

ORDINANCE NO. 0-9-12

AN ORDINANCE TO AMEND CHAPTER 17 OF THE
CITY CODE ENTITLED "PERSONNEL" BY ADDING
SECTION 17-2.1 ENTITLED "REPORTING OF
IMPROPER OR ILLEGAL ACTS"

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in public meeting assembled, that Chapter 17 of the City Code, is hereby amended to add Section 17-2.1 and amend Section 17-9 to read as follows:

Sec. 17- 2.1. Reporting of improper or illegal acts.

(a) Definitions:

- (1) AN ILLEGAL OR IMPROPER ACTION. Any action by a city employee, an appointed member of a board, commission or committee or an elected official that is in violation of a federal, state or local government law or rule, an abuse of authority, gross mismanagement, gross misconduct, a gross waste of public funds, an act of fraud or other financial impropriety, or a substantial danger to public health or safety.
- (2) RETALIATORY PERSONNEL ACTION. An act or omission by a supervisor which has a significant adverse impact on the employee, or a change in the employee's duties or responsibilities which is inconsistent with the employee's grade, salary, job description or performance.
- (3) RETALIATORY PUBLIC ACTION. An act or omission by a city employee, an appointed member of a board, commission or committee or an elected official which has a significant adverse impact on an individual's ability to obtain City services or approvals that are available to other members of the public similarly situated.
- (4) RETALIATION. Any action taken because an individual (1) disclosed information or filed a report of improper or illegal action or (2) testified or assisted or is scheduled to testify or assist in any investigation, action or proceeding relating to the disclosure of information or the filing of a report of improper or illegal actions.

(b) Disclosure of illegal or improper actions.

- (1) Employees and officials are encouraged to report illegal or improper actions in City government.
- (2) Reports of illegal or improper actions should be made to the Whistleblower Hotline or to the City Attorney.
- (3) All reports of illegal or improper actions must provide the factual basis for the employee's reasonable belief that an illegal or improper action has occurred.

(c) Protection for employees

- (1) An employee may not be subjected to a retaliatory personnel action in retaliation for:

- a. Refusing to obey an instruction involving an illegal or improper action;
- b. Disclosing to a Federal, State, County or City official or employee, information concerning illegal or improper action in City government with a reasonable good-faith belief that the information disclosed is accurate;
- c. Making a report of illegal or improper action; or
- d. Participating in or otherwise cooperating or assisting with any review and/or investigation of a report of improper or illegal action.

- (2) This section of the City Code does not protect an employee if:

- a. The employee makes a frivolous report or discloses information that he or she knows is false or with disregard for the truth or falsity of the information; or
- b. The employee was the subject of an otherwise proper personnel action that would have been taken regardless of the employee's disclosure of information concerning illegal or improper action in City government.

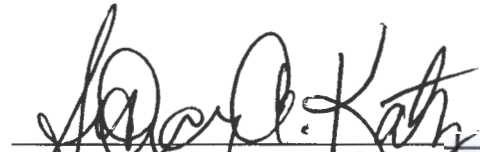
(d) Protection for the public

- (1) A member of the public may not be subjected to a retaliatory public action for:

- a. Disclosing to a Federal, State County or City official or employee, information concerning illegal or improper action in City government with a reasonable good-faith belief that the information disclosed is accurate;
- b. Making a report of illegal or improper action; or
- c. Participating in or otherwise cooperating or assisting with any review and/or investigation of a report of improper or illegal action.

- (e) The identity of an individual making a report shall be kept confidential.

ADOPTED this 17th day of December, 2012 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 17th day of December, 2012. APPROVED by the Mayor of the City of Gaithersburg, this 17th day of December, 2012.


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 17th day of December, 2012 and that the same was approved by the Mayor of the city of Gaithersburg on the 17th day of December, 2012. This Ordinance will become effective on the 7th day of January, 2013.



Tony Tomaseillo, 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><u>Double underlining</u></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>