise remains appointed to City office or under contract with the City as of October 15th. The fully executed forms shall be delivered to the City Clerk by each such professional prior to October 30th, except that any professional who executed and submitted his or her initial form on or after March 31st of the same year shall be exempt.

4. Within seven days after being appointed, reappointed or retained, a professional shall deliver to the City Clerk a statement, witnessed and acknowledged by a notary public or an attorney at law, and containing a certification meeting the requirements of Court Rule R.1.4-4(b), setting forth the caption, court name, docket or case number, summary of the allegations made and disposition, if any, of any litigation that is either pending or was concluded within the previous seven years, in which the professional was named as a defendant in any action alleging that the care, skill or knowledge exercised or exhibited by the professional in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional or occupational standards or treatment practices.

5. In addition to the above, each professional shall immediately inform the City Clerk, in writing, of the existence and nature of any investigation regarding the professional undertaken by a licensing authority. Further, a professional who is named as a defendant in a civil action within the scope of 4 shall provide the City Clerk with a copy of the civil complaint within seven days after being served with it.

6. Any professional who fails or refuses to execute or submit a form in a timely manner, as required by 2 and 3, or who fails or refuses to submit in a timely manner the statement required by 4 or who fails to disclose information required by this ordinance within the time specified shall automatically forfeit his or her office or be automatically discharged, as the case may be. If automatic forfeiture or discharge is prohibited by law, then removal proceedings shall immediately be instituted against any professional who violates this Ordinance.
7. Any contract entered into with a professional shall contain an acknowledgement by the professional that he or she is aware of the requirements imposed by this ordinance.
8. Any information or records received by the Clerk under this ordinance from a professional or a licensing authority shall be filed as a public record. Additionally, the Clerk shall forthwith distribute information received from a professional in accordance with 5 of this ordinance to the Mayor and Council.
9. A professional appointed or retained prior to this ordinance's enactment shall not be required to abide by 2 and 4 during his or her present term of appointment or retention. Such professionals, however, shall be subject to this ordinance in its entirety upon reappointment or upon subsequent appointment or retention.
10. This ordinance is remedial and shall be liberally construed to effectuate its purposes.
11. If any portion of this ordinance shall be declared unconstitutional, invalid or inoperative, in whole or in part, by a court of competent jurisdiction, such portion shall, to the extent that it is not unconstitutional, invalid or inoperative, remain in full force and effect, and no such determination shall be deemed to invalidate the remaining portions of this ordinance.
12. All ordinances inconsistent with the provisions of this ordinance are repealed to the extent of such inconsistency.
13. This ordinance shall become effective after publication and passage according to law.

GERALDINE M. BOLANOWSKI
Acting Council President

ATTEST:
ELAINE M. JASKO
City Clerk

APPROVED AS TO FORM:
MARK J. BLUNDA
Director of Law
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