
By: **Frederick County Delegation**

Introduced and read first time: February 7, 2003

Assigned to: Environmental Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 18, 2003

CHAPTER _____

1 AN ACT concerning

2 **Frederick County Commissioners - Zoning and Planning - Public Ethics**

3 FOR the purpose of establishing certain ethics requirements that relate to planning
4 and zoning proceedings and apply to members of the Frederick County Board of
5 County Commissioners and certain other persons; prohibiting certain campaign
6 contributions by certain persons under certain circumstances; prohibiting a
7 Board member from participating in certain planning and zoning proceedings;
8 requiring the disclosure of certain ex parte communications made by certain
9 persons; allowing a party of record in certain planning and zoning proceedings
10 to submit certain affidavits; requiring the State Ethics Commission to direct
11 and control the enforcement of this Act; requiring the County Manager to
12 perform certain administrative functions and prepare certain reports;
13 establishing certain requirements and procedures for judicial review of certain
14 planning and zoning proceedings; establishing certain penalties for a violation of
15 this Act; requiring certain persons to retain and make available certain
16 documents for inspection; defining certain terms; providing for a delayed
17 effective date; and generally relating to public ethics requirements in planning
18 and zoning proceedings in Frederick County.

19 BY adding to
20 Article - Election Law
21 Section 13-504
22 Annotated Code of Maryland
23 (2003 Volume)

24 BY adding to
25 Article - State Government

1 Section 15-860 through 15-865, inclusive, to be under the new part "Part VIII.
2 Frederick County - Special Provisions"
3 Annotated Code of Maryland
4 (1999 Replacement Volume and 2002 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article - Election Law**

8 13-504.

9 AS TO CONTRIBUTIONS TO THE FREDERICK COUNTY BOARD OF COUNTY
10 COMMISSIONERS OR A CANDIDATE FOR THAT OFFICE, TITLE 15, SUBTITLE 8, PART
11 VIII OF THE STATE GOVERNMENT ARTICLE MAY APPLY.

12 **Article - State Government**

13 PART VIII. FREDERICK COUNTY - SPECIAL PROVISIONS.

14 15-860.

15 (A) IN THIS PART VIII THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (B) (1) "APPLICANT" MEANS A PERSON OR BUSINESS ENTITY THAT FILES AN
18 APPLICATION OR IS A TITLE OWNER OR CONTRACT PURCHASER OF LAND THAT IS
19 THE SUBJECT OF AN APPLICATION.

20 (2) "APPLICANT" INCLUDES A PERSON THAT:

21 (I) 1. IS AN OFFICER OR DIRECTOR OF A CORPORATION
22 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION; OR

23 2. HOLDS A 10% OR GREATER INTEREST IN THE
24 OUTSTANDING COMMON STOCK OF THE CORPORATION;

25 (II) IS A PARTNER OR A LIMITED PARTNER OF A PARTNERSHIP
26 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION; OR

27 (III) IS A MEMBER OF A LIMITED LIABILITY COMPANY DESCRIBED IN
28 PARAGRAPH (1) OF THIS SUBSECTION.

29 (C) "APPLICATION" MEANS:

30 (1) AN APPLICATION FOR A ZONING MAP AMENDMENT AS PART OF A
31 COMPREHENSIVE REZONING PROCEEDING OR A PIECEMEAL OR FLOATING ZONE
32 REZONING PROCEEDING;

1 (2) AN APPLICATION FOR A MAP AMENDMENT TO THE COUNTY
2 COMPREHENSIVE LAND USE PLAN;

3 (3) AN APPLICATION FOR A MAP AMENDMENT TO THE COUNTY WATER
4 AND SEWERAGE PLAN;

5 (4) A REQUEST MADE UNDER ARTICLE 23A, § 9(C) OF THE CODE FOR THE
6 BOARD TO APPROVE THE PLACEMENT OF ANNEXED LAND IN A ZONING
7 CLASSIFICATION THAT ALLOWS A LAND USE THAT IS SUBSTANTIALLY DIFFERENT
8 FROM THE USE FOR THE LAND SPECIFIED IN THE COUNTY COMPREHENSIVE LAND
9 USE PLAN; OR

10 (5) AN APPLICATION TO CREATE A DISTRICT OR EASEMENT OR OTHER
11 INTEREST IN REAL PROPERTY AS PART OF AN AGRICULTURAL LAND PRESERVATION
12 PROGRAM.

13 (D) "BOARD" MEANS THE BOARD OF COUNTY COMMISSIONERS FOR
14 FREDERICK COUNTY.

15 (E) "BOARD MEMBER" INCLUDES A PERSON ELECTED OR APPOINTED TO THE
16 BOARD OR A CANDIDATE WHO TAKES THE OATH OF OFFICE FOR THE BOARD.

17 (F) "BUSINESS ENTITY" MEANS:

18 (1) A SOLE PROPRIETORSHIP;

19 (2) A CORPORATION;

20 (3) A PARTNERSHIP; OR

21 (4) A LIMITED LIABILITY COMPANY.

22 (G) "CANDIDATE" MEANS A CANDIDATE FOR THE BOARD WHO BECOMES A
23 MEMBER OF THE BOARD.

24 (H) "CONTRIBUTION" MEANS THE PAYMENT OR PROMISE OF PAYMENT OF
25 MONEY OR PROPERTY, OR THE INCURRING OF A LIABILITY, TO A CANDIDATE OR A
26 TREASURER OR POLITICAL COMMITTEE OF A CANDIDATE.

27 (I) "PARTNERSHIP" INCLUDES A GENERAL PARTNERSHIP, A LIMITED
28 LIABILITY PARTNERSHIP, A LIMITED PARTNERSHIP, A LIMITED LIABILITY LIMITED
29 PARTNERSHIP, OR A JOINT VENTURE.

30 (J) "PARTY OF RECORD" MEANS A PERSON THAT PARTICIPATED IN A
31 PROCEEDING ON AN APPLICATION BEFORE THE BOARD BY APPEARING AT A PUBLIC
32 HEARING OR FILING A STATEMENT IN AN OFFICIAL RECORD.

33 (K) "PENDENCY OF THE APPLICATION" MEANS ANY TIME BETWEEN THE
34 ACCEPTANCE OF A FILING OF AN APPLICATION BY THE COUNTY DEPARTMENT OF
35 PLANNING AND ZONING AND THE EXPIRATION OF 30 DAYS AFTER:

1 (1) THE BOARD HAS TAKEN FINAL ACTION ON THE APPLICATION; OR

2 (2) THE APPLICATION IS WITHDRAWN.

3 (L) "POLITICAL COMMITTEE" MEANS A COMMITTEE SPECIFICALLY CREATED
4 TO PROMOTE THE CANDIDACY OF A BOARD MEMBER WHO IS RUNNING FOR AN
5 ELECTIVE OFFICE.

6 (M) "TREASURER" HAS THE MEANING STATED IN § 1-101 OF THE ELECTION
7 LAW ARTICLE.

8 15-861.

9 (A) AN APPLICANT MAY NOT MAKE A CONTRIBUTION TO A BOARD MEMBER
10 DURING THE PENDENCY OF THE APPLICATION.

11 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AFTER AN
12 APPLICATION HAS BEEN FILED, A BOARD MEMBER MAY NOT VOTE OR PARTICIPATE
13 IN ANY WAY IN THE PROCEEDINGS ON THE APPLICATION IF THE MEMBER OR THE
14 TREASURER OR POLITICAL ACTION COMMITTEE OF THE MEMBER RECEIVED A
15 CONTRIBUTION FROM THE APPLICANT DURING THE PENDENCY OF THE
16 APPLICATION.

17 (C) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, A BOARD MEMBER
18 MAY PARTICIPATE IN A COMPREHENSIVE ZONING OR REZONING PROCEEDING.

19 15-862.

20 (A) AN EX PARTE COMMUNICATION BETWEEN AN APPLICANT AND A BOARD
21 MEMBER CONCERNING A PENDING APPLICATION SHALL BE DISCLOSED AS
22 REQUIRED IN THIS SECTION.

23 (B) AN APPLICANT WHO COMMUNICATES EX PARTE WITH A BOARD MEMBER
24 CONCERNING A PENDING APPLICATION DURING THE PENDENCY OF THE
25 APPLICATION SHALL FILE WITH THE COUNTY MANAGER A SEPARATE DISCLOSURE
26 FOR EACH COMMUNICATION WITHIN THE LATER OF 7 DAYS AFTER THE
27 COMMUNICATION WAS MADE OR RECEIVED.

28 (C) A BOARD MEMBER WHO COMMUNICATES EX PARTE WITH AN APPLICANT
29 CONCERNING A PENDING APPLICATION DURING THE PENDENCY OF THE
30 APPLICATION SHALL FILE WITH THE COUNTY MANAGER A SEPARATE DISCLOSURE
31 FOR EACH COMMUNICATION WITHIN THE LATER OF 7 DAYS AFTER THE
32 COMMUNICATION WAS MADE OR RECEIVED.

33 15-863.

34 AT ANY TIME BEFORE FINAL ACTION ON AN APPLICATION, A PARTY OF RECORD
35 MAY FILE WITH THE COUNTY MANAGER AN AFFIDAVIT INCLUDING COMPETENT
36 EVIDENCE OF:

1 (1) A CONTRIBUTION BY AN APPLICANT COVERED UNDER § 15-861 OF
2 THIS PART VIII; OR

3 (2) AN EX PARTE COMMUNICATION COVERED UNDER § 15-862 OF THIS
4 PART VIII.

5 15-864.

6 (A) IN THE ENFORCEMENT OF THIS PART VIII, THE COUNTY MANAGER SHALL
7 BE SUBJECT TO THE DIRECTION AND CONTROL OF THE STATE ETHICS COMMISSION
8 OR ITS EXECUTIVE DIRECTOR AND, UNLESS OTHERWISE SPECIFICALLY DIRECTED
9 BY THE ETHICS COMMISSION OR ITS EXECUTIVE DIRECTOR, MAY ONLY:

10 (1) RECEIVE FILINGS;

11 (2) MAINTAIN RECORDS;

12 (3) REPORT VIOLATIONS; AND

13 (4) PERFORM OTHER MINISTERIAL DUTIES NECESSARY TO ADMINISTER
14 THIS PART VIII.

15 (B) (1) THE AFFIDAVITS AND DISCLOSURES REQUIRED UNDER THIS PART
16 VIII SHALL BE FILED IN THE APPROPRIATE CASE FILE OF AN APPLICATION.

17 (2) THE COUNTY MANAGER, AT LEAST TWICE ANNUALLY, SHALL
18 PREPARE A SUMMARY REPORT COMPILING ALL AFFIDAVITS AND DISCLOSURES THAT
19 HAVE BEEN FILED IN THE APPLICATION CASE FILES.

20 (3) ALL SUMMARY REPORTS COMPILED UNDER PARAGRAPH (2) OF THIS
21 SUBSECTION SHALL BE AVAILABLE TO MEMBERS OF THE PUBLIC ON WRITTEN
22 REQUEST.

23 (4) ALL AFFIDAVITS, DISCLOSURES, AND ACCOMPANYING
24 DOCUMENTATION REQUIRED UNDER THIS PART VIII SHALL BE IN THE FORM
25 REQUIRED BY THE STATE ETHICS COMMISSION.

26 15-865.

27 (A) (1) THE STATE ETHICS COMMISSION OR ANOTHER AGGRIEVED PARTY
28 OF RECORD MAY ASSERT AS PROCEDURAL ERROR A VIOLATION OF THIS PART VIII IN
29 AN ACTION FOR JUDICIAL REVIEW OF THE GRANTING OF AN APPLICATION.

30 (2) IF THE COURT FINDS THAT A VIOLATION OF THIS PART VIII
31 OCCURRED, THE COURT SHALL REVERSE AND REMAND THE CASE TO THE BOARD
32 FOR RECONSIDERATION.

33 (B) (1) A PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES THIS PART
34 VIII IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO
35 IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR
36 BOTH.

1 (2) IF A PERSON SUBJECT TO A PENALTY UNDER PARAGRAPH (1) OF THIS
2 SUBSECTION IS A BUSINESS ENTITY AND NOT A NATURAL PERSON, EACH MEMBER,
3 OFFICER, OR PARTNER OF THE BUSINESS ENTITY WHO KNOWINGLY AUTHORIZED OR
4 PARTICIPATED IN THE VIOLATION IS GUILTY OF A MISDEMEANOR AND ON
5 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE
6 NOT EXCEEDING \$1,000 OR BOTH.

7 (3) AN ACTION TAKEN IN RELIANCE ON AN OPINION OF THE STATE
8 ETHICS COMMISSION MAY NOT BE DEEMED A KNOWING AND WILLFUL VIOLATION.

9 (C) (1) A PERSON WHO IS SUBJECT TO THIS PART VIII SHALL PRESERVE ALL
10 BOOKS, PAPERS, AND DOCUMENTS NECESSARY TO COMPLETE AND SUBSTANTIATE
11 ANY REPORTS, STATEMENTS, OR RECORDS REQUIRED TO BE MADE UNDER THIS PART
12 VIII FOR 3 YEARS FROM THE DATE OF FILING THE APPLICATION.

13 (2) THESE PAPERS AND DOCUMENTS SHALL BE AVAILABLE FOR
14 INSPECTION ON REQUEST.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 June 1, 2004.