

ETHICS COMMISSION
c/o CITY OF ANNAPOLIS OFFICE OF LAW
160 DUKE OF GLOUCESTER STREET
ANNAPOLIS, MARYLAND 21401

CITY LIAISON:
City Attorney

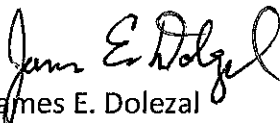
Telephone (410) 263-7954
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December 14, 2017

Memorandum to: Mr. Gary Elson
Acting City Attorney

Re: State Required Updates to the City Ethics Code

In accordance with the attached State Ethics Commission letter dated October 23, 2017, the City is required to make changes to our Ethics Code, City Code 2.08, to be compliant with State Law. Additionally, House Bill 879, allows changes that relax some municipal code requirements which may be adopted if desired by the City. The Ethics Commission met on November 16, 2017, and reviewed the requirements and options allowed by State Law. Our determination regarding the 4 required changes and the 5 allowable changes to the Ethics Code are attached for action by the Office of Law. It is requested that these Commission approved changes be added to the Commission proposed legislative changes prepared by Jacqueline Lee in September of this year. We think these resultant legislative changes need to be presented to City Council at the earliest time possible because most of the required changes took effect on October 1, 2017.


James E. Dolezal
Chairman

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cc: Jacqueline Lee



COMMISSION MEMBERS:
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October 23, 2017

Ashley Leonard
Acting City Attorney
City of Annapolis
160 Duke of Gloucester Street
Annapolis, MD 21401

Re: Local Government Ethics Update

Dear Ms. Leonard:

As you are aware, there were significant changes mandated to county and municipal ethics laws and county boards of education ethics regulations by legislation (SB315 – Chapter 277 of the Acts of 2010) enacted during the 2010 General Assembly session. The law became effective October 1, 2010. Counties and municipalities required to adopt a local ethics law must include conflict of interest and financial disclosure provisions for local elected officials that are at least equivalent to the State's provisions; financial disclosure provisions for candidates for local elected office that are at least equivalent to State provisions; conflict of interest and financial disclosure provisions for local employees and appointed officials that are similar to State provisions; and local lobbying provisions that are substantially similar to State provisions. The State Ethics Commission previously approved the City of Annapolis' local Ethics Law as being in compliance with Subtitle 8 of the Maryland Public Ethics Law (Md. Code Ann., Gen. Prov., Title 5 (Supp. 2016)).

We are writing to notify the City of Annapolis that the requirements under the State Ethics Law are changing. House Bill 879, enacted during the 2017 Legislative session, made multiple modifications to the State Ethics Law, some of which will change the requirements for local government ethics laws. Those changes include additional disclosures for State elected officials that local governments must incorporate into their Ethics Ordinances for their elected officials. However, a number of changes relax certain of the financial disclosure requirements, particularly for debt and stock holding disclosures, and make home addresses confidential from public disclosure. We have included an attachment describing the changes that need to be included in the new drafts of Ethics Law, highlighting the additional provisions that must be included in a law to be compliant with State law, and the changes that relax some requirements and may be adopted if desired by the City. In addition, we have also included our new model laws with the changes

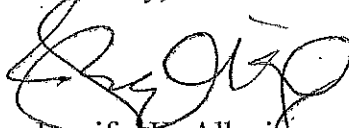


highlighted on our website. Most of the changes take effect October 1, 2017 and our regulations implementing these changes are in the approval process.

Commission staff is available to provide guidance and assistance to the City of Annapolis as you work through updating your law to incorporate the new changes. Please do not hesitate to contact us should you have any questions regarding the new local government ethics law requirements. As a reminder, any and all future changes to the ethics ordinance must be submitted to the Commission for review and approval in compliance with Subtitle 8 of the Maryland Public Ethics Law and COMAR 19A.04.

Finally, Section §5-807(b) of the Public Ethics Law requires each local jurisdiction to file the Local Government Ethics Law Annual Certification by October 1 of each year. Our office has not received the City of Annapolis' certification for 2017. Given the timing of these legislative changes, we do not anticipate 2017 certifications will include any of the changes discussed above, however all local governments are still required to certify for the 2017 year. A copy of the certification form is enclosed. Please complete the attached form and return to our office, along with a copy of your jurisdiction's current enacted ethics law. Please contact our office if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jennifer K. Allgair', written over a printed name.

Jennifer K. Allgair
General Counsel

Enclosures

Changes that **must** be adopted for local government compliance with the requirements of Subtitle 8 of the Public Ethics Law or COMAR 19A.04.:

1. 5-504(d)(2). Precludes Governor, Lieutenant Governor, AG, Comptroller, Treasurer or a Member of the General Assembly from lobbying (legislative matters) for one calendar year after leaving office. *Needs to be added to the conflict of interest section covering local elected officials.*
2. 5-606(a)(3). Effective January 1, 2019, Commission may not provide public access to the portion of a financial disclosure statement that includes an individual's home address as identified by the individual (i.e. the Commission must redact the information before making it publicly available). Applies to all statements, whether posted on the Internet or viewable only in the Office. *Home addresses should be redacted from public disclosure. Local employees and elected officials don't have to worry about the public being able to see their home address on their filings submitted after January 1, 2019.*

Changes that **must** be adopted for local government compliance with the requirements of Subtitle 8 of the Public Ethics Law or COMAR 19A.04. for those local governments with **lobbying provisions**:

1. 5-501(a-1). Adds new subsection prohibiting former lobbyists who become a public official or State employee (i.e. take job with the State) from participating in a case, contract or other specific matter for 1 calendar year after terminating their registrations if they previously assisted or represented another party in the matter (a "reverse" post-employment restriction for lobbyists). Does not apply to uncompensated or minimally compensated (less than 25% of grade 16) board/commission members or elected officials. *ONLY FOR JURISDICTIONS WITH LOBBYING PROVISIONS. Needs to be added the conflict of interest provisions to cover employees compensated over a certain amount.*
2. 5-607(i). Adds another category to Schedule H – for a statement filed on or after January 1, 2019, if the filer's spouse is a regulated lobbyist, must disclose the entity that has engaged the spouse to lobby. *ONLY FOR JURISDICTIONS WITH LOBBYING PROVISIONS. Requires spouses of lobbyists to disclose the entities that engage the lobbyist spouse on their annual disclosure filings.*

Changes that **may** be adopted if the local government chooses:

1. 5-101(t). Removes "exchange-traded funds" from the definition of "interest". An ETF is a diversified collection of assets (like a mutual fund) that trades on an exchange (like a stock). *Now, as is the case with mutual funds, financial disclosure filers will no longer have to disclose interests they hold in ETFs.*
2. 5-506. Adds three specific circumstances that constitute violation of the prestige of office provision (influencing the award of a State or local contract to a specific person; initiating a solicitation for a person to retain the compensated services of a particular lobbyist or firm; using public resources or title to solicit a political contribution regulated in accordance with the Election Law Article). In the last situation, employees and public officials may not use title or public resources, State officials may not use public

resources. *The State Ethics Commission has already interpreted these kinds of actions to be in violation of the prestige of office provision. Local governments are able to include these specific circumstances in their law if they would like or any other for clarifying purposes.*

3. 5-607(g). Changes the Schedule F disclosure (indebtedness to entities doing business with the State) to indebtedness to entities doing business with or regulated by the individual's governmental unit. *Instead of disclosing all indebtedness to entities doing business with the local government, only debts with entities doing business with the specific governmental unit must be disclosed by filers.*
4. 5-606(a)(2). Effective January 1, 2019, Ethics Commission must provide Internet access, through an online registration program, to financial disclosure statements submitted by State officials, candidates for office as State officials, and Secretaries of a principal department of the Executive Branch. *Local governments can now decide to put the local disclosure forms online for public viewing.*
5. 5-704. Codifies disclosure requirements for lobbyists who serve on State boards and commissions. Also codifies a requirement for such a lobbyist who is disqualified from participating in a specific matter to file a statement of recusal with the board or commission. **ONLY FOR JURISDICTIONS WITH LOBBYING PROVISIONS.** *Requires lobbyists who serve on local boards to submit disclosure forms that mirror the forms for local elected officials.*