

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF HAGERSTOWN,
BY DELETING AND REPEALING CHAPTERS 33 *CODE OF ETHICS* AND 35 *ETHICS
COMMISSION*, IN THEIR ENTIRETY AND
REPLACING THE SECTIONS REPEALED WITH REVISED AND UPDATED
SECTION 33 *CODE OF ETHICS*, WHICH IS AT LEAST EQUIVALENT TO THE
STATE OF MARYLAND'S REQUIRED PROVISIONS PER COMAR 19.A.04, AND
ALSO INCLUDES MANDATORY REVISIONS PASSED BY THE GENERAL
ASSEMBLY IN 2021**

RECITALS

WHEREAS, the Mayor and Council, recognize that our system of representative government is dependent in part upon the people maintaining the highest trust in their public officials and employees, finds and declares that the people have a right to be assured that the impartiality and independent judgment of public officials and employees will be maintained;

WHEREAS, it is evident that this trust is eroded when the conduct of the City's business is subject to improper influence and can be eroded where there is even the appearance of improper influence;

WHEREAS, to guard against improper influence, the Mayor and Council enacted Chapter 33 of the City Code to require City officials and employees to disclose their financial affairs and to set minimum standards for the conduct of City business;

WHEREAS, the Mayor and Council previously enacted Chapter 35 of the City Code to establish an Ethics Commission, whose duties, among others, include making determinations as to complaints filed by any person alleging violations of the City's Code of Ethics and to grant exceptions to the prohibitions set forth in the City's Code of Ethics, and provides outside counsel to the Ethics Commission in the event of a conflict of interest for the City Attorney;

WHEREAS, the Mayor and Council desire to amend the aforesaid Chapters 33 and 35 to consolidate the two Chapters and also to include revisions made mandatory by House Bill 363 and House Bill 1058 passed during the 2021 General Assembly Session, and using the State's template as a guide to accomplish both tasks;

WHEREAS, the proposed revisions are at least the equivalent to State requirements per COMAR 19.A.04 and have been approved by the State Ethics Commission; and

WHEREAS, the Mayor and Council find it to be in the best interests of the citizens of the City of Hagerstown to do so;

NOW THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body as follows:

SECTION 1. That the Code of the City of Hagerstown be and is hereby amended by deleting and repealing Chapter 33, entitled *Code of Ethics* and Chapter 35, entitled *Ethics Commission*.


SECTION 2. That the Code of the City of Hagerstown be and is hereby amended by adding thereto a new chapter, to replace Chapters 33 and 35, hereinabove repealed, to be Chapter 33, entitled *Code of Ethics*, to read as follows:

-- See attached Section 33 Code of Ethics --

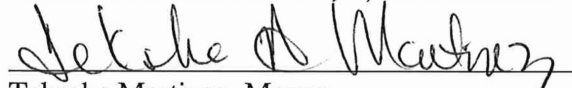
SECTION 3. Effective Date. This Ordinance shall become effective immediately upon the effective date of this Enacting Ordinance.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Enacting Ordinance shall become effective at the expiration of thirty (30) calendar days following its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL


Donna K. Spickler, City Clerk

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND


Tekesha Martinez, Mayor

Date of Introduction: December 19, 2023
Date of Passage: January 9, 2024
Effective Date: February 9, 2024

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEYS

CHAPTER 33— ETHICS PROVISIONS

Section 33-1. Short title.

This chapter may be cited as the City Code of Ethics.

Section 33-2. Applicability and Definitions.

(a) The provisions of this chapter apply to all City elected officials, employees, and appointees to boards, commissions or authorities of the City.

(b) “Designated second home” means:

(1) If an individual owns one second home, the individual’s second home; or

(2) If an individual owns more than one second home, any one second home the individual identifies to the Commission as the individual’s designated second home.

(c) “Financial Interest” means:

(1) Ownership of an interest as the result of which the owner has received within the past 3 years, is currently receiving, or in the future is entitled to receive, more than \$1,000 per year; or

(2)(i) Ownership of more than 3% of a business entity by:

1. an official;

2. an employee; or

3. the spouse of an official or employee; or

(ii) Ownership of securities of any kind that represent, or are convertible into, ownership of more than 3% of a business entity by:

1. an official;

2. an employee; or

3. the spouse of an official or employee.

(d) “Home address” means the address of an individual’s:

(1) Principal home; and

(2) Designated second home, if any.

(e)(1) “Interest” means a legal or equitable economic interest that is owned or held wholly or partly, jointly or severally, or directly or indirectly, whether or not the economic interest is

subject to an encumbrance or condition.

(2) "Interest" does not include:

(i) an interest held in the capacity of agent, custodian, fiduciary, personal representative, or trustee, unless the holder has an equitable interest in the subject matter;

(ii) an interest in a time or demand deposit in a financial institution;

(iii) an interest in an insurance policy, endowment policy, or annuity contract under which an insurer promises to pay a fixed amount of money in a lump sum or periodically for life or a specified period;

(iv) a common trust fund or a trust that forms part of a pension or a profit-sharing plan.

(f) "Principal home" means the sole residential property that an individual occupies as the individual's primary residence, whether owned or rented by the individual.

(g) "Quasi-governmental entity" means an entity that is created by state statute, that performs a public function, and that is supported in whole or in part by the state but is managed privately.

(h) "Second home" means a residential property that:

(1) An individual occupies for some portion of the filing year; and

(2) Is not a rental property or a time share.

Section 33-3. Ethics Commission.

(a) There is a City Ethics Commission ("the Commission") which consists of 5 City residents. Two members shall be nominated and appointed by the Mayor, with the advice and consent of the City Council; Two members shall be appointed by the Mayor from a pool of candidates nominated by the Council; and one member appointed by the Mayor from a pool of candidates nominated by the City Administrator. Upon the occurrence of a vacancy, a replacement member shall be named by the Mayor from newly recommended candidates nominated by the original nominating body for said vacant position. The minimum number of nominees proposed by the Council or City Administrator for membership shall be the minimum of twice the number of currently vacant positions for which the respective nominator is responsible. Each member shall serve a term of five (5) years, with no member serving more than two (2) consecutive terms.

(b) The Commission shall:

(1) Devise, receive, and maintain all forms required by this chapter;

(2) Develop procedures and policies for advisory opinion requests and provide published advisory opinions to persons subject to this chapter regarding the applicability of the provisions

of this chapter to them;

(3) Develop procedures and policies, including but not limited to rules of procedure, for the processing of complaints, to make appropriate determinations regarding complaints filed by any person alleging violations of this chapter;

(4) Conduct a public information program regarding the purposes and application of this chapter;

(5) Process and make determinations as to complaints filed by any person alleging violations of this Chapter; and

(6) Meet regularly (quarterly, if possible) to conduct the business listed above

(c) The City Attorney shall advise the Commission.

(d) The Commission shall certify to the State Ethics Commission on or before October 1 of each year that the City is in compliance with the requirements of General Provisions Article, Title 5, Subtitle 8, Annotated Code of Maryland, for elected local officials.

(e) The Commission shall determine if changes to this chapter are required to be in compliance with the requirements of General Provisions Article, Title 5, Subtitle 8, Annotated Code of Maryland, and shall forward any recommended changes and amendments to the City Council for enactment.

(f) The Commission may adopt other policies and procedures to assist in the implementation of the Commission's programs established in this chapter.

Section 33-4. Conflicts of interest.

(a) In this section, "qualified relative" means a spouse, parent, child, or sibling.

(b) All City elected officials, officials appointed to the City boards, commissions and authorities subject to this chapter, and employees are subject to this section.

(c) Participation prohibitions. Except as permitted by Commission regulation or opinion, an official or employee may not participate in:

(1) Except as permitted by Commission regulation or opinion, an official or employee may not participate in:

(i) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee, or a qualified relative of the official or employee has an interest;

(ii) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a

party:

(A) A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;

(B) A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;

(C) A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating employment or has any arrangement concerning prospective employment;

(D) If the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee, a business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative;

(E) An entity, doing business with the City in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or

(F) A business entity that:

1. The official or employee knows is a creditor or obligee of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value; and

2. As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or employee or a qualified relative of the official or employee.

(2) A person who is disqualified from participating under paragraphs (1)(i) or (ii) of this subsection shall disclose the nature and circumstances of the conflict and may participate or act if:

(i) The disqualification leaves a body with less than a quorum capable of acting;

(ii) The disqualified official or employee is required by law to act; or

(iii) The disqualified official or employee is the only person authorized to act.

(3) The prohibitions of paragraph (1)(i) or (ii) of this subsection do not apply if participation is allowed by regulation or opinion of the Commission.

(4) A former regulated lobbyist who is or becomes subject to this chapter as an employee or official, other than an elected official or an appointed official, may not participate in a case, contract, or other specific matter as an employee or official, other than an elected official or appointed official, for one calendar year after the termination of the registration of the former regulated lobbyist if the former regulated lobbyist previously assisted or represented another party for compensation in the matter.

(d) Employment and financial interest restrictions.

(1) Except as permitted by regulation of the Commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:

(i) Be employed by or have a financial interest in any entity:

(A) Subject to the authority of the official or employee or the City agency, board, commission or authority with which the official or employee is affiliated; or

(B) That is negotiating or has entered a contract with the agency, board, or commission with which the official or employee is affiliated; or

(ii) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.

(2) This prohibition does not apply to:

(i) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to the authority;

(ii) Subject to other provisions of law, a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed to the appointing authority and the Commission;

(iii) An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted by and in accordance with regulations adopted by the Commission; or

(iv) Employment or financial interests allowed by regulation of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

(e) Post-employment limitations and restrictions.

(1) A former official or employee may not assist or represent any party other than the City for compensation in a case, contract, or other specific matter involving the City if that matter is one in which the former official or employee significantly participated as an official or employee.

(2) A former elected official may not assist or represent another party for compensation in a matter that is the subject of legislative action for one calendar year after the elected official leaves office.

(f) Contingent compensation. Except in a judicial or quasi-judicial proceeding, an official or

employee may not assist or represent a party for contingent compensation in any matter before or involving the City.

(g) Use of prestige of office.

(1) (i) An official or employee may not intentionally use the prestige of office or public position:

(A) For the private gain of that official or employee or the private gain of another; or

(B) To influence, except as part of the official duties of the official or employee or as a usual and customary constituent service without additional compensation, the award of a state or local contract to a specific person.

(ii) An official may not directly or indirectly initiate a solicitation for a person to retain the compensated services of a particular regulated lobbyist or lobbying firm.

(2) This subsection does not prohibit the performance of usual and customary constituent services by an elected local official without additional compensation.

(3) (i) An official, other than an elected official, or employee may not use public resources or the title of the official or employee to solicit a contribution as that term is defined in the Election Law Article.

(ii) An elected official may not use public resources to solicit a contribution as that term is defined in the Election Law Article.

(h) Solicitation and acceptance of gifts.

(1) An official or employee may not solicit any gift.

(2) An official or employee may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist.

(3) An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has the reason to know:

(i) Is doing business with or seeking to do business with the City office, agency, board, or commission with which the official or employee is affiliated;

(ii) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;

(iii) Is engaged in an activity regulated or controlled by the official's or employee's governmental unit;

(iv) Is a lobbyist with respect to matters within the jurisdiction of the official or employee;
or

(v) Is an association, or any entity acting on behalf of an association that is engaged only in representing counties or municipal corporations.

(4) Paragraph (5) of this subsection does not apply to a gift:

(i) That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;

(ii) Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or

(iii) Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.

(5) Notwithstanding paragraph (3) of this subsection, an official or employee may accept the following:

(i) Meals and beverages consumed in the presence of the donor or sponsoring entity;

(ii) Ceremonial gifts or awards that have insignificant monetary value;

(iii) Unsolicited gifts of nominal value that do not exceed \$20 in cost or trivial items of informational value;

(iv) Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting;

(v) Gifts of tickets or free admission extended to an elected local official to attend a charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official's office;

(vi) A specific gift or class of gifts that the Commission exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the City and that the gift is purely personal and private in nature;

(vii) Gifts from a person related to the official or employee by blood or marriage, or any other individual who is a member of the household of the official or employee; or

(viii) Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is in not related in any way to the official's or employee's official position.

(i) Disclosure of confidential information. Other than in the discharge of official duties, an official or employee or former official or employee may not disclose or use confidential information, that the official or employee acquired by reason of the individual's public position or former public position and that is not available to the public, for the economic benefit of the

official or employee or that of another person.

(j) An official or employee may not retaliate against an individual for reporting or participating in an investigation of a potential violation of the local ethics law or ordinance.

Section 33-5. Financial disclosure — local elected officials and candidates to be local elected officials.

(a) (1) This section applies to all local elected officials and candidates to be local elected officials.

(2) Except as provided in subsection (b) of this section, a local elected official or a candidate to be a local elected official shall file the financial disclosure statement required under this section:

- (i) On a form provided by the Commission;
- (ii) Under oath or affirmation; and
- (iii) With the Commission.

(3) Deadlines for filing statements.

(i) An incumbent local elected official shall file a financial disclosure statement annually no later than April 30 of each year for the preceding calendar year.

An individual who is appointed to fill a vacancy in an office for which a financial disclosure statement is required and who has not already filed a financial disclosure statement shall file a statement for the preceding calendar year within 30 days after appointment.

(ii) (A) An individual who, other than by reason of death, leaves an office for which a statement is required shall file a statement within 60 days after leaving the office.

(B) The statement shall cover:

- 1. The calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and
- 2. The portion of the current calendar year during which the individual held the office.

(b) Candidates to be local elected officials.

(1) Except for an official who has filed a financial disclosure statement under another provision of this section for the reporting period, a candidate to be an elected local official shall file a financial disclosure statement each year beginning with the year in which the certificate of candidacy is filed through the year of the election.

(2) A candidate to be an elected local official shall file a statement required under this section:

(i) In the year the certificate of candidacy is filed, no later than the filing of the certificate of candidacy;

(ii) In the year of the election, on or before the earlier of April 30 or the last day for the withdrawal of candidacy; and

(iii) In all other years for which a statement is required, on or before April 30.

(3) A candidate to be an elected official:

(i) May file the statement required under §5(b)(2)(i) of this chapter with the City Clerk or Board of Election Supervisors with the certificate of candidacy or with the Commission prior to filing the certificate of candidacy; and

(ii) Shall file the statements required under §5(b)(2)(ii) and (iii) with the Commission.

(4) If a statement required to be filed by a candidate is overdue and not filed within 8 days after written notice of the failure to file is provided by the City Clerk or Board of Election Supervisor, the candidate is deemed to have withdrawn the candidacy.

(5) The City Clerk or Board of Election Supervisors may not accept any certificate of candidacy unless a statement has been filed in proper form.

(6) Within 30 days of the receipt of a statement required under this section, the City Clerk or Board of Election Supervisors shall forward the statement to the Commission or the office designated by the Commission.

(c) Public record.

(1) The Commission or office designated by the Commission shall maintain all financial disclosure statements filed under this section.

(2) Financial disclosure statements shall be made available during normal office hours for examination and copying by the public subject to reasonable fees and administrative procedures established by the Commission.

(3) If an individual examines or copies a financial disclosure statement, the Commission or the office designated by the Commission shall record:

(i) The name and home address of the individual reviewing or copying the statement; and

(ii) The name of the person whose financial disclosure statement was examined or copied.

(4) Upon request by the official or employee whose financial disclosure statement was examined or copied, the Commission or the office designated by the Commission shall provide the official with a copy of the name and home address of the person who reviewed the official's

financial disclosure statement.

(5) For statements filed after January 1, 2019, the Commission or the office designated by the Commission may not provide public access to an individual's home address that the individual has designated as the individual's home address.

(6) The Commission or office designated by the Commission shall not provide public access to information related to consideration received from:

- (i) The University of Maryland Medical System;
- (ii) A governmental entity of the State or a local government in the State; or
- (iii) A quasi-governmental entity of the State or local government in the State.

(d) Retention requirements. The Commission or the office designated by the Commission shall retain financial disclosure statements for four years from the date of receipt.

(e) An individual who is required to disclose the name of a business under this section shall disclose any other names that the business is trading as or doing business as.

(f) Contents of statement.

(1) Interests in real property.

(i) A statement filed under this section shall include a schedule of all interests in real property wherever located.

(ii) For each interest in real property, the schedule shall include:

(A) The nature of the property and the location by street address, mailing address, or legal description of the property;

(B) The nature and extent of the interest held, including any conditions and encumbrances on the interest;

(C) The date when, the manner in which, and the identity of the person from whom the interest was acquired;

(D) The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;

(E) If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and

(F) The identity of any other person with an interest in the property.

(2) Interests in corporations and partnerships.

(i) A statement filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, regardless of whether the corporation or partnership does business with the City.

(ii) For each interest reported under this paragraph, the schedule shall include:

(A) The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;

(B) The nature and amount of the interest held, including any conditions and encumbrances on the interest;

(C) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and, if known, the identity of the person to whom the interest was transferred; and

(D) With respect to any interest acquired during the reporting period:

1. The date when, the manner in which, and the identity of the person from whom the interest was acquired; and

2. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(iii) An individual may satisfy the requirement to report the amount of the interest held under item (ii)(B) of this paragraph by reporting, instead of a dollar amount:

(A) For an equity interest in a corporation, the number of shares held and, unless the corporation's stock is publicly traded, the percentage of equity interest held; or

(B) For an equity interest in a partnership, the percentage of equity interest held.

(3) Interests in business entities doing business with the City.

(i) A statement filed under this section shall include a schedule of all interests in any business entity that does business with the City, other than interests reported under paragraph (2) of this subsection.

(ii) For each interest reported under this paragraph, the schedule shall include:

(A) The name and address of the principal office of the business entity;

(B) The nature and amount of the interest held, including any conditions to and encumbrances on the interest;

(C) With respect to any interest transferred, in whole or in part, at any time during the

reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest, and, if known, the identity of the person to whom the interest was transferred; and

(D) With respect to any interest acquired during the reporting period:

1. The date when, the manner in which, and the identity of the person from whom the interest was acquired; and

2. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(4) Gifts.

(i) A statement filed under this section shall include a schedule of each gift in excess of \$20 in value or a series of gifts totaling \$100 or more received during the reporting period from or on behalf of, directly or indirectly, any one person who does business with the City, or from an association, or any entity acting on behalf of an association that is engaged only in representing counties or municipal corporations.

(ii) For each gift reported, the schedule shall include:

(A) A description of the nature and value of the gift; and

(B) The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

(5) Employment with or interests in entities doing business with the City.

(i) A statement filed under this section shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the City.

(ii) For each position reported under this paragraph, the schedule shall include:

(A) The name and address of the principal office of the business entity;

(B) The title and nature of the office, directorship, or salaried employment held and the date it commenced; and

(C) The name of each City agency with which the entity is involved.

(6) Indebtedness to entities doing business with or regulated by the individual's City or department.

(i) A statement filed under this section shall include a schedule of all liabilities, excluding retail credit accounts, to persons doing business with or regulated by the individual's City unit

or department owed at any time during the reporting period:

(A) By the individual; or

(B) By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.

(ii) For each liability reported under this paragraph, the schedule shall include:

(A) The identity of the person to whom the liability was owed and the date the liability was incurred;

(B) The amount of the liability owed as of the end of the reporting period;

(C) The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and

(D) The security given, if any, for the liability.

(7) A statement filed under this section shall include a schedule of the immediate family members of the individual employed by the City in any capacity at any time during the reporting period.

(8) Sources of earned income.

(i) A statement filed under this section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or a member of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate family received earned income, at any time during the reporting period.

(ii) A minor child's employment or business ownership need not be disclosed if the agency that employs the individual does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child.

(iii) For a statement filed on or after January 1, 2019, if the individual's spouse is a lobbyist regulated by the City, the individual shall disclose the entity that has engaged the spouse for lobbying purposes.

(9) Relationship with University of Maryland Medical System, State or Local Government, or Quasi-Governmental Entity.

(i) An individual shall disclose the information specified in General Provisions Article §5-607(j)(1), Annotated Code of Maryland, for any financial or contractual relationship with:

(A) The University of Maryland Medical System;

(B) A governmental entity of the State or a local government in the State; or

(C) A quasi-governmental entity of the State or local government in the State.

(ii) For each financial or contractual relationship reported, the schedule shall include:

- (A) A description of the relationship;
- (B) The subject matter of the relationship; and
- (C) The consideration.

(10) A statement filed under this section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.

(g) For the purposes of §5(f)(1), (2), and (3) of this chapter, the following interests are considered to be the interests of the individual making the statement:

(1) An interest held by a member of the individual's immediate family, if the interest was, at any time during the reporting period, directly or indirectly controlled by the individual.

(2) An interest held, at any time during the applicable period, by:

- (i) A business entity in which the individual held a (10)% or greater interest;
- (ii) A business entity described in item (i) of this subsection in which the business entity held a 25% or greater interest;
- (iii) A business entity described in item (ii) of this subsection in which the business entity held a 50% or greater interest; and

(iv) A business entity in which the individual directly or indirectly, though an interest in one or a combination of other business entities, holds a 10% or greater interest.

(3) An interest held by a trust or an estate in which, at any time during the reporting period:

- (i) The individual held a reversionary interest or was a beneficiary; or
- (ii) If a revocable trust, the individual was a settlor.

(h) (1) The Commission shall review the financial disclosure statements submitted under this section for compliance with the provisions of this section and shall notify an individual submitting the statement of any omissions or deficiencies.

(2) The City Ethics Commission may take appropriate enforcement action to ensure compliance with this section.

Section 33-6. Financial disclosure — employees and appointed officials.

(a) This section only applies to the following appointed officials and employees:

- (1) The City Administrator;
- (2) The City Clerk;
- (3) The City Director of Finance;
- (4) The City Attorney;
- (5) All City Department Heads; and

(6) Members of all boards, commissions and authorities of the City, and City appointees to non-City Boards, commissions and authorities.

(b) statement filed under this section shall be filed with the Commission under oath or affirmation.

On or before April 30 of each year during which an official or employee holds office, said official or employee shall file a statement disclosing gifts received during the preceding calendar year from any person who contracts with or is regulated by the City, including name of the donor of the gift and the approximate retail value at the time of receipt.

(c) An official or employee shall disclose employment and interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the employee or official sufficiently in advance of the action to provide adequate disclosure to the public.

(d) An individual who is required to disclose the name of a business under this section shall disclose any other names that the business is trading as or doing business as.

(e) Relationship with University of Maryland Medical System, State or Local Government, or Quasi-Governmental Entity.

(1) An individual shall disclose the information specified in General Provisions Article §5-607(j)(1), Annotated Code of Maryland, for any financial or contractual relationship with:

- (i) The University of Maryland Medical System;
- (ii) A governmental entity of the State or a local government in the State; or
- (iii) A quasi-governmental entity of the State or local government in the State.

(2) For each financial or contractual relationship reported, the schedule shall include:

- (i) A description of the relationship;
- (ii) The subject matter of the relationship; and
- (iii) The consideration.

(f) The Commission shall maintain all disclosure statements filed under this section as public records available for public inspection and copying as provided in §5(c) and (d) of this chapter.

Section 33-7. Lobbying.

(a) A person shall file a lobbying registration statement with the Commission if the person:

(1) Personally appears before a City official or employee with the intent to influence that person in performance of the official duties of the official or employee; and

(2) In connection with the intent to influence, expends or reasonably expects to expend in a given calendar year in excess of \$100 on food, entertainment, or other gifts for officials or employees of the City.

(b) A person shall file a registration statement required under this section on or before the later of January 15 of the calendar year or within 5 days after first performing an act that requires registration in the calendar year.

(c) (1) The registration statement shall identify:

(i) The registrant;

(ii) Any other person on whose behalf the registrant acts; and

(iii) The subject matter on which the registrant proposes to make appearances specified in subsection (a) of this section.

(2) The registration statement shall cover a defined registration period not to exceed one calendar year.

(d) Within 30 days after the end of any calendar year during which a person was registered under this section, the person shall file a report with the Commission disclosing:

(1) The value, date, and nature of any food, entertainment, or other gift provided to a City official or employee; and

(2) If a gift or series of gifts to a single official or employee exceeds \$20 in value, the identity of the official or employee.

(e) The Commission shall maintain the registrations and reports filed under this section as public records available for public inspection and copying for four years after receipt by the Commission.

Section 33-8. Exemptions and modifications.

The Commission may grant exemptions and modifications to the provisions of § 4 and 6 of

this chapter to employees and to appointed members of the City Boards and Commissions, when the Commission finds that an exemption or modification would not be contrary to the purposes of this chapter, and the application of this chapter would:

- (a) Constitute an unreasonable invasion of privacy; and
- (b) Significantly reduce the availability of qualified persons for public service.

Section 33-9. Enforcement.

(a) The Commission may:

(1) Assess a late fee of \$5 per day up to a maximum of \$500 for a failure to timely file a financial disclosure statement required under §5 or 6 of this chapter;

(2) Assess a late fee of \$10 per day up to a maximum of \$1,000 for a failure to file a timely lobbyist registration or lobbyist report required under §7 of this chapter; and

(3) Issue a cease and desist order against any person found to be in violation of this chapter.

(b) (1) Upon a finding of a violation of any provision of this chapter, the Commission may:

(i) Issue an order of compliance directing the respondent to cease and desist from the violation;

(ii) Issue a reprimand; or

(iii) Recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal if that discipline is authorized by law.

(2) If the Commission finds that a respondent has violated §7 of this chapter, the Commission may:

(i) Require a respondent who is a registered lobbyist to file any additional reports or information that reasonably relates to the information that is required under §7 of this chapter;

(ii) Impose a fine not exceeding \$5,000 for each violation; and

(iii) Suspend the registration of an individual registered lobbyist if the Commission finds that the lobbyist has knowingly and willfully violated §7 of this chapter or has been convicted of a criminal offense arising from lobbying activities.

(c) (1) Upon request of by the Commission, the City Attorney may file a petition for injunctive or other relief in the circuit court of Washington County, or in any other court having proper venue for the purpose of requiring compliance with the provisions of this chapter.

(2) (i) The court may:

(A) Issue an order to cease and desist from the violation;

(B) Except as provided in subparagraph (ii) of this paragraph, void an official action taken by an official or employee with a conflict of interest prohibited by this chapter when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within 90 days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public; or

(C) Impose a fine of up to \$5,000 for any violation of the provisions of this chapter, with each day upon which the violation occurs constituting a separate offense.

(ii) A court may not void any official action appropriating public funds, levying taxes, or providing for the issuance of bonds, notes, or other evidences of public obligations.

(d) In addition to any other enforcement provisions in this chapter, a person who the Commission or a court finds has violated this chapter:

(1) Is subject to termination or other disciplinary action; and

(2) May be suspended from receiving payment of salary or other compensation pending full compliance with the terms of an order of the Commission or a court.

(e) A City official or employee found to have violated this chapter is subject to disciplinary or other appropriate personnel action, including removal from office, disciplinary action, suspension of salary, or other sanction.

(f) Violation of §7 of this chapter shall be a misdemeanor subject to a fine of up to \$10,000 or imprisonment of up to one year.

(g) A finding of a violation of this chapter by the Commission is public information.

33-10. Conflict of Interest for City Attorney

In the event that any City elected official, employee, or appointee to boards, commissions or authorities of the City is a party to any proceeding before the Commission, and it is determined either by the Commission or the City Attorney that there would be a conflict of interest if the City Attorney would to advise the Commission in such proceeding, then the Commission may engage within its discretion other counsel from Washington County, Maryland, to provide legal advice to the Commission.