

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

November 24, 2008

CALL TO PODIUM:

**Lynn Board,
City Attorney**

RESPONSIBLE STAFF:

**Lynn Board,
City Attorney**

AGENDA ITEM:

(please check one)

<input type="checkbox"/>	Presentation
<input type="checkbox"/>	Proclamation/Certificate
<input type="checkbox"/>	Appointment
<input type="checkbox"/>	Public Hearing
<input type="checkbox"/>	Historic District
<input type="checkbox"/>	Consent Item
<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input type="checkbox"/>	Policy Discussion
<input checked="" type="checkbox"/>	Work Session Discussion Item
<input type="checkbox"/>	Other: Introduction

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

<p>TITLE:</p> <p>An Ordinance to Repeal and Reenact with Amendments Chapter 7A of the City Code entitled "Ethics Code", Section 7A-1 Entitled "Applicability Of Chapter", Section 7A-4 Entitled "Conflicts of Interest" And 7A-5 entitled "Financial Disclosure Statements" to Amend Applicability, Gift Amounts and Filing of Disclosure Statements</p>

<p>SUPPORTING BACKGROUND:</p> <p>See attached memorandum and draft ordinance.</p>
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<p>DESIRED OUTCOME:</p> <p>Provide guidance to staff as to whether the Mayor and City Council want to introduce the draft ordinance for public hearing.</p>
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MEMORANDUM TO: Mayor and City Council

FROM: Angel L. Jones, City Manager

DATE: November 17, 2008

SUBJECT: Proposed Amendment to Sections 7A-1, 7A-4 and Section 7A-5 of the City's Ethics Code

The City's Ethics Commission met on May 12, 2008 to review the annual ethics report and discuss any issues of concern. During the course of the meeting the Commission talked about amending Section 7A-5(a) of the City's Ethics Code titled "Financial disclosure statements" specifically, changing the dollar amount of \$10 to a more realistic figure. The Commission also noted that this Section of the Code had not been updated since 1982.

City Attorney Board was asked to review the Ethics code. Her attached memorandum states that in her opinion it would be realistic for the Ethics Commission to recommend an increase in the gift amount to at least \$50. Her findings also indicated that Section 7A-5(a) conflicts with the provision of Section 7A-4(h) which defines gifts as the transfer of anything of economic value and provides exemption for ceremonial gifts or awards having "insignificant value" and unsolicited gifts of "nominal value." It is also the recommendation of City Attorney Board to amend Section 7A-1 by clarifying applicability by changing Section 7A-1 to specify that the ordinance applies to elected officials, city employees and appointed officials listed in Section 7A-5 instead of referencing section 60 of the Charter.

In addition to these amendments, it was brought to the attention of this office that the Historic Preservation Advisory Committee should not be included as a City agency required to file a Financial Disclosure Statement because it does not have final decision-making authority. It is the recommendation of City Attorney Board to remove the City Historic Preservation Advisory Committee listed as 7A-5(4) h. It is also recommended that we remove the City Downtown Review Committee listed as 7A-5(4)f since the Downtown Review Committee has been abolished.

The City's Ethics Commission is recommending that Section 7A-4 (h) and Section 7A-5(a) of the City Code be amended to reflect a gift amount of at least \$50 and to amend the Ethics Chapter so that the gift definition is consistent throughout the Chapter.

Memorandum to Mayor and City Council

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November 17, 2008

I have attached the draft Ordinance which amends the above stated sections. I will be seeking guidance as to whether the Mayor and City Council wish to introduce this draft ordinance for public hearing.

If you have any questions or wish to discuss this matter, please let me know.

ORDINANCE NO. ____ -08

AN ORDINANCE TO REPEAL AND REENACT WITH AMENDMENTS
CHAPTER 7A OF THE CITY CODE ENTITLED "ETHICS CODE", SECTION 7A-1
ENTITLED "APPLICABILITY OF CHAPTER", SECTION 7A-4 ENTITLED "CONFLICTS
OF INTEREST" AND 7A-5 ENTITLED "FINANCIAL DISCLOSURE STATEMENTS" TO
AMEND APPLICABILITY, GIFT AMOUNTS AND
FILING OF DISCLOSURE STATEMENTS

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg,
in public meeting assembled, that certain sections of Chapter 7A of the City Code, are
hereby repealed and reenacted with amendments to read as follows:

* * *

Sec. 7A-1. Applicability of chapter.

The provisions of this chapter shall apply to all city elected officials and employees and
all appointed officials, as defined and described in section ~~60 of the Charter, unless~~
~~otherwise indicated~~ 7A-5(c) (4) of this Chapter.

* * *

Sec. 7A-4. Conflicts of interest.

...(h) Accept any gift from any person or business entity, except as provided herein, that
has or is negotiating a contract with the city or is regulated by their agency, except where
such gifts would not present a conflict of interest as determined by the commission. For
purposes of section 7A-4 and 7A-5 of this chapter, the term "gift," unless otherwise
provided, means the transfer of anything ~~of economic value~~ valued at fifty dollars (\$50)
or more, regardless of form, without adequate and lawful consideration. "Gift" does not
include campaign contributions or a gift from members of the immediate family,
including children and parents of the person making the statement of a purely personal or
private nature which would not be detrimental to the impartial conduct of business.
Unless a gift of any of the following would tend to impair the impartiality and the
independence of judgment of the official or employee receiving it or, if of ~~significant~~
value of fifty dollars (\$50) or more, would give the appearance of doing so, or, if of
~~significant~~ value of fifty dollars (\$50) or more, the recipient official or employee
believes, or has reason to believe, that it is designed to do so, subsections (g) and (h) of
this section do not apply to:...

* * *

Sec. 7A-5. Financial disclosure statements.

(a) Every city official and employee listed in subsection (c) of this section shall file
annually, no later than January 31 of each calendar year during which he holds office, a

statement with the commission disclosing any gifts, the value of which is ~~ten~~ fifty dollars (\$~~10.00~~ 50.00) or more, received during the preceding calendar year from any person having a contract with the city or any person regulated by their agency. The statement shall identify the donor of the gift and its approximate retail value at the time of receipt. For the purposes of this section, "gifts" shall not mean the provision or transfer without consideration of the following things, the value of which does not exceed ~~ten~~ fifty dollars (\$~~10~~ 50):

(c) Officials and employees required to file shall be as follows:

- (1) The mayor and members of the city council.
- (2) The city manager and assistant city manager.
- (3) Department heads within the city government.
- (4) Members of the following city agencies:
 - a. City planning commission.
 - b. City board of appeals.
 - c. City board of supervisors of election.
 - d. City ethics commission.
 - e. City landlord-tenant commission.
 - ~~f. City downtown review committee.~~
 - g. City animal control board.
 - ~~h. City historic preservation advisory committee.~~
 - i.g. City personnel review board.

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ADOPTED this ____ day of _____, 2008 by the City Council of Gaithersburg, Maryland.

SIDNEY A. KATZ, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this ____ day of _____, 2008. APPROVED by the Mayor of the City of Gaithersburg, this ____ day of _____, 2008.

SIDNEY A. KATZ, MAYOR

THIS IS TO CERTIFY that the foregoing Ordinance as adopted by the City Council of Gaithersburg, in public meeting assembled, on the ____ day of _____, 2008, and that the same was approved by the Mayor of the city of Gaithersburg on the ____ day of _____, 2008. This ordinance will become effective in accordance with the provisions of this ordinance.

Angel L. Jones, City Manager

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
Single strikethrough	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by Amendment.</i>
Double boldface strikethrough	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>