

AN ORDINANCE TO AMEND CHAPTER 2 OF THE CITY CODE TO PROHIBIT CLOSE RELATIVES OF ELECTED OFFICIALS AND DEPARTMENT HEADS AND PRIVATE ENTERPRISES IN WHICH THE CLOSE RELATIVE OWNS A FIVE PERCENT LEGAL OR EQUITABLE OWNERSHIP INTEREST IN FROM CONTRACTING WITH THE CITY

#0274

WHEREAS, as expressed in *Wilm. C.* § 2-338, the purpose of the City Ethics

Sponsor:

Requirements is to ensure the respect and confidence of City residents by avoiding conduct

**Council
Member
Spadola**

which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated; and

Co-Sponsor:

WHEREAS, City Council seeks to establish and encourage standards of ethical

**Council
Member
Mills**

conduct in City government; and

WHEREAS, *Wilm. C. (Charter)* § 9-200 prohibits City Councilmembers from

soliciting, benefiting from, or being directly or indirectly interested in City contracts concerning the purchase of property, the erection of a structure, or the supplying of any services paid for out of the City treasury; and

WHEREAS, *Wilm. C. (Charter)* § 9-202 prohibits City officers and employees from

benefiting from or being directly or indirectly interested in City contracts concerning the purchase of property, the erection of a structure, or the supplying of any services paid for out of the City treasury, or for soliciting any contract in which they have a direct or indirect interest; and

WHEREAS, *Wilm. C.* § 2-340(c)(1) states “No elected official, appointed official or

city employee shall benefit from or be interested in any contract with the city, nor solicit any contract and shall not enter into any contract with the city (other than an employment contract)”; and

WHEREAS, *Wilm. C. § 2-340(c)(2)* states “No private enterprise in which an elected official, appointed official or city employee has a legal or equitable ownership of more than 20 percent (more than one percent in the case of a corporation whose stock is regularly traded on an established securities market) shall enter into any contract with the city, other than an employment contract.”; and

WHEREAS, City Council intends to improve government transparency and avoid the appearance of nepotism by prohibiting close relatives of elected officials or department heads, as defined in *Wilm. C. (Charter) § 3-101* or subsequently as provided by ordinance, from benefitting from, being interested in, soliciting, bidding for, or entering into any City contracts; and

WHEREAS, City Council also intends to improve government transparency and avoid the appearance of nepotism by prohibiting private enterprises in which a close relative of an elected official or department head possesses a five percent (5%) legal or equitable ownership interest in from soliciting, bidding for, or entering into a contract with the City; and

WHEREAS, *Wilm. C. § 2-337* defines “close relative” as “a person’s domestic partner or parents, spouse, children, siblings by blood (whole or half), adoption or marriage”; and

WHEREAS, this legislation will not prevent a close relative of an elected official or a department head from being hired by the City and working as a City employee; and

WHEREAS, City Council deems it necessary and proper to amend Chapter 2 of the City Code to prohibit the close relatives of elected officials or department heads or private enterprises in which a close relative of an elected official or department head possesses a five percent (5%) legal or equitable ownership interest in from benefitting from, being interested in, soliciting, or bidding for City contracts, other than when a close relative is seeking to be hired by the City and work as a City employee.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. Chapter 2 (“Administration”), Article V (“Departments and Agencies Created by Ordinance”), Division 6 (“City Ethics Requirements”) of the City Code is hereby amended by removing the stricken language and adding the underlined language as follows:

Sec. 2-340. - Prohibitions relating to conflicts of interest and political activities.

[. . .]

(c) *Restrictions on contracting with the city.*

(1) No elected official, appointed official, ~~or~~ city employee, or close relative of an elected official or a department head shall benefit from or be interested in any contract with the city, nor solicit or bid for any contract and shall not enter into any contract with the city (~~other than an employment contract~~), including grant agreements and contracts that are competitively bid. This subsection shall not prevent a close relative from being hired by the City and working as a City employee.

(2) No private enterprise in which an elected official, appointed official, ~~or~~ city employee, or close relative of an elected official or a department head has a legal or equitable ownership of more than ~~20~~ 5 percent (more than one percent in the case of a corporation whose stock is regularly traded on an established securities market) shall solicit, bid, or enter into any contract with the city, ~~other than an employment contract.~~

(3) Individuals or private enterprises intent on contracting with the City must expressly advise the City in writing that subsections (c)(1) and (2) above are not applicable. This written affirmation shall be included on the contract, bid, proposal, or similar written instrument, as determined by the relevant City department.

[. . .]

SECTION 2. This Ordinance shall become effective immediately upon its passage by City Council and approval by the Mayor.

First Reading.....January 19, 2023
Second Reading.....January 19, 2023
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2023.

Mayor

SYNOPSIS: This Ordinance seeks to improve government transparency by amending Chapter 2 of the City Code to prohibit close relatives of elected officials or department heads from benefitting from, being interested in, bidding for, soliciting, or entering into any City contracts, including grant agreements and contracts that are competitively bid. This legislation also amends Chapter 2 so that close relatives of elected officials or department heads who possess a 5 percent (more than one percent in the case of a corporation whose stock is regularly traded on an established securities market) legal or equitable ownership in a private enterprise, including non-profit organizations, cannot solicit, bid, or enter into a contract with the City. The individual or private enterprise intent on contracting with the City will be required to advise the City in writing that this section does not apply to them, and they are able to bid, solicit, contract, etc. with the City. This legislation will not prevent a close relative from being hired by the City and working as a City employee.