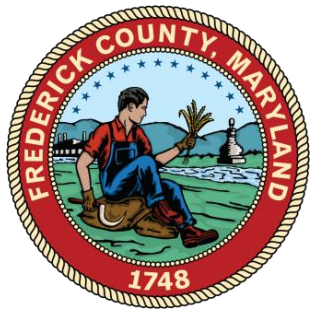




# An Overview



**County Council Information Briefing  
December 6, 2022**

# Overview of the County Ethics Law

## I. Sources of Law

1. Maryland Public Ethics Law
2. Maryland Special Provisions for Frederick County (Planning and Zoning)
3. Frederick County Ethics Law (Chapter 1-7.1)
4. Frederick County Ethics Commission Regulations, SOP's, Advisory Opinions and Decisions

# State Requires all Counties to have an Ethics Law

- I. State sets minimum standards
- II. Changes to County Ethics Law must be approved by State Ethics Commission
- III. The County's Ethics Commission must certify annually that the County Ethics Law complies with the State requirements

# Purpose of the Ethics Law

- I. Maintain public trust in government
  1. By avoiding improper influence when conducting County business
  2. By setting minimum standards for conducting County business
  3. By helping officials and employees to avoid the appearance of a conflict of interest

# Subjects Covered by the Ethics Law

- I. Conflicts of Interest
- II. Financial Disclosures
- III. Lobbying (little impact on Council Members)
- IV. Zoning Ethics Law
  - I. Special Provisions for Frederick County – Planning and Zoning

# Conflicts of Interest

- I. Participation Restrictions
- II. Employment and Financial Restrictions
- III. Contracts with Elected Officials
- IV. Contingent Compensation
- V. Use of Prestige of Office
- VI. Gifts
- VII. Disclosure of Confidential Information
- VIII. Post-employment limitations and restrictions
- IX. Standards for exemptions and modifications

# I. Participation Restrictions

- I. Prohibitions on participating in matters if you or qualified relative have a financial interest in the matter, including financial interest linked to business entity that is a party to the matter
- II. Allowed to take action when performing an administrative or ministerial duty not affecting the decision of the matter
- III. May participate, after disclosure, in limited circumstances
- IV. Ethics Commission can make exceptions by regulation or opinion

## II. Employment and Financial Interest Restrictions

- I. You should not participate in a matter if:
  1. You are employed by or have an interest in an entity that is subject to the Council's authority;
  2. You are employed by or have an interest in an entity that has or is negotiating a contract with the Council; or
  3. You have an employment relationship that would impair your impartiality or independence or judgment as a Council Member.



# III. Contracts with Elected Officials

- I. The County may not enter into a contract with:
  1. An elected official or qualified relative (spouse, parent, child or sibling)
  2. A business entity in which the elected official or a qualified relative have a direct financial interest; or
  3. A business entity in which the elected official or a qualified relative are an officer, director, trustee, partner or employee.

## IV. Contingent Compensation

- I. You may not assist or represent a party for contingent compensation in any matter before or involving the County
- II. Restriction does not apply to a judicial or quasi-judicial proceeding

## V. Use of Prestige of Office

- I. May not use your public position for your private gain or the gain of another
- II. May not attempt to influence the award of a state or local contract to a specific person
- III. As an official, you may not directly or indirectly initiate a solicitation for a person to retain the services of a regulated lobbyist or lobbying firm
- IV. As an elected official, you may not use public resources to solicit a campaign contribution
- V. Restrictions do not include performance of usual and customary constituent services without additional compensation

## VI. Gifts

- I. May not solicit a gift
- II. No directly or indirectly assist in soliciting a gift from a lobbyist
- III. May not accept gift from person you know or have reason to know
  1. Is doing business or seeking to with County Council;
  2. Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of your official duties;
  3. Is engaged in an activity that the County Council regulates or controls; or
  4. Is a lobbyist with respect to matters within Council's jurisdiction

## VII. Disclosure of Confidential Information

Do not disclose or use confidential information acquired as part of your position that is not available to the public for your own economic benefit or the economic benefit of another.

## VIII. Post-employment limitations and restrictions

- I. You may not assist or represent another party (other than the County) for compensation in a specific matter involving the County if you significantly participated in that matter.
- II. For one year after leaving office as an elected official, you may not assist another party for compensation in a matter that is the subject of legislative action before the County Council.

# IX. Standards for exemptions and modifications

- I. The Ethics Commission has the power to grant exemptions to the conflict of interest provisions to employees and appointed members of County boards and commissions if it finds that:
  1. Exemption would not be contrary to the purposes of the Ethics Law and
  2. Application of the law would constitute an unreasonable invasion of privacy and significantly reduce the availability of qualified persons for public service.

# Financial Disclosure Statements for Elected Officials

- I. Statement due annually by April 30
  1. Notice provided from County Attorney's Office around April 1
  2. Form similar to one filed as a candidate
- II. Subjects covered include:
  1. Interests in real property
  2. Interests in corporations
  3. Gifts over \$20
  4. Sources of earned income



# Ethics Commission Enforcement Powers

- I. Ethics Commission's powers include:
  - I. Impose late fee of \$5 per day (\$500 max) for failure to file financial disclosure statement
  - II. Issue cease and desist order or order of compliance
  - III. Issue a reprimand
  - IV. Recommend disciplinary action, including censure or removal if authorized by law
- II. Circuit Court has additional Powers to void certain types of official actions

# Zoning Ethics Laws

## Special Provisions for Frederick County

- I. General Provisions Article – Title 5. Maryland Public Ethics Law. Subtitle 8. Local Government Provisions. Part IX. Special Provisions for Frederick County – Planning and Zoning
- II. Includes Prohibited Actions, Ex Parte Communications, Enforcement, Violations and Penalties

# Zoning Ethics Laws Continued

## I. 5-858 Prohibited Actions

### 1. Contributions

- ▶ Applicants may not make contributions to members of governing body during application pendency

### 2. Voting

- ▶ If contribution was made, member who received cannot vote or participate in application proceedings

### 3. Comprehensive zoning or rezoning proceedings

- ▶ Not applicable to comprehensive zoning or rezoning

# Zoning Ethics Laws Continued

## II. 5-859 Ex Parte Communications

1. Not applicable to communication between governing body member and employee of the government whose duties involve aiding or advising
2. Required disclosure – ex parte communications with an individual concerning a pending application during the pendency of the application

# Zoning Ethics Laws Continued

## I. 5-861 Enforcement

1. CAO receives filings, maintains record, reports violations, and other ministerial duties necessary

## II. 5-862 Violations; penalties

1. Allows for aggrieved parties to seek judicial review of the application based don a procedural error violation
2. If violation – Court remands to governing body for reconsideration
3. Outlines criminal penalties for violation

As always, please reach out to our office should you have any questions about these topics