

Chapter 272

(Senate Bill 289)

AN ACT concerning

Frederick County – Ethics and Campaign Activity – Governing Body, County Board and Commission Members, and Board of License Commissioners

FOR the purpose of prohibiting an agent of a certain applicant from making a contribution to a member of the governing body of Frederick County during the pendency of a certain application; altering the circumstances under which a member of the governing body of Frederick County is prohibited from taking certain actions regarding a certain application; authorizing a certain party of record to file with the Chief Administrative Officer an affidavit of a contribution made by a certain agent in violation of a certain provision of law; providing for a certain penalty; requiring certain members of the Frederick County Board of Zoning Appeals, Ethics Commission, or Planning Commission or the Board of License Commissioners for Frederick County who establish an authorized candidate campaign committee to vacate office within a certain period of time after opening a campaign account through a campaign finance entity; defining a certain term; and generally relating to ethics and campaign activity in Frederick County.

BY repealing and reenacting, without amendments,

Article – Alcoholic Beverages

Section 20–201 and 20–202(a) and (d) through (f)

Annotated Code of Maryland

(2016 Volume and 2017 Supplement)

BY adding to

Article – Alcoholic Beverages

Section 20–202(g)

Annotated Code of Maryland

(2016 Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,

Article – General Provisions

Section 5–857, 5–858, 5–860, and 5–862 to be under the amended part “Part IX.

Special Provisions for Frederick County – Planning and Zoning”

Annotated Code of Maryland

(2014 Volume and 2017 Supplement)

BY adding to

Article – General Provisions

Section 5–865 and 5–866 to be under the new part “Part X. Special Provisions for Frederick County – Campaign Activity Concerning County Board and Commission Members and the Board of License Commissioners”

Annotated Code of Maryland
(2014 Volume and 2017 Supplement)

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

Article – Alcoholic Beverages

20–201.

There is a Board of License Commissioners for Frederick County.

20–202.

(a) The Governor shall appoint three members to the Board.

(d) (1) The term of a member is 5 years.

(2) The terms of the members are staggered as required by the terms provided for members of the Board on July 1, 2016.

(e) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(f) (1) The Governor may remove a member for incompetence, misconduct, neglect of a duty required by law, or unprofessional or dishonorable conduct.

(2) The Governor shall give a member who is charged a copy of the charges against the member and, with at least 10 days' notice, an opportunity to be heard publicly in person or by counsel.

(3) If a member is removed, the Governor shall file with the Office of the Secretary of State a statement of charges against the member and the Governor's findings on the charges.

(G) NO LATER THAN 48 HOURS AFTER OPENING A CAMPAIGN ACCOUNT THROUGH A CAMPAIGN FINANCE ENTITY, AS DEFINED IN § 1-101 OF THE ELECTION LAW ARTICLE, A MEMBER WHO HAS ESTABLISHED AN AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE SHALL VACATE THE MEMBER'S POSITION ON THE BOARD IN ACCORDANCE WITH § 5-866 OF THE GENERAL PROVISIONS ARTICLE.

Article – General Provisions

Part IX. Special Provisions for Frederick County – **PLANNING AND ZONING**.

5–857.

(a) In this part the following words have the meanings indicated.

(B) “AGENT” MEANS A PERSON THAT IS:

(1) HIRED OR RETAINED BY A BUSINESS ENTITY THAT IS AN APPLICANT WITH AN APPLICATION BEFORE THE GOVERNING BODY TO PROVIDE SERVICES, FOR COMPENSATION, RELATING TO THE APPLICATION; AND

(2) (I) AN ATTORNEY;

(II) AN ARCHITECT OR A LANDSCAPE ARCHITECT;

(III) A TRAFFIC CONSULTANT;

(IV) AN ENGINEER; OR

(V) A TRAFFIC ENGINEER.

[(b)] (C) “Aggrieved party” means:

(1) a property owner whose property:

(i) adjoins, fronts, or is located near the subject property; or

(ii) is located within sight or sound of the subject property; or

(2) an individual located within the same subdivision as the subject property or who lives up to three-quarters of a mile by road or otherwise one-half mile away from the subject property.

[(c)] (D) (1) “Applicant” means a person that is:

an application;

(i) a title owner or contract purchaser of land that is the subject of an application, excluding trustees described in a mortgage or deed of trust; or

(iii) a holder of at least a 10% interest in land that is the subject of an application.

(2) “Applicant” includes a person who is an officer or a director of a corporation that actually holds title to the land, or is a contract purchaser of the land, that is the subject of an application.

(3) “Applicant” does not include:

(i) a financial institution that has loaned money or extended financing for the acquisition, development, or construction of or improvements on the land that is the subject of an application;

(ii) a municipal corporation or public corporation;

(iii) a public authority;

(iv) an electric company or electric supplier applying for a certificate of public convenience and necessity under § 7–207 or § 7–208 of the Public Utilities Article; or

(v) a person who is hired or retained as an accountant, an attorney, an architect, an engineer, a land use consultant, an economic consultant, a real estate agent, a real estate broker, a traffic consultant, or a traffic engineer.

[(d)] (E) “Application” means:

(1) an application for a zoning map amendment as part of a piecemeal or floating zone rezoning proceeding;

(2) a formal application for a comprehensive map planning change or zoning change during the county comprehensive land use plan update;

(3) an application for a map amendment to the county water and sewerage plan;

(4) a request made under § 4–416 of the Local Government Article for the governing body to approve the placement of annexed land in a zoning classification that allows a land use that is substantially different from the use for the land authorized in the zoning classification of the county applicable at the time of annexation; or

(5) an application to create a district or an easement or any other interest in real property as part of an agricultural land preservation program.

[(e)] (F) “Business entity” means:

(1) a corporation;

(2) a limited liability company;

(3) a partnership; or

- (4) a sole proprietorship.

[(f)] (G) “Candidate” means a candidate for County Executive or County Council who becomes an elected official.

[(g)] (H) “Contribution” means a payment or transfer of money or property worth at least \$100, calculated cumulatively during the pendency of the application, to a candidate or a treasurer or political committee of a candidate.

[(h)] (I) “Governing body” means the governing body of Frederick County.

[(i)] (J) “Partnership” includes:

- (1) a general partnership;
- (2) a joint venture;
- (3) a limited liability limited partnership;
- (4) a limited liability partnership; or
- (5) a limited partnership.

[(j)] (K) “Party of record” means a person that participated in a proceeding on an application before the governing body by appearing at a public hearing or filing a statement in an official record.

[(k)] (L) “Pendency of the application” means the time between the acceptance by the County Department of Planning and Zoning of a filing of an application and the earlier of:

- (1) 2 years after the acceptance of the application; or
- (2) the expiration of 30 days after:
 - (i) the governing body has taken final action on the application; or
 - (ii) the application is withdrawn.

[(l)] (M) “Political committee” means a committee specifically created to promote the candidacy of a member of the governing body who is running for an elective office.

[(m)] (N) “Treasurer” has the meaning stated in § 1–101 of the Election Law Article.

(a) An applicant **OR AGENT** may not make a contribution to a member of the governing body during the pendency of the application.

(b) Except as provided in subsection (c) of this section, after an application has been filed, a member of the governing body may not vote or participate in any way in the proceedings on the application if the member or the treasurer or political committee of the member received a contribution from the applicant **OR AGENT** during the pendency of the application.

(c) A member of the governing body may participate in a comprehensive zoning or rezoning proceeding.

5–860.

At any time before final action on an application, a party of record may file with the Chief Administrative Officer an affidavit including competent evidence of:

- (1) a contribution by an applicant **OR AGENT** covered under § 5–858 of this subtitle; or
- (2) an ex parte communication covered under § 5–859 of this subtitle.

5–862.

(a) (1) The Frederick County Ethics Commission or another aggrieved party of record may assert as procedural error a violation of this part in an action for judicial review of the application.

(2) If the court finds that a violation of this part occurred, the court shall remand the case to the governing body for reconsideration.

(b) (1) A person that knowingly and willfully violates this part is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$1,000 or both.

(2) If the person is a business entity **OR AGENT** and not an individual, each member, officer, or partner of the business entity **OR AGENT** who knowingly authorized or participated in the violation is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$1,000 or both.

(3) An action taken in reliance on an opinion of the State Ethics Commission or the Frederick County Ethics Commission may not be considered a knowing and willful violation.

(c) (1) A person that is subject to this part shall preserve all books, papers,

and other documents necessary to complete and substantiate any reports, statements, or records required to be made under this part for 3 years from the date of filing the application.

- (2) The documents shall be available for inspection on request.

5-863. RESERVED.

5-864. RESERVED.

PART X. SPECIAL PROVISIONS FOR FREDERICK COUNTY – CAMPAIGN ACTIVITY CONCERNING COUNTY BOARD AND COMMISSION MEMBERS AND THE BOARD OF LICENSE COMMISSIONERS.

5-865.

THIS PART APPLIES ONLY TO AN APPOINTED MEMBER OF THE FREDERICK COUNTY BOARD OF ZONING APPEALS, THE FREDERICK COUNTY ETHICS COMMISSION, THE FREDERICK COUNTY PLANNING COMMISSION, OR THE BOARD OF LICENSE COMMISSIONERS FOR FREDERICK COUNTY.

5-866.

NOT LATER THAN 48 HOURS AFTER OPENING A CAMPAIGN ACCOUNT THROUGH A CAMPAIGN FINANCE ENTITY, AS DEFINED IN § 1-101 OF THE ELECTION LAW ARTICLE, AN APPOINTED MEMBER OF THE BOARD OF ZONING APPEALS, ETHICS COMMISSION, PLANNING COMMISSION, OR THE BOARD OF LICENSE COMMISSIONERS WHO HAS ESTABLISHED AN AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE SHALL VACATE THE POSITION ON THE BOARD OR COMMISSION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.

Approved by the Governor, April 24, 2018.