

# MAYOR & COUNCIL AGENDA COVER SHEET

**MEETING DATE:**

December 1, 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 checked="" type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input type="checkbox"/>	Policy Discussion
<input type="checkbox"/>	Work Session Discussion Item
<input type="checkbox"/>	Other:

**PUBLIC HEARING HISTORY:**

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

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

**TITLE: Introduction**

An Ordinance to Amend 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

**SUPPORTING BACKGROUND:**

The City's Ethics Commission met on May 12, 2008 to review the annual ethics report and discuss issues of concern. The Commission noted that the definition of a gift under the Ethics Ordinance as valued at \$10 had not been updated since 1982. Based on research from other jurisdictions, the Commission has recommended increasing the gift amount to \$50. A summary of gift definitions used by other municipalities is attached.

Staff review of the Ethics Ordinance also showed some inconsistencies with the Chapter relating to the definition of a gift and the applicability of the ordinance requirements.

This amendment to Chapter 7A amends the gift language to redefine a gift as the transfer of anything valued at \$50 or more or a combination of transfers from any one person or entity within a one year calendar period valued at \$100 or more. In addition, the amendments clarify the applicability of the provisions of the Chapter to all elected officials and city employees and all designated appointed officials. The designated appointed officials provisions have been amended to delete the City Downtown Review Committee and the City Historic Preservation Advisory Committee.

**DESIRED OUTCOME:**

Introduce Ordinance. Staff anticipates a public hearing on Monday, January 5, 2009.

**ETHICS ORDINANCES  
GIFT PROVISION COMPARISON**

<u>Jurisdiction</u>	<u>Gift Definition</u>	<u>Annual Limit</u>
Annapolis	Anything of Value	None
Cumberland	\$50.00	None
Frederick	\$75.00	\$150.00
Hagerstown	\$25.00	None
Ocean City	\$50.00	None
Rockville	Anything of Value	None
Salisbury	\$25.00	None

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO AMEND 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 amended 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.

City officials and employees who are subject to this chapter shall not:

\* \* \* \* \*

(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 or a combination of transfers from any person or entity within a one calendar year period valued at one hundred dollars (\$100) 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:

- (1) Meals and beverages;
- (2) Ceremonial gifts or awards which have insignificant monetary value;
- (3) Unsolicited gifts of nominal value or trivial items of informational value;
- (4) 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;
- (5) Gifts of tickets or free admission extended to an elected official or employee to attend a professional or intercollegiate sporting event or charitable, cultural or political events, if the purpose of this gift or admission is a courtesy or ceremony extended to the office;
- (6) A specific gift or class of gifts which the city council or the commission exempts from the operation of this section 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 of Gaithersburg and that the gift is purely personal and private in nature;
- (7) Gifts from a person related by blood or marriage, or a spouse, child, ward, financially dependent parent, or other relative who shares the official's or employee's legal residence, or a child, ward, parent or other relative over whose financial affairs the person has legal or actual control; or
- (8) Honoraria.

\* \* \* \* \*

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 (\$10.00) (\$50.00):

(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.~~
  - gf. City animal control board.
  - ~~h. City historic preservation advisory committee.~~
  - ig. City personnel review board.
- (5) City Attorney.

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

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