

Bill No. 15-11

Concerning: Amendment to Frederick County Code,
Chapter 1-7.1: Ethics

Revised: _____ Draft No. _____

Introduced: September 15, 2015

Expires: _____

Enacted: _____

Executive: _____

Effective: _____

Frederick County Code, Chapter 1-7.1, Section(s) _____

1-7.1-1 through 1-7.1-11

COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council President Bud Otis on behalf of County Executive Jan Gardner

AN ACT to: Amend Frederick County Code Ch. 1-7.1: Ethics to make it a conflict of interest for an elected official, a qualified relative of an elected official or a covered business entity to enter into a contract with the County; to require the Chief Administrative Officer, the County Attorney, Division Directors and members of the Planning Commission and Board of Zoning Appeals to file more detailed annual financial disclosure statements; to increase the number of members of the Ethics Commission to seven members and establish a two consecutive term limit; to require the Commission's procedures to include a process for reconsidering advisory opinions; to give the Commission the power to administer oaths and issue subpoenas and provide for judicial enforcement of subpoenas; to reinstate language from the 2008 ordinance making a violation of the conflict of interest, financial disclosure and lobbying provisions a misdemeanor subject to a fine of up to \$1,000 or imprisonment of up to six months or both; to require that the name of a person found to have violated the ethics law be included in the Commission's written decision; to prohibit retaliation against a complainant, representative or witness unless the person knowingly makes a false report or provides false information; and to make certain changes to update the provisions of the chapter.

By amending:

Frederick County Code, Chapter 1-7.1, Section(s) 1 through 10 and adding 11

Other:

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council of Frederick County, Maryland, finds it necessary and appropriate to amend Chapter 1-7.1 to the Frederick County Code make it a conflict of interest for an elected official, a qualified relative of an elected official or a covered business entity to enter into a contract with the County; to require the Chief Administrative Officer, the County Attorney, Division Directors and members of the Planning Commission and Board of Zoning Appeals to file more detailed annual financial disclosure statements; to increase the number of members of the Ethics Commission to seven members and establish a two consecutive term limit; to require the Commission's procedures to include a process for reconsidering advisory opinions; to give the Commission the power to administer oaths and issue subpoenas and provide for judicial enforcement of subpoenas; to reinstate language from the 2008 ordinance making a violation of the conflict of interest, financial disclosure and lobbying provisions a misdemeanor subject to a fine of up to \$1,000 or imprisonment of up to six months or both; to require that the name of a person found to have violated the ethics law be included in the Commission's written decision; to prohibit retaliation against a complainant, representative or witness unless the person knowingly makes a false report or provides false information; and to make certain changes to update the provisions of the chapter.

NOW, THEREFORE, BE IT IN ENACTED, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

Harold F. (Bud) Otis, President
County Council of Frederick County, Maryland

CHAPTER 1-7.1: ETHICS

Statement of purpose.

Frederick County, recognizing that our system of representative government is dependent in part upon the people maintaining the highest trust in their public officials and employees, finds and declares that the people have a right to be assured that the impartiality and independent judgment of public officials and employees will be maintained. It is evident that this confidence and trust is eroded when the conduct of the county's business is subject to improper influence and even the appearance of improper influence. For the purpose of guarding against improper influence, the county governing body enacts this law to set minimum standards for the conduct of county business.

§ 1-7.1-1. SHORT TITLE.

This chapter may be cited as the Frederick County Ethics [Ordinance]Law.

§ 1-7.1-2. APPLICABILITY.

(A) This chapter applies to all [County Commissioners,] elected officials, County employees, and appointees to County boards and commissions.

(B) This chapter does not apply to the State's Attorney, the Clerk of the Circuit Court, the Register of Wills, and the Sheriff, who are covered by the State Ethics Law. Members and employees of the Board of Education are also excluded as they are covered by separate ethics regulations.

§ 1-7.1-3. DEFINITIONS.

The words used in this chapter have their normal accepted meanings except as set forth below:

[**BOARD.** The Board of County Commissioners of Frederick County, Maryland.]

BUSINESS ENTITY.

(1) A corporation, general or limited partnership, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not operated for profit.

(2) ***BUSINESS ENTITY*** does not include a governmental entity.

COMMISSION. The Frederick County Ethics Commission established pursuant to § 1-7.1-4 of this chapter.

COMPENSATION.

(1) Any money or thing of value, regardless of form, received or to be received by any individual covered by this chapter from an employer for service rendered.

(2) For the purposes of § 1-7.1-8 of this chapter, if lobbying is only a portion of a person's employment, compensation means a prorated amount based on the time devoted to lobbying compared to the time devoted to other employment duties.

COUNCIL MEMBER. A member of the County Council.

[**COUNTY COMMISSIONER.** A member of the Board of County Commissioners of Frederick County, Maryland.]

COUNTY COUNCIL. The County Council of Frederick County, Maryland.

COUNTY EXECUTIVE. The County Executive of Frederick County, Maryland.

ELECTED OFFICIAL. An individual who holds elective office as the County Executive or a County Council member.

GIFT.

(1) The transfer of anything of economic value regardless of the form without adequate and lawful consideration.

(2) **GIFT** does not include the solicitation, acceptance, receipt, or regulation of political campaign contributions regulated in accordance with the provisions of Election Law Art. §§ 13-101 *et seq.*, or any other provision of state or local law regulating the conduct of elections or the receipt of political campaign contributions.

IMMEDIATE FAMILY. A spouse and dependent children.

LOBBYING.

(1) Communicating in the presence of a County official or employee with the intent to influence any official action of that official or employee; or

(2) Engaging in activities with the express purpose of soliciting others to communicate with a County official or employee with the intent to influence that official or employee.

LOBBYIST. A person required to register and report expenses related to lobbying under § 1-7.1-8 of this chapter.

OFFICIAL. This includes an elected official, an official appointed to a County position by the County Executive or the County Council, a County employee and a member of a County board or commission:

- (1) Whether or not paid in whole or in part with County funds; and
- (2) Whether or not compensated.

PERSON. Includes an individual or business entity.

§ 1-7.1-4. ETHICS COMMISSION.

[(A) There is a Frederick County Ethics Commission that consists of 5 members appointed by the County Executive subject to confirmation by the Council. The appointments are for 3-year terms, except for the initial appointments of the fourth and fifth members, who will serve for a term set by the Board, not to exceed 3 years. The County Executive must appoint 1 alternate member, who is empowered to sit on the Commission in the absence of any member of the Commission. The alternate's term is 3 years. Vacancies are to be filled for the unexpired term of any member whose term becomes vacant. Members serve without compensation, but the county governing body may provide for payment of necessary and proper expenses incurred while performing official duties.]

(A) Appointments, terms, vacancies and compensation.

(1) There is a Frederick County Ethics Commission that consists of 7 members appointed by the County Executive subject to confirmation by the Council.

(2) The appointments are for 3-year terms, except for the initial appointments of the sixth and seventh members, who will serve for a term set by the County, not to exceed 3 years. Members may be reappointed, but may not serve more than 2 full consecutive 3-year terms.

(3) The County Executive must appoint 1 alternate member, who is empowered to sit on the Commission in the absence of any member of the Commission. The alternate's term is 3 years.

(4) Vacancies are to be filled for the unexpired term of any member whose term becomes vacant.

(5) Members serve without compensation, but the county governing body may provide for payment of necessary and proper expenses incurred while performing official duties.

(B) Powers and duties.

The Commission shall:

- (1) Devise, receive, and maintain all forms required by this chapter;
- (2) Develop procedures and policies for advisory opinion requests, including the reconsideration of advisory opinions, and provide published advisory opinions to persons subject to this chapter regarding the applicability of the provisions of this chapter to them;
- (3) Develop procedures and policies for the processing of complaints to make appropriate determinations regarding complaints filed by any person alleging violations of this chapter; and
- (4) Conduct a public information program regarding the purposes and application of this chapter.

(C) Oaths and subpoenas

(1) The Commission may:

(a) Administer oaths;

(b) Issue subpoenas to require any person to respond under oath to written questions; and

(c) Issue subpoenas for the attendance of witnesses to testify or to produce verified copies of records or other tangible objects.

(2) County officials and employees are expected to comply with all subpoenas from the Ethics Commission.

(3) A subpoena issued under this subsection may be judicially enforced.

~~[(C)]~~ (D) The County Attorney shall advise the Commission.

~~[(D)]~~ (E) The Commission shall certify to the State Ethics Commission on or before October 1 of each year that the County is in compliance with the requirements of Md. Code Ann., [State Government] General Provisions Article, Title [1]5, Subtitle 8, for elected local officials.

~~[(E)]~~ (F) The Commission shall determine if changes to this chapter are required to be in compliance with the requirements of Md. Code Ann., [State Government] General Provisions Article, Title [1]5, Subtitle 8, and shall forward any recommended changes and amendments to the county governing body for enactment.

~~[(F)]~~ (G) The Commission may adopt other policies and procedures to assist in the implementation of the Commission's programs established in this chapter.

§ 1-7.1-5. CONFLICTS OF INTEREST.

(A) In this section, ***QUALIFIED RELATIVE*** means a spouse, parent, child, or sibling.

(B) All elected officials and officials appointed to County boards and commissions, and employees are subject to this section.

(C) *Participation prohibitions.* Except as permitted by Commission regulation or opinion, an official or employee may not participate in:

(1) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee, or a qualified relative of the official or employee has an interest.

(2) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:

(a) A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;

(b) A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;

(c) A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating employment or has any arrangement concerning prospective employment;

(d) If the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee, a business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative;

(e) An entity, doing business with the County, in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or

(f) A business entity that:

(i) The official or employee knows is a creditor or obligee of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value and

(ii) As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or employee or a qualified relative of the official or employee.

(3) A person who is disqualified from participating under subparagraphs (1) or (2) of this paragraph shall disclose the nature and circumstances of the conflict and may participate or act if:

(a) The disqualification leaves a body with less than a quorum capable of acting;

(b) The disqualified official or employee is required by law to act; or

(c) The disqualified official or employee is the only person authorized to act.

(4) The prohibitions of subparagraphs (1) and (2) of this paragraph do not apply if participation is allowed by regulation or opinion of the Commission.

(D) *Employment and financial interest restrictions.*

(1) Except as permitted by regulation of the Commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:

(a) Be employed by or have a financial interest in any entity:

(i) Subject to the authority of the official or employee or the County division, agency, or board or commission with which the official or employee is affiliated; or

(ii) That is negotiating or has entered into a contract with the division, agency, or board or commission with which the official or employee is affiliated; or

(b) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.

(2) This prohibition does not apply to:

(a) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to the authority;

(b) Subject to other provisions of law, a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed to the appointing authority and the Commission;

(c) An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted by and in accordance with regulations adopted by the Commission; or

(d) Employment or financial interests allowed by regulation of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

(E) Contracts with elected officials.

(1) In order to avoid actual conflicts of interest or the appearance of conflicts of interest, the County may not knowingly enter into a contract where one or more of the contracting parties is one of the following:

(a) An elected official or a qualified relative of an elected official;

(b) A business entity in which an elected official or a qualified relative of an elected official holds a direct financial interest; or

(c) A business entity in which the elected official or a qualified relative of an elected official is an officer, director, trustee, partner or employee.

(2) It is a violation of this subparagraph for an elected official to enter into a contract prohibited in paragraph (E)(1) of this section.

~~[(E)]~~ (F) Post-employment limitations and restrictions.

(1) A former official or employee, including a former member of the Board of County Commissioners, may not assist or represent any party other than the County for compensation in a case, contract, or other specific matter involving the County if that matter is one in which the former official or employee significantly participated as an official or employee.

(2) For 1 year after the member of the Board of County Commissioners or elected official leaves office, the former County Commissioner or elected official may not assist or represent another party for compensation in a matter that is the subject of legislative action before the county governing body.

~~[(F)]~~ (G) Contingent compensation. Except in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation in any matter before or involving the County.

[(G)] (H) *Use of prestige of office.*

(1) An official or employee may not intentionally use the prestige of office or public position for the private gain of that official or employee or the private gain of another.

(2) This paragraph does not prohibit the performance of usual and customary constituent services by an elected official without additional compensation.

[(H)] (I) *Solicitation and acceptance of gifts.*

(1) An official or employee may not solicit any gift.

(2) An official or employee may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist.

(3) An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has the reason to know:

(a) Is doing business with or seeking to do business with the County division, agency, or board or commission with which the official or employee is affiliated;

(b) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;

(c) Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or

(d) Is a lobbyist with respect to matters within the jurisdiction of the official or employee.

(4) Subparagraph (5) of this paragraph does not apply to a gift:

(a) That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;

(b) Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or

(c) Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.

(5) Notwithstanding subparagraph (3) of this paragraph, an official or employee may accept the following:

- (a) Meals and beverages consumed in the presence of the donor or sponsoring entity;
- (b) Ceremonial gifts or awards that have insignificant monetary value;
- (c) Unsolicited gifts of nominal value that do not exceed \$20 in cost or trivial items of informational value;
- (d) Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting;
- (e) Gifts of tickets or free admission extended to an elected official to attend a charitable, cultural, or political event, if the purpose of the gifts or admission is a courtesy or ceremony extended to the official's office;
- (f) A specific gift or class of gifts that the Commission exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the County and that the gift is purely personal and private in nature;
- (g) Gifts from a person related to the official or employee by blood or marriage, or any other individual who is a member of the household of the official or employee; or
- (h) An honorarium for speaking to or participating in a meeting, provided that the offering of the honorarium is in no way related to the official's or employee's official position.

~~[(I)]~~ (J) *Disclosure of confidential information.* Other than in the discharge of official duties, an official or employee may not disclose or use confidential information~~[],~~ that the official or employee acquired by reason of the official's or employee's public position and that is not available to the public, for the economic benefit of the official or employee or that of another person.

~~[(J)]~~ (K) *Participation in procurement.*

(1) An individual or a person that employs an individual who assists a County division or agency in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement may not submit a bid or proposal for that procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.

(2) The Commission may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procuring division or agency.

**§ 1-7.1-6. FINANCIAL DISCLOSURE; COUNTY ELECTED OFFICIALS [AND],
CANDIDATES TO BE ELECTED OFFICIALS AND OTHER DESIGNATED
POSITIONS.**

(A) (1) This section applies to all [County Commissioners,] elected officials, [and] candidates to be elected officials and the following designated positions:[.]

(a) The Chief Administrative Officer;

(b) The County Attorney;

(c) The Directors appointed and confirmed pursuant to Section 412(a) of the County Charter;

(d) Members of the Planning Commission; and

(e) Members and alternate member of the Board of Zoning Appeals.

(2) Except as provided in paragraph (B) of this section, [a County Commissioner,] an elected official or a candidate to be an elected official shall file the financial disclosure statement required under this section:

(a) On a form provided by the Commission;

(b) Under oath or affirmation; and

(c) With the Commission.

(3) *Deadlines for filing statements.*

(a) An incumbent elected official shall file a financial disclosure statement annually no later than April 30 of each year for the preceding calendar year.

(b) An individual who is appointed to fill an elected official vacancy and who has not already filed a financial disclosure statement shall file a statement for the preceding calendar year within 30 days after appointment.

(c) (i) [A County Commissioner or] An elected official who, other than by reason of death, leaves office shall file a statement within 60 days after leaving office.

(ii) The statement shall cover:

a. The calendar year immediately preceding the year in which the [County Commissioner or] elected official left office, unless a statement covering that year has already been filed and

b. The portion of the current calendar year during which the person held the office.

(B) Candidates to be an elected official.

(1) Except for an elected official who has filed a financial disclosure statement under another provision of this section for the reporting period, a candidate to be an elected official shall file a financial disclosure statement each year beginning with the year in which the certificate of candidacy is filed through the year of the election.

(2) A candidate to be an elected official shall file a statement required under this section:

(a) In the year the certificate of candidacy is filed, no later than the filing of the certificate of candidacy;

(b) In the year of the election, on or before the earlier of April 30 or the last day for the withdrawal of candidacy; and

(c) In all other years for which a statement is required, on or before April 30.

(3) A candidate to be an elected official:

(a) May file the statement required under subparagraph (B)(2)(a) of this paragraph with the Frederick County Board of Elections with the certificate of candidacy or with the Commission prior to filing the certificate of candidacy; and

(b) Shall file the statements required under subparagraphs (B)(2)(b) and (c) of this paragraph with the Commission.

(4) If a candidate fails to file a statement required by this section after written notice is provided by the Frederick County Board of Elections at least 20 days before the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidacy.

(5) The Frederick County Board of Elections may not accept any certificate of candidacy unless a statement has been filed in proper form.

(6) Within 30 days of the receipt of a statement required under this section, the Frederick County Board of Elections shall forward the statement to the Commission or the office designated by the Commission.

(C) Public record.

(1) The Commission or office designated by the Commission shall maintain all financial disclosure statements filed under this section.

(2) Financial disclosure statements shall be made available during normal office hours for examination and copying by the public subject to reasonable fees and administrative procedures established by the Commission.

(3) If an individual examines or copies a financial disclosure statement, the Commission or the office designated by the Commission shall record:

(a) The name and home address of the individual reviewing or copying the statement and

(b) The name of the person whose financial disclosure statement was examined or copied.

(4) Upon request by the official or employee whose financial disclosure statement was examined or copied, the Commission or the office designated by the Commission shall provide the official with a copy of the name and home address of the person who reviewed the official's financial disclosure statement.

(D) *Retention requirements.* The Commission or the office designated by the Commission shall retain financial disclosure statements for four years from the date of receipt.

(E) *Contents of statement.*

(1) *Interests in real property.*

(a) A statement filed under this section shall include a schedule of all interests in real property wherever located.

(b) For each interest in real property, the schedule shall include:

(i) The nature of the property and the location by street address, mailing address, or legal description of the property;

(ii) The nature and extent of the interest held, including any conditions and encumbrances on the interest;

(iii) The date when, the manner in which, and the identity of the person from whom the interest was acquired;

(iv) The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;

(v) If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and

(vi) The identity of any other person with an interest in the property.

(2) Interests in corporations and partnerships.

(a) A statement filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, regardless of whether the corporation or partnership does business with the County.

(b) For each interest reported under this paragraph, the schedule shall include:

(i) The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;

(ii) The nature and amount of the interest held, including any conditions and encumbrances on the interest;

(iii) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and, if known, the identity of the person to whom the interest was transferred; and

(iv) With respect to any interest acquired during the reporting period:

a. The date when, the manner in which, and the identity of the person from whom the interest was acquired and

b. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(c) An individual may satisfy the requirement to report the amount of the interest held under subparagraph (E)(2)(b)(ii) of this paragraph by reporting, instead of a dollar amount:

(i) For an equity interest in a corporation, the number of shares held and, unless the corporation's stock is publicly traded, the percentage of equity interest held or

(ii) For an equity interest in a partnership, the percentage of equity interest held.

(3) Interests in business entities doing business with the County.

(a) A statement filed under this section shall include a schedule of all interests in any business entity that does business with the County, other than interests reported under paragraph (2) of this subparagraph.

(b) For each interest reported under this subparagraph, the schedule shall include:

(i) The name and address of the principal office of the business entity;

(ii) The nature and amount of the interest held, including any conditions to and encumbrances in the interest;

(iii) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest, and, if known, the identity of the person to whom the interest was transferred; and

(iv) With respect to any interest acquired during the reporting period:

a. The date when, the manner in which, and the identity of the person from whom the interest was acquired and

b. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(4) *Gifts.*

(a) A statement filed under this section shall include a schedule of each gift in excess of \$20 in value or a series of gifts totaling \$100 or more received during the reporting period from or on behalf of, directly or indirectly, any one person who does business with or is regulated by the County.

(b) For each gift reported, the schedule shall include:

(i) A description of the nature and value of the gift and

(ii) The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

(5) *Employment with or interests in entities doing business with the County.*

(a) A statement filed under this section shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the County.

(b) For each position reported under this paragraph, the schedule shall include:

(i) The name and address of the principal office of the business entity;

(ii) The title and nature of the office, directorship, or salaried employment held and the date it commenced; and

(iii) The name of each County division or agency with which the entity is involved.

(6) *Indebtedness to entities doing business with the County.*

(a) A statement filed under this section shall include a schedule of all liabilities, excluding retail credit accounts, to persons doing business with the County owed at any time during the reporting period:

(i) By the individual or

(ii) By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.

(b) For each liability reported under this paragraph, the schedule shall include:

(i) The identity of the person to whom the liability was owed and the date the liability was incurred;

(ii) The amount of the liability owed as of the end of the reporting period;

(iii) The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and

(iv) The security given, if any, for the liability.

(7) A statement filed under this section shall include a schedule of the immediate family members of the individual employed by the County in any capacity at any time during the reporting period.

(8) *Sources of earned income.*

(a) A statement filed under this section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or a member of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate family received earned income, at any time during the reporting period.

(b) A child's employment or business ownership need not be disclosed if the County does not regulate, exercise authority over, or contract with the place of employment or business entity of the child.

(9) A statement filed under this section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.

(F) For the purposes of subparagraphs (E) (1), (2), and (3) of this section, the following interests are considered to be the interests of the individual making the statement:

(1) An interest held by a member of the individual's immediate family, if the interest was, at any time during the reporting period, directly or indirectly controlled by the individual;

(2) An interest held by a business entity in which the individual held a 30% or greater interest at any time during the reporting period; and

(3) An interest held by a trust or an estate in which, at any time during the reporting period:

(a) The individual held a reversionary interest or was a beneficiary or

(b) If a revocable trust, the individual was a settlor.

(G) (1) The Commission shall review the financial disclosure statements submitted under this section for compliance with the provisions of this section and shall notify an individual submitting the statement of any omissions or deficiencies.

(2) The Commission may take appropriate enforcement action to ensure compliance with this section.

§ 1-7.1-7. FINANCIAL DISCLOSURE; EMPLOYEES AND APPOINTED OFFICIALS.

(A) This section only applies to the following appointed officials and employees:

(1) *Officials and employees.*

(a) All employees who are classified on the Frederick County Government pay schedule at grade 14 or above and who are not covered by Section 1-7.1-6(A)(1) or by the state ethics statute;

(b) Board of License Commissioners and Inspectors; and

(c) All construction managers and inspectors.

(2) *Members of the following boards and commissions.*

(a) Affordable Housing Council.

(b) Agricultural Preservation Advisory Board.

- (c) Board of Appeals, Building Code.
- [(d) Board of Appeals, Zoning.]
- [(e)](d) Board of Gaming Appeals.
- [(f)](e) Business Development Advisory Council.
- [(g)] (f) Ethics Commission.
- [(h)] (g) Insurance Committee.
- [(i)] (h) Interagency Internal Audit Authority.*
- [(j) Planning Commission.]
- [(k)] (i) Public Library Board.
- [(l)] (j) Retirement Plan Committee.
- [(m)] (k) Small Business Revolving Loan Fund Review Committee.
- [(n)] (l) Solid Waste Advisory Committee.
- [(o)] (m) Technology Council of Frederick County.

* The Frederick Community College member of this authority is not covered under this chapter inasmuch as that member is covered under other provisions of law pertaining to that member.

(B) A statement filed under this section shall be filed with the Commission under oath or affirmation.

(C) On or before April 30 of each year during which an official or employee holds office, an official or employee shall file a statement disclosing gifts received during the preceding calendar year from any person that contracts with or is regulated by the County, including the name of the donor of the gift and the approximate retail value at the time of receipt.

(D) An official or employee shall disclose employment and interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the employee or official sufficiently in advance of the action to provide adequate disclosure to the public.

(E) The Commission shall maintain all disclosure statements filed under this section as public records available for public inspection and copying as provided in § 1-7.1-6(C) of this chapter.

§ 1-7.1-8. LOBBYING.

(A) Except as provided in paragraphs (B) and (C) of this section, a person or entity who engages in lobbying as defined in § 1-7.1-3 shall file a lobbying registration with the Commission if the person or entity, during the calendar year:

- (1) Expends, exclusive of personal travel and subsistence expenses, in excess of \$2,500 in furtherance of this activity;
- (2) Is compensated in excess of \$2,500 in connection with this activity; or
- (3) Spends \$100 or more cumulatively on gifts to or for officials or employees or their spouses or dependent children.

(B) The following activities are exempt from regulation under this section:

- (1) Professional services in drafting bills or in advising and rendering opinions to clients as to the construction and effect of proposed or pending legislation when these services do not otherwise constitute lobbying activities;
- (2) Appearances before the [Board or the] County Council upon its specific invitation or request if the person or entity engages in no further or other activities in connection with the passage or defeat of [Board or] County Council actions;
- (3) Appearances before a County agency upon the specific invitation or request of the agency if the person or entity engages in no further or other activities in connection with the passage or defeat of any agency action;
- (4) Appearance as part of the official duties of a duly elected or appointed official or employee of the State or a political subdivision of the State, or of the United States, and not on behalf of any other entity;
- (5) Actions of a publisher or working member of the press, radio, or television in the ordinary course of the business of disseminating news or making editorial comment to the general public who does not engage in further or other lobbying that would directly and specifically benefit the economic, business, or professional interests of the person or entity or the employer of the person or entity;
- (6) Appearances by an individual before the [Board or] County Council at the specific invitation or request of a registered lobbyist if the person performs no other lobbying act and notifies the [Board or] County Council that the person or entity is testifying at the request of the lobbyist;

(7) Appearances by an individual before a County agency at the specific invitation or request of a registered lobbyist if the person or entity performs no other lobbying act and notifies the agency that the person or entity is testifying at the request of the lobbyist;

(8) The representation of a bona fide religious organization solely for the purpose of protecting the right of its own members to practice the doctrine of the organization; and

(9) Appearance as part of the official duties of an officer, director, member, or employee of an association engaged exclusively in lobbying for counties and municipalities and not on behalf of any other entity.

(C) Limited exemption - employer of a lobbyist.

(1) A person or entity who compensates one or more lobbyists and who would otherwise be required to register as a lobbyist is not required to file a registration and submit lobbying reports if the person or entity reasonably believes that all expenses incurred in connection with the lobbying activities will be reported by a properly registered person or entity acting on behalf of the person or entity.

(2) A person or entity exempted under this paragraph becomes subject to this section immediately upon failure of the lobbyist to report any information required under this section.

(D) (1) The registration filed under this section shall be filed on or before the later of the beginning of the calendar year in which the person or entity expects to lobby or within 5 days of first engaging in lobbying activities in the calendar year.

(2) The registration filed under this section:

(a) Shall be dated and on a form developed by the Commission;

(b) Shall include:

(i) The lobbyist's full and legal name and permanent address;

(ii) The name, address, and nature of business of any person or entity on whose behalf the lobbyist acts; and

(iii) The written authorization of any person or entity on whose behalf the lobbyist acts or an authorized officer or agent, who is not the lobbyist, of the person or entity on whose behalf the lobbyist acts;

(c) A statement of whether the person or entity on whose behalf the lobbyist acts is exempt from registration under paragraph (C) of this section;

(d) The identification, by formal designation, if known, of matters on which the lobbyist expects to act;

(e) Identification of the period of time within a single calendar year during which the lobbyist is authorized to engage in these activities, unless terminated sooner; and

(f) The full legal signature of the lobbyist and, when appropriate, the person or entity on whose behalf the lobbyist acts or an agent or authorized officer of the person or entity on whose behalf the lobbyist acts.

(E) A lobbyist shall file a separate registration for each person or entity that has engaged or employed the lobbyist for lobbying purposes.

(F) A lobbyist may terminate the lobbyist's registration by providing written notice to the Commission and submitting all outstanding reports and registrations.

(G) A person or entity may not engage in lobbying activities on behalf of another person or entity for compensation that is contingent upon the passage or defeat of any County Council action or the outcome of any County Executive action.

(H) *Activity report.*

(1) A lobbyist shall file with the Commission or the office designated by the Commission:

(a) By July 31, one report concerning the lobbyist's lobbying activities covering the period beginning January 1 through June 30; and

(b) By January 31, one report covering the period beginning July 1 through December 31.

(2) A lobbyist shall file a separate activity report for each person or entity on whose behalf the lobbyist acts.

(3) If the lobbyist is not an individual, an authorized officer or agent of the entity shall sign the form.

(4) The report shall include:

(a) A complete and current statement of the information required to be supplied with the lobbyist's registration form.

(b) Total expenditures on lobbying activities in each of the following categories:

(i) Total compensation paid to the lobbyist not including expenses reported under items (ii) - (ix) of this subparagraph;

- (ii) Office expenses of the lobbyist;
- (iii) Professional and technical research and assistance not reported in item (i) of this subparagraph;
- (iv) Publications which expressly encourage persons to communicate with County officials or employees;
- (v) Names of witnesses, and the fees and expenses paid to each witness;
- (vi) Meals and beverages for County officials and employees;
- (vii) Reasonable expenses for food, lodging, and scheduled entertainment of County officials or employees for a meeting which is given in return for participation in a panel or speaking engagement at the meeting;
- (viii) Other gifts to or for officials or employees or their spouses or dependent children; and
- (ix) Other expenses.

(I) *Special gift report.*

(1) (a) With the 6-month activity report required under paragraph (H) of this section, a lobbyist shall report, except for gifts reported in subparagraph (H)(4)(b)(viii) of this section, gifts from the lobbyist with a cumulative value of \$75 or more during the reporting period to an official, employee, or member of the immediate family of an official or employee.

(b) The lobbyist shall report gifts under this paragraph regardless of whether the gift was given in connection with lobbying activities.

(2) The report shall include the date, beneficiary, amount or value, and nature of the gift.

(J) *Notification to official or employee and confidentiality.*

(1) If any report filed under this section contains the name of an official or employee or a member of the immediate family of an official or employee, the Commission shall notify the official or employee within 30 days.

(2) The Commission shall keep the report confidential for 60 days following receipt by the Commission.

(3) Within 30 days of the notice required under subparagraph (1) of this paragraph, the official or employee may file a written exception to the inclusion in the report of the name of the official, employee, or member of the immediate family of the official or employee.

(K) The Commission may require a lobbyist to submit other reports the Commission determines to be necessary.

(L) The Commission or office designated by the Commission shall maintain all registrations and reports filed under this section.

(M) (1) The Commission shall review the registrations and reports filed under this section for compliance with this section and shall notify persons engaging in lobbying activities of any omissions or deficiencies.

(2) The Commission may take appropriate enforcement action to ensure compliance with this section.

(N) *Annual report.*

(1) The Commission shall compute and make available a subtotal under each of the ten required categories in subparagraph (H)(4)(b) of this section.

(2) The Commission shall compute and make available the total amount reported by all lobbyists for their lobbying activities during the reporting period.

(O) The Commission shall make lobbying registrations and reports available during normal business hours for examination and copying subject to reasonable fees and procedures established by the Commission.

§ 1-7.1-9. EXEMPTIONS AND MODIFICATIONS.

The Commission may grant exemptions and modifications to the provisions of §§ 1-7.1-[6]5 and 1-7.1-7 of this chapter to employees and to appointed members of County boards and commissions, when the Commission finds that an exemption or modification would not be contrary to the purposes of this chapter, and the application of this chapter would:

(A) Constitute an unreasonable invasion of privacy and

(B) Significantly reduce the availability of qualified persons for public service.

§ 1-7.1-10. ENFORCEMENT.

(A) The Commission may:

(1) Assess a late fee of \$2 per day up to a maximum of \$250 for a failure to timely file a financial disclosure statement required under § 1-7.1-6 and § 1-7.1-7 of this chapter;

(2) Assess a late fee of \$10 per day up to a maximum of \$250 for a failure to file a timely lobbyist registration or lobbyist report required under § 1-7.1-8 of this chapter; and

(3) Issue a cease and desist order against any person found to be in violation of this chapter.

(B) (1) Upon a finding of a violation of any provision of this chapter, the Commission may:

(a) Issue an order of compliance directing the respondent to cease and desist from the violation;

(b) Issue a reprimand; or

(c) Recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal if that discipline is authorized by law.

(2) If the Commission finds that a respondent has violated § 1-7.1-8 of this chapter, the Commission may:

(a) Require a respondent who is a registered lobbyist to file any additional reports or information reasonably related to the information that is required under § 1-7.1-8 of this chapter;

(b) Impose a fine not exceeding \$5,000 for each violation; and

(c) Suspend the registration of an individual registered lobbyist if the Commission finds that the lobbyist has knowingly and willfully violated § 1-7.1-8 of this chapter or has been convicted of a criminal offense arising from lobbying activities.

(C) (1) Upon request of the Commission, the County Attorney may file a petition for injunctive or other relief in the Circuit Court of Frederick County, or in any other court having proper venue for the purpose of requiring compliance with the provisions of this chapter.

(2) (a) The court may:

(i) Issue an order to cease and desist from the violation;

(ii) Except as provided in subparagraph (2)(b) of this paragraph, void an official action taken by an official or employee with a conflict of interest prohibited by this chapter when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within 90 days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public; or

(iii) Impose a fine of up to \$5,000 for any violation of the provisions of this chapter, with each day upon which the violation occurs constituting a separate offense.

(b) A court may not void any official action appropriating public funds, levying taxes, or providing for the issuance of bonds, notes, or other evidences of public obligations.

(D) In addition to any other enforcement provisions in this chapter, a person who the Commission or a court finds has violated this chapter:

(1) Is subject to termination or other disciplinary action and

(2) May be suspended from receiving payment of salary or other compensation pending full compliance with the terms of an order of the Commission or a court.

(E) A County official or employee found to have violated this chapter is subject to disciplinary or other appropriate personnel action, including removal from office, disciplinary action, suspension of salary, or other sanction.

(F) (1) [Any person who knowingly and willfully violates § 1-7.1-8 of this chapter is guilty of a misdemeanor, and, upon conviction, is subject to a fine of not more than \$1,000 or imprisonment for not more than 1 year, or both.] A violation of any of the provisions of Sections 1-7.1-5, 1-7.1-6, 1-7.1-7 or 1-7.1-8 of this chapter is a misdemeanor subject to a fine of up to \$1,000 or imprisonment of up to 6 months or both.

(2) If the person is a business entity and not a natural person, each officer and partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and, upon conviction, is subject to the same penalties as the business entity.

(G) A finding of a violation of this chapter by the Commission is public information. If the Commission finds that an official or employee who was the subject of an ethics complaint has violated this chapter, the name of the official or employee is public information and must be included in the Commission's written decision.

§ 1-7.1-11. RETALIATION PROHIBITED.

(A) A complainant, representative, or witness must not be discharged, threatened, harassed or otherwise retaliated against by the County regarding compensation, terms, conditions, or privileges of employment or office because:

(1) The complainant, representative or witness reported a violation or suspected violation of this chapter; or

(2) The complainant, representative or witness participated in an investigation, hearing, inquiry or other proceeding conducted by the Commission.

(B) The provisions of this section do not apply to a complainant, representative or witness who knowingly makes a false report or provides false information.