

**ORDINANCE**  
**OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK, MARYLAND,**  
**AMENDING CHAPTER 38, “CODE OF ETHICS”, ARTICLE I, “GENERAL**  
**PROVISIONS”, SECTION 38-4, “DEFINITIONS”, ARTICLE III, “PROHIBITED**  
**ACTS”, SECTION 38-11, “CONFLICTS OF INTEREST”, AND SECTION 38-12**  
**“NEPOTISM” AND ARTICLE IV “REQUIRED DISCLOSURES”, SECTION 38-17**  
**“DISCLOSURE OF CONFLICTS OF INTEREST” TO AMEND THE DEFINITION OF**  
**FAMILY MEMBER AND INTEREST, AND ADD A DEFINITION OF DOMESTIC**  
**PARTNER AND DOMESTIC PARTNERSHIP, TO CLARIFY WHAT CONSTITUTES A**  
**CONFLICT OF INTEREST, TO PROHIBIT SOLICITATION OF GIFTS, TO CLARIFY**  
**WHAT IS A PERMISSIBLE GIFT AND TO MAKE CERTAIN TECHNICAL CHANGES.**

WHEREAS, pursuant to Md. Code Ann., Art. 23A, §2, 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, various clarifying amendments to the Code of Ethics have been requested by the City’s Ethics Commission; and

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

**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 amended to read as follows:

**§ 38-4. Definitions.**

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

\* \* \* \* \*

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

DOMESTIC PARTNER – AN INDIVIDUAL WITH WHOM ANOTHER INDIVIDUAL HAS ESTABLISHED A DOMESTIC PARTNERSHIP.

DOMESTIC PARTNERSHIP – A RELATIONSHIP BETWEEN TWO INDIVIDUALS WHO ARE NOT MARRIED, ARE NOT IN A CIVIL UNION OR DOMESTIC PARTNERSHIP WITH ANOTHER INDIVIDUAL, AND WHO SHARE A PRIMARY PLACE OF RESIDENCE AND ARE FINANCIALLY INTERDEPENDENT.

\* \* \* \*

FAMILY MEMBER - Anyone who is related to an individual by blood, marriage or adoption or is a member of an individual's household. Family members include but are not limited to an individual's spouse, DOMESTIC PARTNER, parent, sibling, child, cousin, mother-in-law, father-in-law, grandparent, grandchild or anyone who is a member of the individual's household.

\* \* \* \* \*

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.

"INTEREST" DOES INCLUDE:

AN INTEREST IN A BUSINESS ENTITY, IF THE OFFICIAL OR EMPLOYEE:

- A. RECEIVED \$1,000.00 OR MORE IN INTEREST, SALARY, DIVIDENDS, DIRECT STOCK REPURCHASES, OR OTHER CONSIDERATION FROM THAT BUSINESS IN EACH OF THE LAST 3 YEARS;
- B. IS CURRENTLY RECEIVING, OR IN THE FUTURE IS ENTITLED TO RECEIVE, \$1,000 OR MORE PER YEAR FROM THAT BUSINESS;
- C. OWNS MORE THAN THREE PERCENT (3%) OF THE BUSINESS, INCLUDING OWNERSHIP OF SECURITIES HELD DIRECTLY OR INDIRECTLY, SUCH AS THROUGH MUTUAL FUNDS; OR
- D. SERVES AS AN OFFICER OR DIRECTOR OF THE BUSINESS.

"Interest" does not include:

- A. An interest held in the capacity of a personal agent, representative, custodian, fiduciary or trustee, unless the holder has an equitable interest therein.
- B. An interest in a time or demand deposit in a financial institution.
- C. 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.
- D. An interest in a common trust fund or a trust ~~[which]~~ 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 ~~[Sections 401 and 501 of]~~ the Internal Revenue Code of 1954.

\* \* \* \* \*

**Section 2.** BE IT FURTHER ORDAINED AND ENACTED, that Chapter 38, “Code of Ethics”, Article III, “Prohibited Acts”, Section 38-11, “Conflicts of Interest”, be, and is hereby amended to read as follows:

**§ 38-11. Conflicts of Interest.**

**A. DISQUALIFICATION FROM PARTICIPATION**

(1) No City official or employee shall participate on behalf of the City in any matter which would to their knowledge have a direct financial impact, as distinguished from the public generally, on themselves, their employers, a member of their family or any business entity ~~[with]~~ IN which they ~~[are affiliated]~~ HAVE AN INTEREST. Decisions relating to the property tax rate, general City fees or service charges or a comprehensive zoning ordinance or similar matter are not considered to have direct financial impact to the extent that a Council member would be affected in common with the general public.

(2) THIS SECTION DOES NOT PROHIBIT COUNCIL MEMBERS FROM PARTICIPATING IN COUNCIL ACTION RELATING TO, AND VOTING ON, THE ANNUAL BUDGET IN ITS ENTIRETY. WHEN ONE OR MORE ITEMS IN THE ANNUAL BUDGET WOULD HAVE A DIRECT FINANCIAL IMPACT, AS DISTINGUISHED FROM THE PUBLIC GENERALLY, ON A COUNCIL MEMBER, HIS OR HER EMPLOYER, FAMILY MEMBER OR ANY BUSINESS ENTITY IN WHICH HE OR SHE HAS AN INTEREST, THE COUNCIL MEMBER MUST FIRST FILE WITH THE ETHICS COMMISSION A SWORN STATEMENT THAT DESCRIBES THE CONFLICT. COUNCIL MEMBERS MAY NOT PROPOSE, SEEK TO REMOVE, OR PARTICIPATE IN THE COUNCIL’S DISCUSSION OF ANY BUDGET ITEM THAT CREATES SUCH A CONFLICT, AS REQUIRED BY SUBSECTION A (1) OF THIS SECTION.

B. No City official or employee shall hold or acquire an interest in a business entity that has or is negotiating a contract of \$1,000 or more with the City or is regulated by any City body[, ~~except where such interest was~~] OR WHEN THE INTEREST MAY BE SUBSTANTIALLY AND MATERIALLY AFFECTED, IN A MANNER DISTINGUISHABLE FROM THE PUBLIC GENERALLY, BY THE PERFORMANCE OR NONPERFORMANCE OF THE COVERED PERSON'S OFFICIAL DUTY. THIS PROHIBITION DOES NOT APPLY TO INTERESTS disclosed to and exempted by the Commission pursuant to §38-10 of this chapter.

C. No City official or employee shall be employed by a business entity that HAS OR is negotiating a contract of [~~more than \$1,000 with the City or has contracts totaling more than~~] \$1,000 or more [~~in any twelve month period~~] WITH THE CITY or is regulated by any City body[, ~~except where such employment was~~] OR WHEN THE EMPLOYER MAY BE SUBSTANTIALLY AND MATERIALLY AFFECTED, IN A MANNER DISTINGUISHABLE FROM THE PUBLIC GENERALLY, BY THE PERFORMANCE OR NONPERFORMANCE OF THE COVERED PERSON'S OFFICIAL DUTY. THIS PROHIBITION DOES NOT APPLY TO EMPLOYMENT RELATIONSHIPS disclosed to and exempted by the Commission pursuant to §38-10 of this chapter.

D. No City official or employee shall represent any party for a contingent fee before any City body.

E. No City official or employee, within one year following termination of City service, shall act as a compensated representative of another in connection with any specific matter in which they participated substantially on behalf of the City.

#### F. GIFTS.

(1). SOLICITATION. A CITY OFFICIAL OR EMPLOYEE SHALL NOT SOLICIT ANY GIFT FROM ANY PERSON THAT HE OR SHE KNOWS, OR HAS REASON TO KNOW, IS DOING BUSINESS WITH THE CITY OR HAS A FINANCIAL INTEREST THAT MAY BE SUBSTANTIALLY AND MATERIALLY AFFECTED, IN A MANNER DISTINGUISHABLE FROM THE PUBLIC GENERALLY, BY THE PERFORMANCE OR NONPERFORMANCE OF THE COVERED PERSON'S OFFICIAL DUTY.

(2). PROHIBITED GIFTS. No City official or employee shall [~~solicit any gift or accept gifts or services greater than \$25 in value, except for ceremonial functions relating to City business or concern,~~] KNOWINGLY ACCEPT ANY GIFT, DIRECTLY OR INDIRECTLY, from any person [~~who~~] THAT HE OR SHE KNOWS, OR has REASON TO KNOW [~~or is negotiating a contract~~] IS DOING BUSINESS OR SEEKING TO DO BUSINESS with the City or is regulated by any City body[, ~~where the recipient has knowledge that the donor has or is negotiating a contract or is so regulated~~] OR HAS A FINANCIAL INTEREST THAT MAY BE SUBSTANTIALLY AND MATERIALLY AFFECTED, IN A MANNER DISTINGUISHABLE FROM THE PUBLIC GENERALLY, BY THE PERFORMANCE OR NONPERFORMANCE OF THE COVERED PERSON'S OFFICIAL DUTY.

(3). PERMISSIBLE GIFTS. SECTION F(2) OF THIS SECTION DOES NOT APPLY TO GIFTS WITHIN ANY ONE OF THE CATEGORIES SET FORTH IN PARAGRAPHS (A) THROUGH (I) OF THIS SUBSECTION, UNLESS IT REASONABLY APPEARS THAT ANY SUCH GIFT MIGHT IMPAIR THE IMPARTIALITY AND INDEPENDENCE OF JUDGMENT OF THE PERSON RECEIVING IT. PERMISSIBLE GIFTS, WHICH ARE SUBJECT TO THE REPORTING REQUIREMENTS OF SECTION 38-17, INCLUDE THE FOLLOWING:

- (A) MEALS AND BEVERAGES WITH A VALUE OF \$50.00 OR LESS CONSUMED IN THE PRESENCE OF THE DONOR;
- (B) CEREMONIAL GIFTS OR AWARDS WITH A VALUE OF \$50.00 OR LESS;
- (C) GIFTS WITH A MONETARY VALUE OF \$25.00 OR LESS PER ANNUM FROM THE SAME DONOR;
- (D) REASONABLE EXPENSES FOR FOOD, TRAVEL, LODGING AND SCHEDULED ENTERTAINMENT OF THE OFFICIAL OR THE EMPLOYEE FOR A MEETING WHICH IS GIVEN IN RETURN FOR PARTICIPATION IN A PANEL OR SPEAKING ENGAGEMENT AT THE MEETING;
- (E) GIFTS OF TICKETS OR FREE ADMISSION EXTENDED BY THE SPONSOR OF THE EVENT TO AN ELECTED CITY OFFICIAL TO ATTEND A CHARITABLE, CULTURAL OR POLITICAL EVENT, IF THE PURPOSE OF THIS GIFT OR ADMISSION IS A COURTESY EXTENDED TO THE OFFICE;
- (F) A SPECIFIC GIFT OR CLASS OF GIFTS EXEMPTED FROM SUBSECTION F(2) OF THIS SECTION BY THE ETHICS COMMISSION UPON A WRITTEN FINDING THAT ACCEPTANCE OF THE GIFT OR CLASS OF GIFTS WOULD NOT BE DETRIMENTAL TO THE IMPARTIAL CONDUCT OF GOVERNMENT AND THE GIFT IS PURELY PERSONAL AND PRIVATE IN NATURE;
- (G) A GIFT FROM AN INDIVIDUAL 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 A CHILD, A WARD OR OTHER RELATIVE OVER WHO'S FINANCIAL AFFAIRS THE CITY OFFICIAL OR EMPLOYEE HAS LEGAL OR ACTUAL CONTROL;
- (H) HONORARIA – EXCEPT AS PROVIDED IN SUBSECTION F(1) AND (3) OF THIS PARAGRAPH, AN OFFICIAL OR EMPLOYEE MAY ACCEPT AN HONORARIUM IF IT IS LIMITED TO THE REASONABLE EXPENSES FOR THE OFFICIAL'S MEALS, TRAVEL AND LODGING, AND REASONABLE AND VERIFIABLE EXPENSES FOR CARE OF A CHILD OR DEPENDENT ADULT THAT ARE ACTUALLY INCURRED; OR IF IT IS A CEREMONIAL

GIFT OR AWARD OF INSIGNIFICANT MONETARY VALUE OR A TRIVIAL GIFT OF INFORMATIONAL VALUE.

(I) GIFTS OF TICKETS OR FREE ADMISSION EXTENDED BY THE SPONSOR TO A CITY EMPLOYEE TO ATTEND A CHARITABLE, CULTURAL OR POLITICAL EVENT, AND GIFTS OF TICKETS OR FREE ADMISSION TO ATTEND PROFESSIONAL OR INTERCOLLEGIATE SPORTING EVENTS EXTENDED BY THE SPONSOR OF THE EVENT TO AN ELECTED CITY OFFICIAL OR EMPLOYEE, WHEN:

I. THE SPONSOR IS ANOTHER GOVERNMENTAL AGENCY OR UNIT OF THE STATE OF MARYLAND, INCLUDING THE UNIVERSITY OF MARYLAND; AND

II. THE CITY OFFICIAL OR EMPLOYEE IS ATTENDING WITH CONSENT FROM THE CITY COUNCIL AS PART OF AN EFFORT TO MAINTAIN GOVERNMENTAL RELATIONS.

(4) THIS SECTION DOES NOT PROHIBIT THE CITY FROM IMPOSING GREATER RESTRICTIONS ON THE ACCEPTANCE OF GIFTS IN APPROPRIATE CIRCUMSTANCES.

**Section 3. BE IT FURTHER ORDAINED AND ENACTED**, that Chapter 38, “Code of Ethics”, Article III, “Prohibited Acts”, Section 38-12, “Nepotism”, be, and is hereby amended to read as follows:

§ 38-12. Nepotism.

No City official or employee shall cause or advocate a member of his or her family to be hired, employed, promoted, transferred or advanced to any full or part time paid employment of the City. This prohibition shall not apply to the process of selecting appointed City officials. ~~It shall not~~ A City official or employee MAY NOT participate in an action relating to the discipline of a member of the City official's or employee's family.

**Section 4. BE IT FURTHER ORDAINED AND ENACTED**, that Chapter 38, “Code of Ethics”, Article IV, “Required Disclosures”, Section 38-17, “Disclosure of conflicts of interest”, be, and is hereby amended to read as follows:

§ 38-17. Disclosure of conflicts of interest.

A. Annual conflict of interest disclosure statements.

(1) \* \* \* \*

(2) Contents of statement. The ~~[annual conflict of interest disclosure]~~ statement ~~[shall disclose]~~ MUST IDENTIFY any gifts or other compensation received during the preceding calendar year from any person having or negotiating a contract with the City or any person regulated by any City body. The statement ~~[shall]~~ MUST identify the person conferring the gift or compensation and the approximate retail value of the gift or compensation received. The statement ~~[shall]~~ MUST also disclose the existence of any interest or employment the holding of which would require that the person be disqualified from participation in a matter before the Council or any City body pursuant to § 38-11 of this chapter. The statement shall identify each such interest or employment. Nominees and candidates shall ~~[file with respect to]~~ DISCLOSE gifts or compensation received, and ~~[employment]~~ EMPLOYERS and interests held from the prior January to the date of filing.

(3) \* \* \* \*

B. Additional conflict of interest statements required.

(1) Supplemental disclosures regarding matters before City bodies. Any person identified in Subsection A(1) of this section who has a conflict of interest in any matter before a City body, the holding of which ~~[would]~~ REQUIRES that the person be disqualified from participation in such matter pursuant to § 38-11 of this chapter, and which holding or conflict was not previously disclosed under this section, shall disclose such fact on the records of such City body and refrain from participating in any discussion or voting thereon.

(2) City employees. A City employee shall notify in writing his or her supervisor of any ~~[substantial]~~ interest he or she may have in a person, business entity or property ~~[which]~~ THAT would be affected by an exercise of discretionary authority by the City employee, and the supervisor shall reassign the matter. In addition, any employee who has a financial or other private interest in a matter before the City Council or any board, commission, committee or authority, the holding of which would require that the person be disqualified from participation in such matter pursuant to § 38-11 of this chapter~~;~~ ~~and which holding or conflict was not previously disclosed under this section~~, shall disclose such fact on the records of the Council or such City body and refrain from participating in any discussion or giving any official opinion thereon.

C. \* \* \* \*

**Section 5.** 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 7:30 P.M. on the 9<sup>th</sup> day of June, 2009, 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 \_\_\_\_\_, 2009, 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 12th day of May 2009.

**ADOPTED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_ 2009.

**EFFECTIVE** the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**ATTEST:**

**THE CITY OF COLLEGE PARK,  
MARYLAND**

By: \_\_\_\_\_  
Janeen S. Miller, City Clerk

By: \_\_\_\_\_  
Stephen A. Brayman, Mayor

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

\_\_\_\_\_  
Suellen M. Ferguson, City Attorney