

ORDINANCE NO. 3401

INTRODUCED BY: MAYOR JOSEPH P. SCARPELLI ON BEHALF OF THE BOARD OF COMMISSIONERS

INTRODUCED ON: NOVEMBER 7, 2018

PUBLISHED: NOVEMBER 15, 2018

PUBLIC HEARING: DECEMBER 4, 2018

PUBLISHED: DECEMBER 13, 2018

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AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF NUTLEY IN THE COUNTY OF ESSEX CREATING CHAPTER 115, OFFICERS AND EMPLOYEES, ARTICLE XXV, CUSTODIAN OF RECORDS, OF THE TOWNSHIP CODE

WHEREAS, the Open Public Records Act, N.J.S.A. 47:1A-1.1, et seq., (“OPRA”) identifies the Custodian of Records as the individual responsible and liable for the receipt and processing of requests for access to government records; and

WHEREAS, in order to avoid confusion and inefficiency, the Board of Commissioners finds and declares that it is in the best interests of the Township of Nutley (the “Township”) and its residents to designate the Custodian of Records; and

WHEREAS, the Township Clerk, through certification and ongoing training, has the requisite knowledge and experience necessary to receive and process requests for access to government records pursuant to OPRA and the Common Law Right of Access in the ordinary course of business; and

WHEREAS, in addition to the voluminous government records kept and maintained throughout the Township’s various administrative departments, the Nutley Police Department (the “Police”) maintains a separate records division to handle the high volume of police reports generated on a daily basis; and

WHEREAS, in order to properly handle requests for access to government records submitted to the Police, the Board of Commissioners finds and declares that it is in the best interests of the Township and its residents to designate a Deputy Custodian of Records for that purpose; and

WHEREAS, through his handling of Police records, the Chief of Police has the knowledge and experience required to act as Deputy Custodian of Records and assist the Custodian of Records in handling requests for access to government records; and

WHEREAS, it is the intention of the Board of Commissioners, as well as the legislative intent of this Ordinance, to promote government transparency by ensuring that requests for access to government records are received and processed lawfully and timely pursuant to the requirements of OPRA and the Common Law Right of Access.

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NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of the Township of Nutley, County of Essex, State of New Jersey, being the governing body thereof, as follows:

Section 1. Chapter 115, Officers and Employees, Article XXV, Custodian of Records, is hereby created as follows:

§ 115-78 Township Clerk to serve as Custodian of Records.

The Township Clerk shall serve as the Custodian of Records for all official books, papers and documents of the Township, including all of its departments and divisions, except for those books, papers, and documents created and maintained by the Police Department. The Custodian of Records shall receive all requests for inspection or copies of the Township's public records and shall fulfill all duties required under the Open Public Records Act, N.J.S.A. 47:1A-1, *et seq.* and the Common Law Right of Access.

§ 115-79 Chief of Police to serve as Deputy Custodian of Records.

The Chief of Police, or his designee, shall serve as the Deputy Custodian of Records for all official books, papers, and documents of the Police Department, and shall receive all requests for inspection or copies of the Police Department's records.

§ 115-80 Reports to the Custodian of Records.

The Deputy Custodian of Records shall report to the Custodian of Records periodically, but not less than once per month, every request for inspection or copies of Police Department records received, fulfilled, or denied by him.

§ 115-81 Salary.

Neither the Custodian of Records nor the Deputy Custodian of Records shall receive any annual salary for performing the duties set forth in this Article.

Section 2. If any section, paragraph, subsection, clause, or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

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Section 3. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

Section 4. This Ordinance shall take effect upon passage and publication in accordance with applicable law.