



Legislation Text

File #: O-37-18, Version: 1

Ethics Code - Financial Disclosure Updates - For the purpose of amending the City of Annapolis Ethics Code definition of “official”; including Housing Authority of the City of Annapolis (“HACA”) officials in the financial disclosure reporting requirements applicable to City employees and appointed officials; removing obsolete language concerning the financial disclosure reporting of HACA officials; and amending the information required for the examination of a financial disclosure statement.

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance 37-18

Introduced by: Mayor Buckley

Referred to
Rules and City Government Committee

AN ORDINANCE concerning

Ethics Code - Financial Disclosure Updates

FOR the purpose of amending the City of Annapolis Ethics Code definition of “official”; including Housing Authority of the City of Annapolis (“HACA”) officials in the financial disclosure reporting requirements applicable to City employees and appointed officials; removing obsolete language concerning the financial disclosure reporting of HACA officials; and amending the information required for the examination of a financial disclosure statement.

BY repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2018 Edition
2.08.020
2.08.050
2.08.051
2.08.052

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

TITLE 2 - ADMINISTRATION

Chapter 2.08 - PUBLIC ETHICS AND FINANCIAL DISCLOSURE

Section 2.08.020 - Definitions.

- A. Definitions. The following words and phrases shall have the meanings ascribed to them as follows:
1. "Business entity" means a corporation, limited liability company, general or limited partnership, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not operated for profit. "Business entity" does not include a governmental entity.
 2. "Commission" means the City of Annapolis Ethics Commission as established in Section 2.08.030.
 3. "Compensation" means any money or thing of value, regardless of form, received or to be received by any individual covered by this chapter from an employer for service rendered. For the purposes of Section 2.08.070 of this chapter, if lobbying is only a portion of a person's employment, "compensation" means a prorated amount based on the time devoted to lobbying compared to the time devoted to other employment duties.
 4. "Doing business with" means:
 - a. Having or negotiating a contract that involves the commitment (either in a single or combination of transactions) of one thousand dollars or more of City controlled funds; or
 - b. Being regulated by or otherwise under the authority of the City; or
 - c. Being registered as a lobbyist in accordance with Section 2.08.070 of this chapter.
 5. "Elected official" includes the Mayor and members of the City Council.
 6. "Employee" means an individual who is employed by the City of Annapolis. "Employee" does not include an elected official.
 7. "Financial interest" means:
 - a. Ownership of any interest as the result of which the owner has received, within the past three years, or is presently receiving, or in the future is entitled to receive, more than one thousand dollars per year in compensation; or
 - b. Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than three percent of a business entity by a City official or employee, or the spouse of an official or employee.
 8. "Gift" means the transfer of anything of economic value regardless of the form without adequate and lawful consideration, whether or not it relates to the performance of official duties. However, "gift" does not include the solicitation, acceptance or receipt of any campaign contributions regulated in accordance with any law pertaining to the conduct of elections or the receipt of political campaign contributions.
 9. "Interest" means any legal or equitable economic interest, whether or not subject to an encumbrance or a condition, which was owned or held, in whole or in part, jointly or severally, directly or indirectly. For purposes of Section 2.08.050 of this chapter, "interest" applies to any interests held at any time during the calendar year for which a required statement is to be filed. "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. A common trust fund or a trust which forms part of a pension or profit sharing plan which has more than twenty-five participants and which has been determined by the Internal Revenue Service to be a qualified trust under §§ 401 and 501 of the Internal Revenue Code of 1954;
 - e. An interest in a City pension plan, City deferred compensation plan or a college savings plan

- under the Internal Revenue Code; or
- f. An interest in any mutual fund or exchange-traded fund that is publicly traded on a national scale unless the mutual fund or exchange-traded fund is composed primarily of holdings of stock and interests in a specific sector or area that is regulated by the City of Annapolis.
10. "Lobbyist" or "lobbying" means the person or act of communicating in the presence of a City official or employee with the intent to influence any official action of that official or employee; or the person or act of engaging in activities having the express purpose of soliciting others to communicate with a City official or employee with the intent to influence that official or employee; and who expends (exclusive of personal travel and subsistence) in excess of two hundred fifty dollars per calendar year on food, entertainment or gifts for any official or employee of the City.
 11. "Official" means an elected official, an employee of the City directly or by contract, or a person appointed to or employed by a City agency, board, commission, or similar entity whether or not paid in whole or in part with City funds and whether or not compensated. Members of the Board of Commissioners of the Housing Authority of the City of Annapolis (HACA), the Executive Director of HACA and the Deputy Director(s) of HACA are part of a separate entity; however, in accordance with State law, and for purposes of the City Ethics law, the individuals in these HACA positions are considered City officials.
 12. "Person" includes any natural person, or business entity.
 13. "Qualified relative" means spouse, siblings, parents, children, and their spouses.
 14. "Immediate family" means a spouse and dependent children, and anyone else living in an official's residence.

Section 2.08.050 - Financial disclosure for elected officials and candidates for elected office.

- A. This section applies to all elected officials and candidates for elected office:
- B. Except as provided in subsection D. of this section, an elected official or a candidate to be an elected official shall file the financial disclosure statement required under this subsection:
 1. On a form provided by the Commission;
 2. Under oath or affirmation; and
 3. With the Commission.
- C. Deadlines for filing statements.
 1. An incumbent official shall file a financial disclosure statement annually no later than January 31 of each year for the preceding calendar year.
 2. An official who is appointed to fill a vacancy in an office for which a financial disclosure statement is required and who has not already filed a financial disclosure statement shall file a statement for the preceding calendar year within thirty days after appointment.
 3. Officials leaving office.
 - a. An individual who, other than by reason of death, leaves an office for which a statement is required shall file a statement within sixty days after leaving the office.
 - b. The statement shall cover:
 - (1) The calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and

(2) The portion of the current calendar year during which the individual held the office.

D. Candidates to be elected officials.

1. Except for an official who has filed a financial disclosure statement under another provision of this section for the reporting period, a candidate to be an elected official shall file a financial disclosure statement each year beginning with the year in which the certificate of candidacy is filed through the year of the election.
2. A candidate to be an elected official shall file a statement required under this section:
 - a. In the year the certificate of candidacy is filed, no later than the filing of the certificate of candidacy;
 - b. In the year of the election, on or before the earlier of April 30 or the last day for the withdrawal of candidacy; and
 - c. In all other years for which a statement is required, on or before April 30.
3. A candidate to be an elected official:
 - a. May file the statement required under subsection D.2.a. of this section with the City Clerk or Board of Election supervisors with the certificate of candidacy or with the Commission prior to filing the certificate of candidacy; and
 - b. Shall file the statements required under subsection D.2.b. and D.2.c. of this section with the Commission.
4. If a candidate fails to file a statement required by this section after written notice is provided by the City Clerk or Board of Election Supervisors at least twenty days before the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidacy.
5. The City Clerk or Board of Election Supervisors may not accept any certificate of candidacy unless a statement required under this section has been filed in proper form.
6. Within thirty days of the receipt of a statement required under this section, the City Clerk or Board of Election Supervisors shall forward the statement to the Commission.

E. Public record.

1. The City Attorney's office shall maintain all financial disclosure statements filed under this section.
2. The City Attorney's office shall make financial disclosure statements available during normal office hours for examination by the public.
3. If an individual examines a financial disclosure statement, the City Attorney's office shall:
 - a. Redact any portion of a statement, filed after January 1, 2019, that includes the home address of the person whose financial disclosure statement was examined;
 - b. Record the name, ~~employer, and home and office~~ and addresses of the individual reviewing the statement;
 - c. Record the name of the person whose financial disclosure statement was examined; and
 - d. Notify the person whose financial disclosure statement was examined of the information recorded in paragraph 3.b. above.

F. Retention requirements. The City Attorney's office shall retain financial disclosure statements for four years from the date of receipt.

G. Contents of statement.

1. Interests in real property.

- a. A statement filed under this section shall include a schedule of all interests in real property wherever located.
- b. For each interest in real property, the schedule shall include:
 - (1) The nature of the property and the location by street address, mailing address, or legal description of the property;
 - (2) The nature and extent of the interest held, including any conditions and encumbrances on the interest;
 - (3) The date when, the manner in which, and the identity of the person from whom the interest was acquired;
 - (4) The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;
 - (5) If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and
 - (6) The identity of any other person with an interest in the property.

2. Interests in corporations and partnerships.

- a. A statement filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, regardless of whether the corporation or partnership does business with the City.
- b. For each interest reported under this paragraph, the schedule shall include:
 - (1) The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;
 - (2) The nature and amount of the interest held, including any conditions and encumbrances on the interest;
 - (3) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and, if known, the identity of the person to whom the interest was transferred; and
 - (4) With respect to any interest acquired during the reporting period:
 - (I) The date when, the manner in which, and the identity of the person from whom the interest was acquired; and
 - (II) The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.
- c. An individual may satisfy the requirement to report the amount of the interest held under item b. (2) of this paragraph by reporting, instead of a dollar amount:
 - (1) For an equity interest in a corporation, the number of shares held and, unless the corporation's stock is publicly traded, the percentage of equity interest held; or

- (2) For an equity interest in a partnership, the percentage of equity interest held.

3. Interests in business entities doing business with City.

- a. A statement filed under this section shall include a schedule of all interests in any business entity that does business with the City, other than interests reported under paragraph 2. of this subsection.
- b. For each interest reported under this paragraph, the schedule shall include:
 - (1) The name and address of the principal office of the business entity;
 - (2) The nature and amount of the interest held, including any conditions to and encumbrances on the interest;
 - (3) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest, and, if known, the identity of the person to whom the interest was transferred; and
 - (4) With respect to any interest acquired during the reporting period:
 - (I) The date when, the manner in which, and the identity of the person from whom the interest was acquired; and
 - (II) The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

4. Gifts.

- a. A statement filed under this section shall include a schedule of each gift in excess of twenty dollars in value or a series of gifts totaling one hundred dollars or more received during the reporting period from or on behalf of, directly or indirectly, any one person who does business with the City.
- b. For each gift reported, the schedule shall include:
 - (1) A description of the nature and value of the gift; and
 - (2) The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

5. Employment with or interests in entities doing business with City.

- a. A statement filed under this section shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the City.
- b. For each position reported under this paragraph, the schedule shall include:
 - (1) The name and address of the principal office of the business entity;
 - (2) The title and nature of the office, directorship, or salaried employment held and the date it commenced; and
 - (3) The name of each City agency with which the entity is involved as indicated by identifying one or more of the three categories of "doing business", as defined in Section 2.08.020 A.4. of this chapter.

6. Indebtedness to entities doing business with City.
 - a. A statement filed under this section shall include a schedule of all liabilities, excluding retail credit accounts, to persons doing business with the City owed at any time during the reporting period:
 - (1) By the individual; or
 - (2) By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.
 - b. For each liability reported under this paragraph, the schedule shall include:
 - (1) The identity of the person to whom the liability was owed and the date the liability was incurred;
 - (2) The amount of the liability owed as of the end of the reporting period;
 - (3) The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and
 - (4) The security given, if any, for the liability.
7. Employment with City. A statement filed under this section shall include a schedule of the immediate family members of the elected official or candidate for elected office in any capacity at any time during the reporting period.
8. Sources of earned income.
 - a. A statement filed under this section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or a member of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate family received earned income, at any time during the reporting period.
 - b. A minor child's employment or business ownership need not be disclosed if the agency that employs the individual does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child.
9. A statement filed under this section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.
- H. For the purposes Section 2.08.050 G.1., 2., and 3. of this chapter, the following interests are considered to be the interests of the individual making the statement:
 1. An interest held by a member of the individual's immediate family, if the interest was, at any time during the reporting period, directly or indirectly controlled by the individual.
 2. An interest held by a business entity in which the individual held a thirty percent or greater interest at any time during the reporting period.
 3. An interest held by a trust or an estate in which, at any time during the reporting period:
 - a. The individual held a reversionary interest or was a beneficiary; or
 - b. If a revocable trust, the individual was a settlor.

- I. The Commission shall review the financial disclosure statements submitted under this section for compliance with the provisions of this section and shall notify an individual submitting the statement of any omissions or deficiencies.
- J. The Commission may take appropriate enforcement action to ensure compliance with this section.

Section 2.08.051 - Financial disclosure for employees and appointed officials.

- A. This section applies to the following employees and appointed officials:
 - 1. The City Manager, City Attorney, all department directors and deputies, and all members of the exempt service, and
 - 2. Members of the Board of Commissioners of the Housing Authority of the City of Annapolis (HACA), the Executive Director of HACA and the Deputy Director(s) of HACA, and
 - 3. Inspectors and investigators who enforce City Codes, City Procurement Officers and their purchasing staff, and members of the following quasi-judicial boards and commissions: the Board of Appeals, the Civil Service Board, the Building Board of Appeals, the Historic Preservation Commission, the Planning Commission, the Board of Supervisors of Elections, the Ethics Commission, Port Wardens, and the Police and Fire Retirement Plan Commission, and
 - 34. All other City officials, employees, contract employees or temporary employees over pay grade 15, F15 (Fire Department), and P15 (Police Department), or who have authority to award or recommend the award of contracts or grants, or who provide advice or counsel to the City on matters pertaining to public policy or acquisition, and
 - 45. Members and employees of the quasi-judicial Alcoholic Beverage Control Board are exempt from this section but shall file financial disclosure statements with the State Ethics Commission in accordance with Maryland Public Ethics Law.
- B. Financial disclosure statements filed under this section shall be filed with the Commission under oath or affirmation.
- C. Employees and appointed officials included in paragraph A. above shall file a financial disclosure statement annually no later than January 31 of each year for the preceding calendar year. For new employees and appointed officials included in paragraph A. that have not already filed a financial disclosure statement, such employees and appointed officials shall file a financial disclosure statement no later than fifteen days after commencing employment or service pursuant to their appointment or within fifteen days of the enactment of this ordinance.
- D. The City Attorney's office shall:
 - 1. Maintain all disclosure statements filed under this section as public records available for public inspection and copying as provided in Section 2.08.050 E. of this chapter.
 - 2. Retain financial disclosure statements filed under this section as provided in Section 2.08.050 F. of this chapter.
- E. Contents of statement.
 - 1. Interests in real property.
 - a. A statement filed under this section shall include a schedule of all interests in real property located in the State of Maryland.
 - b. For each interest in real property, the schedule shall include:

- (1) The nature of the property and the location by street address and a description of the property;
- (2) The nature and extent of the interest held, including any conditions and encumbrances on the interest;
- (3) The date when, the manner in which, and the identity of the person from whom the interest was acquired;
- (4) The identity of any other person with an interest in the property.

2. Interests in corporations and partnerships.

- a. A statement filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, regardless of whether the corporation or partnership does business with the City. Interests in mutual funds are not reportable.
- b. For each interest reported under this paragraph, the schedule shall include the name of the corporation, partnership, limited liability partnership, or limited liability corporation.

3. Gifts.

- a. A statement filed under this section shall include a schedule of each gift in excess of twenty dollars in value or a series of gifts totaling one hundred dollars or more received during the reporting period from or on behalf of, directly or indirectly, any one person who does business with the City.
- b. For each gift reported, the schedule shall include:
 - (1) A description of the nature and value of the gift; and
 - (2) The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

4. Employment with or interests in entities doing business with the City.

- a.
 - (1) A statement filed under this section shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the City; and
 - (2) For a statement filed on or after January 1, 2019, if the individual's spouse is a regulated lobbyist, shall include a schedule of all entities that engaged the spouse for lobbying purposes.
- b. For each position reported under this paragraph, the schedule shall include:
 - (1) The name and address of the principal office of the business entity;
 - (2) The title and nature of the office, directorship, or salaried employment held and the date it commenced; and
 - (3) The name of each City agency with which the entity is involved as indicated by identifying one or more of the three categories of "doing business", as defined in Section 2.08.020 A.4. of this chapter.

5. Indebtedness to entities doing business with City.

- a. A statement filed under this section shall include a schedule of all liabilities, excluding retail credit accounts, to persons doing business with the City owed at any time during the reporting period:
 - (1) By the individual; or
 - (2) By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.
- b. For each liability reported under this paragraph, the schedule shall include:
 - (1) The identity of the person to whom the liability was owed and the date the liability was incurred;
 - (2) The amount of the liability owed as of the end of the reporting period;
 - (3) The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and
 - (4) The security given, if any, for the liability.

6. Employment with City. A statement filed under this section shall include a schedule of the immediate family members of the individual employed by the City in any capacity at any time during the reporting period.

7. Sources of earned income.

- a. (1) A statement filed under this section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or a member of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate family received earned income, at any time during the reporting period; and
- (2) For a statement filed on or after January 1, 2019, if the individual's spouse is a regulated lobbyist, shall include a schedule of all entities that engaged the spouse for lobbying purposes.
- b. A minor child's employment or business ownership need not be disclosed if the agency that employs the individual does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child.

8. A statement filed under this section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.

F. For the purposes Section 2.08.051 E.1. and 2. of this chapter, the following interests are considered to be the interests of the individual making the statement:

1. An interest held by a member of the individual's immediate family, if the interest was, at any time during the reporting period, directly or indirectly controlled by the individual.
2. An interest held by a business entity in which the individual held a thirty percent or greater interest at

any time during the reporting period.

3. An interest held by a trust or an estate in which, at any time during the reporting period:

- a. The individual held a reversionary interest or was a beneficiary; or
- b. If a revocable trust, the individual was a settlor.

G. The Commission shall review the financial disclosure statements submitted under this section for compliance with the provisions of this section and shall notify an individual submitting the statement of any omissions or deficiencies.

H. The Commission may take appropriate enforcement action to ensure compliance with this section.

~~Section 2.08.052 – Financial disclosure for the Housing Authority of the City of Annapolis.~~

~~Members of the Board of Commissioners of the Housing Authority of the City of Annapolis (HACA), the Executive Director of HACA and the Deputy Director(s) of HACA shall file within fifteen days of their appointment if they have not already filed a financial disclosure statement and annually, not later than January 31st of each calendar year during which they are subject to the prohibitions set forth in the Housing and Community Development Article, Section 13-105(a) of the Annotated Code of Maryland, or other applicable portions of state law, a statement of financial interests with the Ethics Commission of the City. The form of the statement of financial interests required by this section shall be prepared and approved by the Ethics Commission. The contents of the statement shall be as provided in Section 2.08.051.E. of this chapter.~~

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this ordinance shall take effect from the date of its passage.

EXPLANATION

Underlining indicates matter added to existing law.

~~Strikethrough~~ indicates matter stricken from existing law.

Double Underlining indicates amendments