

ORDINANCE
OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK,
MARYLAND, AMENDING CHAPTER 38, “CODE OF ETHICS”, BY
REPEALING AND REENACTING ARTICLE I, “GENERAL PROVISIONS”,
SECTION 38-4, “DEFINITIONS”, ARTICLE II, “ETHICS COMMISSION”,
SECTION 38-8, “PROCEDURES FOR ADJUDICATING ALLEGED
VIOLATIONS”, AND ARTICLE IV, “REQUIRED DISCLOSURES”, SECTION
38-15, “FINANCIAL DISCLOSURE OF CITY ELECTED OFFICIALS AND
CANDIDATES TO BE CITY ELECTED OFFICIALS”, SECTION 38-16,
“FINANCIAL DISCLOSURE OF EMPLOYEES AND APPOINTED
OFFICIALS” AND SECTION 38-17 “ADDITIONAL CONFLICT OF INTEREST
STATEMENTS AND CORRECTION OF INACCURATE OR INCOMPLETE
FILINGS REQUIRED”, TO AMEND THE ETHICS CODE TO CLARIFY THE
DEFINITION OF INTEREST THAT MUST BE REPORTED, INCLUDING A
PROCEDURE FOR DISMISSAL OF A COMPLAINT, CLARIFYING THE
REQUIREMENTS FOR ELECTED OFFICIALS, CANDIDATE, APPOINTED
OFFICIAL AND EMPLOYEE DISCLOSURE AND PROVIDING A REMEDY
FOR FAILURE OF A CANDIDATE TO FILE THE REQUIRED DISCLOSURES

WHEREAS, pursuant to §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, the City of College Park, Maryland (hereinafter, the “City”) has the power to pass such ordinances as it deems necessary to protect the health, safety and welfare of the citizens of the municipality and to prevent and remove nuisances; and

WHEREAS, the City has adopted a Code of Ethics as required by §15-801 *et seq.* of the State Government Article, Annotated Code of Maryland; and

WHEREAS, the City’s Ethics Commission has recommended that certain changes to the Code of Ethics be adopted; and

WHEREAS, the General Assembly has amended the State Ethics Code to change the definition of an “interest” that must be reported with respect to mutual funds; and

WHEREAS, the Mayor and Council have determined that it is in the public interest to adopt certain amendments to the Code of Ethics.

CAPS
 [Brackets]
 Asterisks * * *

: Indicate matter added to existing law.
 : Indicate matter deleted from law.
 : Indicate matter remaining unchanged in existing law but not set forth in Ordinance

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the City of College Park, Maryland that Chapter 38, “Code of Ethics”, Article I, “General Provisions”, Section 38-4, “Definitions”, be, and is hereby repealed, reenacted and amended to read as follows:

§ 38-4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

* * * * *

INTEREST – Any legal or equitable economic interest, whether or not subject to an encumbrance or condition, which is owned or held, in whole or in part, jointly or severally, directly or indirectly, by any person subject to this chapter. One who serves as an officer or director of a business entity, whether operated for profit or not, has an “interest” in that business entity. For purposes of this chapter, the term "interest" applies to any interest owned or held at any time during the calendar year for which a required statement is to be filed or made upon the record of the City Council or any City body. For purposes of §38-15 and §38-16, interest includes any interest held at any time during the reporting period.

A. * * * *

B. For all purposes in this chapter, "Interest" does not include:

- (1) An interest held in the capacity of a personal agent, representative, custodian, fiduciary or trustee, unless the holder has an equitable interest therein.
- (2) An interest in a time or demand deposit in a financial institution.
- (3) An interest in an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period.
- (4) An interest in a common trust fund or a trust that forms part of a pension or profit-sharing plan which has more than 25 participants and which has been determined by the Internal Revenue Service to be a qualified trust or college savings plan under Internal Revenue Code.
- (5) An interest in a business entity, if the official or employee owns three percent (3%) or less of the business, including ownership of securities held directly or indirectly, such as through mutual funds.

(6) A MUTUAL FUND THAT IS PUBLICLY TRADED ON A NATIONAL SCALE UNLESS THE MUTUAL FUND IS COMPOSED PRIMARILY OF HOLDINGS OF STOCKS AND INTERESTS IN A SPECIFIC SECTOR OR AREA THAT IS REGULATED BY THE CITY.

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Section 2. BE IT FURTHER ORDAINED AND ENACTED, that Chapter 38, “Code of Ethics”, Article II, “Ethics Commission”, § 38-8, “Procedures for adjudicating alleged violations”, be, and is hereby repealed, reenacted and amended to read as follows:

§ 38-8. Procedures for adjudicating alleged violations.

A. Complaint

(1) – (2) * * * *

(3) Ethics Counsel review. The Commission shall immediately transmit a copy of the complaint to its Ethics Counsel. The Ethics Counsel shall review the complaint and, at his or her discretion, may prepare an addendum to the complaint. The purposes of this addendum are to assure that the respondent has adequate notice of the specific Code provisions alleged to have been violated and to aid the Commission in limiting the scope of any preliminary hearing to relevant factual inquiries. Any addendum is to be submitted to the Commission within 10 working days of receipt of the complaint by the Ethics Counsel. IF THE ETHICS COUNSEL DETERMINES THAT THE COMPLAINT IS TIME BARRED UNDER PARAGRAPH (4) OF THIS SUBSECTION OR DOES NOT ASSERT FACTS THAT IF PROVEN TRUE WOULD CONSTITUTE A VIOLATION OF THIS CHAPTER OR CHAPTER 34, THE ETHICS COUNSEL MAY RECOMMEND THAT THE COMMISSION DISMISS THE COMPLAINT WITHOUT NOTICE TO THE

RESPONDENT OR A PRELIMINARY HEARING. UPON RECEIPT OF THE RECOMMENDATION, THE COMMISSION MAY DISMISS THE COMPLAINT.

(4) * * * *

B. * * * *

C. Preliminary hearing.

(1) – (3) * * * *

(4) [Respondents] RESPONDENT’S right to respond. The respondent shall have the opportunity to respond but is not required to attend or make any statement. Such person may describe in narrative form the testimony and other evidence which would be presented to disprove the alleged violation. If the respondent agrees that a violation has occurred, he or she may at any time waive the right to a final hearing and consent to a decision based on the facts alleged in the complaint or otherwise agreed upon. The disposition of any complaint without final hearing shall be by written order of the Commission in the form specified by Subsection D(5).

(5) – (7) * * * *

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Section 3. BE IT FURTHER ORDAINED AND ENACTED, that Chapter 38, “Code of Ethics”, Article IV, “Required Disclosures”, Section 38-15, “Financial disclosure of City elected officials and candidates to be City elected officials”, be, and is hereby repealed, reenacted and amended to read as follows:

§ 38-15. [~~Financial~~] REQUIRED disclosure [~~of~~] BY City elected officials and candidates to be City elected officials.

A. * * * *

B. [~~Financial~~] REQUIRED disclosure statements

(1) REQUIRED DISCLOSURE STATEMENTS INCLUDE:

- (A) ANNUAL FINANCIAL DISCLOSURE STATEMENTS;
- (B) CANDIDATE FINANCIAL DISCLOSURE STATEMENTS; AND
- (C) STATEMENTS OF ACTUAL OR POTENTIAL CONFLICT OF INTEREST.

(2)[(1) Except as provided in Subsection C a] A City elected official or a candidate to be a City elected official shall file the financial disclosure statementS required under this section:

- (a) On a form provided by the Commission;
- (b) Under oath or affirmation; and
- (c) With the CITY CLERK, WHO SHALL FORWARD THE STATEMENTS TO THE Commission OR THE BOARD OF ELECTION SUPERVISORS, AS APPROPRIATE.

(3)[(2)]Deadlines for filing statements.

- (a) An incumbent City elected official shall file [~~a financial disclosure statement annually~~] AN ANNUAL FINANCIAL DISCLOSURE STATEMENT no later than April 30 of each year for the preceding calendar year.
- (b) An individual who applies to fill a vacancy in an office for which aN ANNUAL financial disclosure statement is required and who has not already filed a financial disclosure statement for the reporting period, shall file a statement for the preceding calendar year and the portion of the current calendar year to date of filing together with the application for appointment.
- (C) AN ELECTED OFFICIAL SHALL FILE A STATEMENT OF ACTUAL OR POTENTIAL CONFLICT OF INTEREST DISCLOSING EMPLOYMENT AND INTERESTS THAT RAISE CONFLICTS OF INTEREST OR POTENTIAL CONFLICTS OF INTEREST IN CONNECTION WITH A SPECIFIC PROPOSED ACTION BY THE OFFICIAL SUFFICIENTLY IN ADVANCE OF THE ACTION TO PROVIDE ADEQUATE DISCLOSURE TO THE PUBLIC.

* * *

C. Candidates to be City elected officials.

(1) A candidate to be an elected City official shall file a financial disclosure statement [~~each year beginning with the year in which the authorization of candidacy is filed through the year of the election~~] WITH THE CITY CLERK WITH THE CANDIDATE'S AUTHORIZATION OF CANDIDACY. THE CITY CLERK SHALL FORWARD THE STATEMENT TO THE BOARD OF ELECTION SUPERVISORS.

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

- ~~(a) In the year the authorization of candidacy is filed, no later than the filing of the authorization of candidacy.] (A) EXCEPT AS PROVIDED IN PARAGRAPH (B), the reporting period shall be the calendar year immediately preceding the year in which the authorization is filed and the portion of the current calendar year to the date the authorization is filed;~~
- ~~(b) [In the year of the election, if other than the year in which the authorization of candidacy is filed, on or before the earlier of April 30 or the last day for the withdrawal of candidacy; and] FOR ELECTED~~

OFFICIALS THAT HAVE FILED A STATEMENT UNDER ANOTHER PROVISION OF THIS SECTION FOR THE PRECEDING CALENDAR YEAR, THE REPORTING PERIOD SHALL BE THE PORTION OF THE CALENDAR YEAR TO THE DATE THE AUTHORIZATION IS FILED;

~~{(c) — In all other years for which a statement is required, on or before April 30.}(3)~~

~~[A candidate to be an elected City official:~~

~~(a) — Shall file the statement required under § 38-15C(2)(a) of this chapter with the Board of Election Supervisors at the time of filing of the authorization of candidacy and with the Commission prior to or at the time of filing the authorization of candidacy; and~~

~~(b) — Shall file the statements required under § 38-15C(2)(b) and (c) with the Commission.~~

~~(4) — If a candidate fails to file a statement required by this section after written notice is provided by the Board of Election Supervisors at least 20 days before the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidacy.~~

~~(5)] The Board of Election Supervisors may not accept [any certificate of candidacy unless a statement has been filed in proper form.] The Board of Election Supervisors may not accept AN AUTHORIZATION OF CANDIDACY UNLESS IT IS ACCOMPANIED BY THE CANDIDATE’S FINANCIAL DISCLOSURE STATEMENT THAT INCLUDES ALL REQUIRED IDENTIFYING AND CONTACT INFORMATION, IS SIGNED UNDER OATH, AND INCLUDES ANSWERS TO EVERY MANDATORY QUESTION.~~

((4) Upon receipt of a statement required under this section, the Board of Election Supervisors shall promptly forward the statement to the Commission or the office designated by the Commission, ~~[but in any event]~~ AND SHALL DO SO no later than ~~[within 30 days of receipt and no later than]~~ THE close of business on the day of the filing deadline ~~[, whichever is earlier]~~ FOR THE AUTHORIZATION OF CANDIDACY.

(D) – (H) * * * *

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Section 4. BE IT FURTHER ORDAINED AND ENACTED, that Chapter 38, “Code of Ethics”, Article IV, “Required Disclosures”, Section 38-15, “Financial disclosure of City elected officials and candidates to be City elected officials”, be, and is hereby repealed, reenacted and amended to read as follows:

§ 38-16. [Financial] REQUIRED disclosure [of] BY employees and appointed officials.

A. – E. * * * *

F. A newly appointed City official shall file a [~~financial~~] REQUIRED disclosure form within 30 days of appointment. The reporting period for the statement is the calendar year immediately preceding the year in which the disclosure form is filed, and the portion of the current calendar year to the date the form is filed.

Section 5. BE IT FURTHER ORDAINED AND ENACTED, that Chapter 38, “Code of Ethics”, Article IV, “Required Disclosures”, Section 38-17, “Additional conflict of interest statements and correction of inaccurate or incomplete filings”, be, and is hereby repealed, reenacted and amended to read as follows:

§ 38-17. Additional conflict of interest statements and correction of inaccurate or incomplete filings.

(A) – (B) * * * *

C. Any person required to file a conflict of interest, lobbying registration, or financial disclosure statement pursuant to this chapter shall correct any inaccurate or incomplete filings with the commission within [~~30~~] 15 days of learning or being notified that the statement is inaccurate or incomplete. Any candidate for office notified that a [~~form~~] STATEMENT is, or appears to the commission to be, inaccurate or incomplete must provide the additional information required to the commission or confirm the accuracy and completeness of the [~~form~~] STATEMENT WITHIN 15 DAYS OR prior to the withdrawal of candidacy deadline, WHICHEVER IS FIRST TO OCCUR. IF ADDITIONAL INFORMATION IS NOT PROVIDED OR THE ACCURACY AND COMPLETENESS OF THE INFORMATION IS NOT CONFIRMED, IN WRITING, WITHIN THE REQUIRED TIME TO THE SATISFACTION OF THE COMMISSION THAT IT IS IN COMPLIANCE WITH THE

ETHICS CODE, THEN THE CANDIDATE IS DEEMED TO HAVE WITHDRAWN THE CANDIDACY. THE COMMISSION MAY DELEGATE THE DETERMINATION OF SUFFICIENCY TO ITS CHAIR.

Section 6. BE IT FURTHER ORDAINED by the Mayor and Council of the City of College Park that, upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the City Clerk and shall publish this proposed ordinance or a fair summary thereof in a newspaper having a general circulation in the City of College Park together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing, hereby set for _____ P.M. on the _____ day of _____, 2014, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. As soon as practicable after adoption, the City Clerk shall have a fair summary of the Ordinance and notice of its adoption published in a newspaper having a general circulation in the City of College Park and available at the City's offices. This Ordinance shall become effective on _____, 2014, provided that a fair summary of this Ordinance is published at least once prior to the date of passage and once as soon as practical after the date of passage in a newspaper having general circulation in the City.

INTRODUCED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the _____ day of _____, 2014.

ADOPTED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the _____ day of _____ 2014.

EFFECTIVE the _____ day of _____, 2014.

ATTEST:

CITY OF COLLEGE PARK

By: _____
Janeen S. Miller, CMC, City Clerk

By: _____
Andrew M. Fellows, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Suellen M. Ferguson, City Attorney