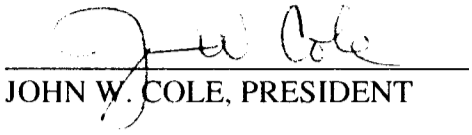


COUNTY COMMISSIONERS OF CAROLINE COUNTY, MARYLAND

LEGISLATIVE BILL #2008-1

INTRODUCED BY: COMMISSIONERS COLE, LAYTON AND GHRIST
INTRODUCED ON: MARCH 11, 2008
ATTEST: 
JOHN W. COLE, PRESIDENT
PUBLIC HEARING: APRIL 1, 2008; COURTHOUSE, 109 MARKET STREET,
RM. 106, DENTON, MARYLAND, BEGINNING AT 9 AM
THIRD READING: APRIL 8, 2008
ENACTED: APRIL 8, 2008
EFFECTIVE: MAY 24, 2008

A BILL ENTITLED

**REPEAL OF COUNTY ETHICS CODE AND
ENACTMENT OF NEW COUNTY ETHICS CODE**

CODE OF PUBLIC LOCAL LAWS OF CAROLINE COUNTY
Chapter 33 – Ethics, Code of

FOR THE PURPOSE OF deleting current provisions of Chapter 33 of the Code of Public Local Laws of Caroline County, Maryland, and amending Chapter 33 of the Code of Public Local Laws of Caroline County, Maryland, by adding new provisions in replacement thereof; providing for certain definitions; providing for the creation of a new and expanded Ethics Commission and for the duties, powers, and operations thereof; providing for certain prohibited conduct and interests; providing for certain restrictions on employment, financial interests, and affiliations; providing for certain restrictions on certain activities and conduct; providing for restrictions on gifts; providing for financial disclosures in certain circumstances; providing for registration and for certain restrictions with respect to lobbying activities; providing or providing for rules and regulations with respect to all of the foregoing; providing that this title be deemed a fair summary of this public local law for all purposes; and relating generally to matters of ethics in County government in Caroline County, Maryland.

**NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COMMISSIONERS OF
CAROLINE COUNTY, MARYLAND, IN LEGISLATIVE SESSION, THAT:**

SECTION 1. Chapter 33 of the Code of Public Local Laws of Caroline County is hereby deleted in its entirety, and the following new language is added in place thereof to read as follows:

**Chapter 33
ETHICS, CODE OF**

**ARTICLE I
In General**

§33-1. Definitions.

In this Chapter the following words have the meanings indicated, unless the context clearly indicates otherwise:

BUSINESS ENTITY - An entity of any form, whether or not operated for profit, including a corporation, partnership, limited liability partnership, joint stock association,

limited liability company, professional service corporation, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, or any other entity or form of entity whether or not recognized under State law

CODE – The Code of Public Local Laws of Caroline County as from time to time amended

COMMISSION - The Caroline County Ethics Commission established pursuant to this Chapter 33

COMPENSATION - Consideration given, or to be given, regardless of form, to a Person for services rendered.

COUNTY – The political subdivision existing under the laws of the State of Maryland and known as the County Commissioners of Caroline County, and including:

- (1) All County officials, bureaus, departments, agencies, and offices named in the Code, or created under the authority thereof;
- (2) The Board of Health;
- (3) The Caroline County Board of Library Trustees;
- (4) The Board of Liquor License Commissioners;
- (5) To the extent that it is not governed by a Code of Ethics adopted in accordance with State law, the Caroline County Board of Education; and
- (6) Any other individual or Business Entity included pursuant to any other provision of this Chapter 33.

COUNTY MATTER – A proceeding, application, case, contract, dispute or other business or issue involving the County, or a Public Official in such Public Official's official capacity.

DOING BUSINESS WITH THE COUNTY -

- (1) Having, bidding on, or negotiating, or reasonably anticipating having, bidding on, or negotiating a contract or combination of contracts involving the expenditure or commitment of \$1,000 or more in the aggregate of County or County-controlled funds within any twelve (12) month period;
- (2) Being regulated by or otherwise under the authority of the County or a Public Official (other than as an employee); or
- (3) Being subject to registration as a Lobbyist in accordance with Article V of this Chapter.

GIFT –

- (1) The transfer of a thing of value, in any form, without adequate and lawful consideration.
- (2) "Gift" does not include the solicitation, acceptance, or receipt of political campaign contributions regulated by the Maryland Fair Election Practices Act, or by any other provision of State or local law regulating the conduct of elections or political campaign contributions.

INTEREST -

- (1) "Interest" means a legal or equitable interest, whether or not subject to an encumbrance or a condition, which is owned or held by a Person subject to this Chapter in any way, in whole or in part, jointly or severally, directly or indirectly.
- (2) "Interest" includes
 - (a) Ownership of an interest as the result of which the owner has received within the past 3 years, is currently receiving, or in the future is entitled to receive a cumulative total of more than \$1,000; or
 - (b) Ownership of more than 3% of a Business Entity; or
 - (c) Ownership of securities of any kind that represent, or are convertible into, ownership of more than 3% of a Business Entity.
- (3) "Interest" does not include:
 - (a) An interest held by a Person acting in the capacity of a personal representative, agent, custodian, fiduciary, or trustee;
 - (b) An interest in a time or demand deposit in a financial institution;
 - (c) An interest in an insurance or endowment policy or annuity contract under which an insurer promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period; or
 - (d) A common trust fund or a trust that forms part of a pension or profit-sharing plan that has more than 25 participants and which has been determined by the Internal Revenue Service to be a qualified trust under the Internal Revenue Code of 1986, as from time to time amended.

LOBBYING - Communicating with a Public Official for the purpose of influencing legislative or executive action.

LOBBYIST - A Person who engages in Lobbying and who, within a reporting period:

- (1) For the purpose of influencing legislative or executive action either:
 - (a) Incurs or expends \$250 or more of expenses (but, in the case of meals, beverages, special events, or Gifts for Public Officials, an amount or value of expenses of \$100) cumulatively, not including personal travel and subsistence expenses; or
 - (b) Receives \$500 or more as Compensation for Lobbying;
- (2) For the purpose of influencing the comprehensive rezoning process, expends money, irrespective of the amount, on a Public Official for meals, beverages, special events, or Gifts.
- (3) "Lobbyist" does not include an individual who strictly:
 - (a) Provides professional services in drafting bills or in advising and rendering opinions to clients regarding the construction and effect of proposed or pending County Commissioner actions;
 - (b) Appears before the County Commissioners at the specific invitation or request of the Commissioners, insofar as that particular appearance is concerned;

- (c) Appears at public hearings of the County Commissioners or a County agency, board, or commission, if the individual does not engage in the activities enumerated in paragraphs (1) or (2) of this definition.
- (d) Makes appearances 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, provided the appearance is not on behalf of another Business Entity;
- (e) Is acting as a member of the news media working in the ordinary course of the business of gathering or disseminating news or making editorial comment to the general public, provided the individual does not engage in activities enumerated in paragraphs (1) or (2) of this definition;
- (f) Appears before the County Commissioners at the specific invitation or request of a registered Lobbyist, provided that the individual does not engage in activities enumerated in paragraphs (1) or (2) of this definition, and provided the individual identifies to the Commissioners that the individual is testifying at the request of the Lobbyist;
- (g) Makes appearances as part of the official duties of an officer, director, member, or employee of an association engaged exclusively in Lobbying for counties or municipalities and not on behalf of another Business Entity; or
- (h) Represents a bona fide religious organization solely for the purpose of protecting the right of its own members to practice the doctrine of the organization.

OFFICIAL RESPONSIBILITY - Administrative or operating authority over a County Matter, whether intermediate or final, exercisable either alone or with others, either personally or through subordinates.

PERSON - An individual or a Business Entity.

PUBLIC OFFICIAL -

- (1) An employee of the County, including an elected or appointed official; and
- (2) An individual elected or appointed to serve on a County board, or commission listed in this section.
- (3) "Public official" includes an individual listed under paragraph (1) or (2) whether or not the individual is compensated or whether or not the individual is compensated with County funds.

REPRESENT - Doing anything for Compensation that reasonably could be expected to be of benefit to a Person which is not a government agency with respect to a County Matter.

SIGNIFICANTLY PARTICIPATED -

- (1) Direct participation in a County Matter by a former Public Official in which the former Public Official's involvement was or appeared to be significant to a decision, approval, or recommendation concerning the County Matter.
- (2) "Significantly participated" includes the participation of a subordinate of the former Public Official if the subordinate was actually directed in the County Matter by the former Public Official.

- (3) "Significantly participated" is not established solely by having general responsibility, authority, or oversight with respect to the County Matter or matters substantially similar to the County Matter as a part of the Public Official's day to day responsibilities.

§33-2. Statement of purpose and policy.

- A. The County Commissioners, in recognition that representative government is dependent in part on the people maintaining the highest trust in their Public Officials, find and declare that the people have a right to be assured that the impartiality and independent judgment of Public Officials will be maintained.
- B. It is evident that public confidence and trust is eroded when the conduct of County Matters is subject to improper influence or when there is the appearance of improper influence.
- C. For the purpose of guarding against improper influence, the County Commissioners of Caroline County enact this Chapter 33 to:
 - (1) Require certain Public Officials to disclose certain matters;
 - (2) Set minimum standards for the conduct of County Matters by Public Officials; and
 - (3) Require certain filings and information regarding Lobbying activities.
- D. It is the intention of the County Commissioners that this Chapter, except for its provisions regarding criminal sanctions, be liberally construed to accomplish the purpose of guarding against improper influence.

**ARTICLE II
Ethics Commission**

§33-3. Caroline County Ethics Commission; files and records.

- A. The County Commissioners of Caroline County shall establish a County Ethics Commission, which shall be composed of five members appointed by the County Commissioners.
- B. Initial appointments shall be as follows: two for one year terms, two for two year terms, and the fifth for a three year term. Thereafter, all appointments shall be for three year terms.
- C. The members shall not be entitled to Compensation but shall be entitled to reimbursement for reasonable expenses.
- D.
 - (1) The Commission's files and records shall be maintained by the Commission in a safe and prudent manner; provided that the files and records shall at all times constitute files and records of the County and that the Commission may direct the County Attorney to maintain such files and records on behalf of the County and the Commission.
 - (2) The Commission, with the assistance of the County Administrator, shall develop a budget and submit the same to the Board of Estimates.
- E. Not more than three members of the Commission shall be affiliated with the same political party.
- F. Except as may be authorized by the County Commissioners, the Commission shall be advised and represented by the County Attorney; provided, however, that the County Attorney shall be recused in any matter in which the County Attorney may be a fact

witness or any matter in which a majority of the Commission members believe it appropriate to utilize other legal counsel to advise the Commission to avoid a conflict, of the appearance of a conflict, of interest. The County shall provide for the reasonable fees and expenses of such other counsel.

§ 33-4. Powers and duties of the Commission.

A. The Commission shall:

- (1) Administer the provisions of this Chapter;
- (2) Receive requests for and, in its discretion, render advisory opinions regarding the application of the Chapter to specific situations and factual circumstances;
- (3) Initiate complaints upon a majority determination of its members; receive complaints from others; and investigate, hold hearings, and render decisions with respect to complaints regarding alleged violations of this Chapter; provided, however, that in the event that a member of the Commission, on his or her own volition, files a complaint without obtaining a majority concurrence for such complaint by the Commission, such member shall be recused from participating in the investigation, hearing, and determination of such complaint.
- (4) Provide notice of its meetings and take and maintain written minutes of its meetings;
- (5) Keep all records and forms required under this Chapter as required under §33-3 of this Chapter;
- (6) Prescribe and provide forms for reports, statements, notices, complaints, and other documents required by this Chapter;
- (7) Retain documents filed with the Commission for at least 4 years after the date of their receipt;
- (8) For each disclosure statement, and Lobbying registration, and Lobbying report filed in accordance with this Chapter:
 - (a) Review the filing to determine if the filing complies with the provisions of this Chapter; and
 - (b) Notify the filer of any omissions or deficiencies in the filing;
- (9) Conduct public information and education programs regarding the purpose and implementation of this Chapter; and
- (10) Disseminate information to Public Officials regarding:
 - (a) The purpose and scope of this Chapter; and
 - (b) The functioning of the Commission.

B. The Commission may adopt rules and regulations in order to carry out the provisions of this Chapter including, but not limited to:

- (1) The conduct of Commission meetings to consider requests for advisory opinions and complaints;
- (2) Providing access to Commission records relating to advisory opinions and complaints, subject to and in accordance with State law; and
- (3) Public examination of certain filings, as provided for in this Chapter.

ARTICLE III
Prohibited Conduct and Interests

§33-5. Participation prohibitions.

- A. The prohibitions in this section are applicable to all Public Officials and also apply if the Public Official knows or has reason to know that the Public Official's spouse, parent, child, brother, or sister (including such relationships as may exist by nature of "in-law" or "step") has an Interest that, if held by the Public Official, would be prohibited under subsection B of this section.
- B. A Public Official may not participate in any matter involving the County if:
- (1) The Public Official knows that the Public Official has an Interest in the matter; or
 - (2) Any of the following Business Entities are involved in the matter:
 - (a) A Business Entity in which the Public Official has a direct Interest of which the Public Official may be reasonably expected to know;
 - (b) A Business Entity in which the Public Official is an officer, director, trustee, partner, or employee;
 - (c) A Business Entity with which the Public Official is negotiating or has any arrangements concerning prospective employment;
 - (d) A Business Entity that is a party to an existing contract with the Public Official, if the contract could reasonably be expected to result in a conflict between the private interests of the Public Official and the Public Official's official duties;
 - (e) A Business Entity Doing Business With The County, in which a direct Interest is owned by another Business Entity in which the Public Official has a direct Interest if the Public Official may be reasonably expected to know of both direct Interests; or
 - (f) A Business Entity that the Public Official knows to be a creditor or obligee of the Public Official, if, by reason of the debt, the Business Entity is in a position to affect directly and substantially the Interest of the Public Official.
- C. The prohibitions in subsection B of this section do not apply to a Public Official:
- (1) Who is exercising an administrative or ministerial duty if that duty does not affect the disposition or decision with respect to the matter; or
 - (2) Who is acting as authorized by a Commission regulation or advisory opinion.
- D. Provided that a Public Official who is subject to a conflict or prohibition under subsection B of this section publicly discloses the nature and circumstances of the conflict or prohibition, the Public Official may participate or act in the matter if:
- (1) The Public Official is a member of a board or commission that would otherwise be left with less than a quorum;
 - (2) The Public Official is required by law to act or is the only Public Official authorized to act; or
 - (3) The Commission makes a determination that other special circumstances ~~exists~~ **EXIST** to warrant permitting the Public Official to participate.

§33-6. Restrictions on Employment and Interests

A. Except as provided in subsection B of this section, a Public Official may not:

- (1) Be employed by or have an Interest in a Business Entity that:
 - (a) Is subject to the Public Official's authority or the authority of the County agency, board, or commission with which the Public Official is affiliated; or
 - (b) Is negotiating or has entered into a contract with the County agency, board, or commission with which the Public Official is affiliated;
- (2) Hold another employment relationship that would impair the impartiality or independent judgment of the Public Official; or
- (3) Be employed by or have an Interest in a Business Entity that is established or created by the County for the purpose of receiving public funds.

B. The prohibitions under subsection A of this section do not apply:

- (1) If, in accordance with the provisions of this Chapter 33, the Public Official discloses the employment or Interest to the Commission and the Commission determines that the employment or Interest does not create a conflict of interest or the appearance of a conflict of interest;
- (2) To a Public Official who is appointed or elected to a regulatory or licensing board or commission in accordance with a requirement that a member of that regulated industry or profession is appointed or elected to the board or commission;
- (3) Subject to other provisions of law, to a member of a board or commission with regard to an Interest or employment held at the time of the appointment or election, provided the member publicly discloses at the time of the appointment or election the Interest or employment to the appointing authority and the Commission;
- (4) In accordance with regulations adopted by the Commission, to a Public Official whose duties are ministerial, if the employment or Interest does not create a conflict of interest; or
- (5) In the case of a prohibition under subsection A(3) of this section, if:
 - (a) The Public Official discloses the employment or Interest to the Commission and the County Commissioners before receipt of public funds by the Business Entity; and
 - (b) The Commission determines that the employment or Interest does not create a conflict of Interest.

§33-7. Representation restrictions.

A. A Public Official may not Represent a Person in any matter before or involving the County for Compensation.

- B.
- (1) A former Public Official may not represent a Person in connection with a County Matter if the County Matter is one in which the former Public Official Significantly Participated as a Public Official.
 - (2) This subsection does not apply to a former Public Official who is representing the State or a political subdivision of the State.

§33-8. Use of prestige of office.

- A. A Public Official may not intentionally use the prestige of his or her office for the private gain of the Public Official or another.
- B. The performance of usual and customary constituent services does not constitute the use of the prestige of office for a Public Official's private gain or that of another if no additional Compensation is received for performing the constituent services.
- C. The provision of a job or other reference or favorable comment does not constitute the use of the prestige of office for a Public Official's private gain or that of another if no Compensation or other tangible benefit is received and the reference or comment is not used for advertising, promotional, marketing, or other commercial purpose.

§33-9. Solicitation or acceptance of gifts.

- A. A Public Official shall not solicit a Gift.
- B. A Public Official shall not knowingly accept a Gift, directly or indirectly, from a Person that the Public Official knows or has reason to know:
 - (1) Is Doing Business With The County or with other Public Officials; or
 - (2) Has an Interest that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the Public Official's duties.
- C. (1) Except as provided in paragraph (2) of this subsection, subsection B of this section, does not apply to:
 - (a) Meals and beverages consumed in the presence of the donor;
 - (b) Ceremonial Gifts or awards which have an insignificant monetary value;
 - (c) Unsolicited Gifts of nominal value or trivial items of informational value;
 - (d) Reasonable expenses, including food, travel, lodging, and scheduled entertainment, provided in exchange for a Public Official to attend a meeting and participate in a panel discussion or deliver a speech;
 - (e) Gifts of tickets or free admission to political events;
 - (f) Gifts of tickets or free admission extended to an elected Public Official to attend a professional or intercollegiate sporting event or a charitable or cultural event, if the purpose of this Gift is a courtesy or ceremony regularly extended to the office held by the Public Official;
 - (g) A specific Gift or class of Gifts that the Commission exempts 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;
 - (h) Gifts from an individual who is:
 - [1] Related to the Public Official by blood, adoption or marriage;
 - [2] A step-child of the Public Official;
 - [3] A ward of the Public Official; or

[4] A financially dependent relative who shares the Public Official's legal residence, or a relative over whose financial affairs the Public Official has legal or actual control.

- (2) Notwithstanding paragraph (1) of this subsection, a Public Official may not accept a Gift:
- (a) That would tend to impair the impartiality and the independent judgment of the Public Official receiving the Gift; or
 - (b) That would give the appearance of impairing the impartiality or the independent judgment of the Public Official; or
 - (c) That the Public Official has reason to believe that the Gift is given for the purpose of impairing the impartiality or the independent judgment of the Public Official.

§33-10. Disclosure of confidential information.

- A. A Public Official may not disclose or use confidential information for the Public Official's own economic benefit or for the economic benefit of another if the information is:
- (1) Acquired by reason of or in connection with the Public Official's position; and
 - (2) Not available to the public.
- B. Anything herein to the contrary notwithstanding, unless ordered by a court of competent jurisdiction or pursuant to applicable law, a Public Official or former Public Official may not disclose information obtained by reason of or in connection with employment with the County, which information is:
- (1) Protected by the attorney-client privilege;
 - (2) Confidential as a matter of law;
 - (3) Exempt or prohibited from disclosure under the State law; or
 - (4) Subject to disclosure only by action or approval of a public body and that public body has not agreed to disclose such information.

§33-11. Ex parte communications prohibited.

- A. This section does not apply to communication with an attorney representing the Board of Zoning Appeals for the purpose of seeking legal advice if the attorney is not a party to the matter.
- B. A hearing officer, a member of the Board of Zoning Appeals, or an agent acting on behalf of a hearing officer or a member of the Board of Zoning Appeals may not engage in ex parte communication with any Person regarding a matter pending before the hearing officer or Board of Zoning Appeals at any time before disposition of the matter.

**ARTICLE IV
Disclosure Statements**

§33-12. Filing of disclosure statements required.

- A. The following Public Officials shall file the disclosure statements required under this Chapter:

- (1) Each County Commissioner of Caroline County;
- (2) County Comptroller;
- (3) County Administrator;
- (4) ~~County Planning and Codes Administrator~~ **ALL COUNTY DEPARTMENT HEADS;**
- (5) County Planner;
- (6) ~~Roads Superintendent~~ **COUNTY ENGINEER;**
- (7) Executive ~~Assistant~~ **ASSISTANT(S)** to the County Commissioners of Caroline County;
- (8) **ALL COUNTY PURCHASING AGENTS;**
- ~~(8)~~ (9) Each Member of the Board of Liquor License Commissioners of Caroline County, **INCLUDING THE ALTERNATE MEMBER;**
- ~~(9)~~ (10) Members of the Caroline County Board of Education and the Caroline County Superintendent of Schools insofar as they are not subject to an Ethics Code otherwise adopted in accordance with State law;
- ~~(10)~~ (11) The Caroline County Library Administrator insofar as the Administrator is not subject to an Ethics Code otherwise adopted in accordance with State law-;
- (12) **ALL ELECTED OFFICIALS SUBJECT TO THIS CHAPTER BY STATE OR LOCAL LAW.**

B. Each Public Official shall file a required disclosure statement:

- (1) With the Commission;
- (2) Under oath or affirmation.

C. A Public Official shall file annually, not later than February 28 following each calendar year during which the Public Official served in such capacity, a disclosure statement disclosing any Gifts received during the year for which the disclosure statement is made from any Person Doing Business With The County.

D. The disclosure statement shall be on a form prepared or approved by the Commission and shall include the following items:

- (1) The name and relevant information concerning the donor; and
- (2) The approximate retail value of the Gift.

§33-13. Disclosure of interests and employment.

All Public Officials shall file a disclosure statement of disclosing any Interest or employment the holding or performing of which would require disqualification from participation pursuant to this Chapter. Such statement shall be filed sufficiently in advance of any action taken or scheduled to be taken by the Public Official sufficient to provide adequate notice and disclosure to the general public.

§33-14. Disclosure statements - candidates.

A. Filing.

- (1) Except as provided in subsection B. of this section, each candidate for public election to an office identified in §33-12 shall file required disclosure statements pursuant to §33-12 at the same time the candidate files a certificate of candidacy.
 - (2) The disclosure statements filed with a certificate of candidacy shall cover the immediately preceding calendar year.
 - (3) If the candidate files the certificate of candidacy before January 1 of the year in which the election is held, on or before the last day for the withdrawal of candidacy, the candidate shall file a supplementary disclosure statement for the calendar year immediately preceding the election.
 - (4) If, after written notice provided at least 20 days before the last day for the withdrawal of candidacy, the candidate fails to file a supplementary disclosure statement before or on the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidate's candidacy.
- B. If the candidate is a Public Official who has already filed a disclosure statement covering the year preceding the election, the candidate is not required to file a disclosure statement at the time the candidate files a certificate of candidacy or nomination.
- C. A candidate shall file a disclosure statement or a supplementary disclosure statement:
- (1) With the Board of Election Supervisors, with a copy to the Commission;
 - (2) Under oath or affirmation.
- D. The Board of Election Supervisors may not accept a certificate of candidacy unless the candidate has filed the disclosure statement in proper form.

§33-15. Review of statements.

- A. After a disclosure statement is submitted to the Commission, the Commission shall review the disclosure statement for compliance with this Chapter and notify the filer of any omission or deficiency in the disclosure statement.
- B. If the filer does not correct the omission or deficiency on the disclosure statement within 30 days after notification by the Commission, the Commission shall refer the matter, including the evidence of the omission or deficiency, to the County Attorney for appropriate action in accordance with the enforcement provisions of this Chapter.

§33-16. Public disclosure of statements.

- A. Subject to rules adopted by the Commission, the Commission shall allow a Person to examine and copy a disclosure statement filed by a Public Official under this Chapter.
- B. A Person requesting to exam or copy a disclosure statement shall file a written request including the Person's name, address, and the name of the Public Official whose disclosure statement the requester wishes to examine.
- C. The individual shall conduct the examination or copying at the Commission's office during reasonable office hours.
- D. Requests filed pursuant to this section shall be disclosable under State law governing public inspection and disclosure of documents.
- E. Except as may be required by State law, the home address of a non-elected Public Official shall not be disclosed.

ARTICLE V
Lobbying

§33-17. Lobbying registration - in general.

- A. Except as provided in subsection C., a Lobbyist shall file a Lobbying registration with the Commission:
 - (1) On or before the beginning of the calendar year in which the Lobbyist expects to engage in Lobbying; or
 - (2) Within 5 days after engaging in Lobbying activities.
- B. A Lobbyist who engages in Lobbying on behalf of more than one Person shall file a separate Lobbying registration with respect to each Person.
- C. A Person who engages in Lobbying for the purpose of influencing the comprehensive rezoning process is not required to file a Lobbying registration provided the Person:
 - (1) Does not engage in activities described in paragraph (2) of the Lobbyist definition set out in §33-1; and
 - (2) Registers with the Executive Assistant to the County Commissioners not later than 5 days after the last Lobbying activity.
- D. The Lobbying registration shall:
 - (1) Be made a permanent part of the County Commissioners' records; and
 - (2) Be available for public inspection.

§33-18. Same – form and content.

- A. The Lobbying registration shall be on a form approved by the Commission.
- B. The Lobbying registration form shall require the following information:
 - (1) The Lobbyist's full legal name and permanent address;
 - (2) If the Lobbyist is not an individual, the full and legal name and address of an authorized officer or agent of the Lobbyist;
 - (3) The full and legal name, address, and nature of business of the Person on whose behalf the Lobbyist acts;
 - (4) The written authorization of:
 - (a) The Person on whose behalf the Lobbyist acts; or
 - (b) If the Person is a corporation, an authorized officer or agent of the corporation who is not the Lobbyist;
 - (5) Identification of matters on which the Lobbyist expects to act;
 - (6) Identification of the period of time not to exceed one (1) year that the Lobbyist is authorized to engage in Lobbying on behalf of another Person unless terminated;
 - (7) The full legal signature of the Lobbyist or, if the Lobbyist is not an individual, of the authorized officer or agent that is listed on the registration as required under paragraph (4)(b) of this subsection; ~~and~~

- (8) The signature of the Person or the Person's authorized officer or agent on whose behalf the Lobbyist acts; ; **AND**
- (9) The date that the registration is submitted.

§33-19. Same - termination.

- A. A Lobbyist may terminate the Lobbying registration by providing the Commission with:
- (1) Written notice of termination; and
 - (2) Reports required under this Chapter that may be outstanding.
- B. A termination is effective 30 days after the Commission receives a properly filed notice.

§33-20. Contingency compensation prohibited.

A Person may not engage in Lobbying on behalf of another Person for Compensation that is contingent on the passage or defeat of an action by the County Commissioners or any other Public Official.

§33-21. Annual Report.

- A. A Lobbyist shall file an annual report, signed by the Lobbyist or, if the Lobbyist is not an individual, by an authorized officer or agent of the Lobbyist with the Commission on or before January 31 covering the preceding calendar year in which the Lobbyist engaged in Lobbying.
- B. The Lobbyist shall file a separate annual report for each Person the Lobbyist represented.
- C. The report shall include:
- (1) A complete and current statement of the information required under §33-18 of this Chapter.
 - (2) The total expenditure on Lobbying activities in each of the following categories:
 - (a) Office expenses of the Lobbyist;
 - (b) Professional and technical research and assistance, not reported in paragraph (4) of this subsection;
 - (c) Publications that expressly encourage Persons to communicate with Public Officials;
 - (d) Names of witnesses and the fees and expenses paid to each;
 - (e) Meals and beverages for Public Officials or their spouses or dependent children;
 - (f) Special events, including parties, dinners, athletic events, entertainment, and other functions to which all of the County Commissioners are invited;
 - (g) Reasonable expenses for food, lodging, and scheduled entertainment of Public Officials given in return for participation in a panel or speaking engagement;
 - (h) Other Gifts to or for Public Officials or their spouses or dependent children; and
 - (i) Other expenses.

- (3) Except for Gifts reported in items (2)(f) and (g) of this subsection, the report shall include the name of each Public Official or the Public Official's spouse or dependent child who has benefited from Gifts from the Lobbyist that have a cumulative value of \$150 or more during the period covered by the report, whether or not given in connection with Lobbying activities.
- (4) When the \$150 cumulative value is met or exceeded, all succeeding Gifts also shall be included in the report itemized by date, beneficiary, amount or value, and nature of the Gift.
- (5) Expenses reported in items (2)(f) and (g) of this subsection shall be itemized as to date, location, and expense of the event, but the name of the Public Official does not need to be included.
- (6) The report shall include the total Compensation paid to the Lobbyist not including salaries, Compensation, or reimbursed expenses for the staff of the Lobbyist, provided that if Lobbying is only a portion of a Lobbyist's employment, the Lobbyist shall:
 - (a) Prorate the amount of Compensation based on the time devoted to other employment duties; and
 - (b) For reporting purposes, identify the prorated amounts.

§33-22. Notification of public official named in annual report.

- A. If an annual report filed under §33-21 of this Chapter contains the name of a Public Official or the Public Official's spouse, parent, child, brother, or sister, the Commission shall:
 - (1) Notify the Public Official within 30 days after the receipt of the report; and
 - (2) Keep the annual report confidential for 60 days after the receipt of the report.
- B. Within 30 days after receiving the notification provided under subsection A. of this section, a Public Official may file a written exception to the inclusion of the Public Official's name, or the name of the Public Official's spouse, parent, child, brother, or sister in the annual report.

§33-23. General filing exemption.

- A. A Person who would be required to file an annual report under §33-21 of this Chapter is not required to file the annual report if the Person:
 - (1) Reasonably believes that all expenses incurred in connection with the Person's Lobbying activities will be reported under §33-21 of this Article by a properly registered Lobbyist acting on the Person's behalf; and
 - (2) Has completed the authorization required under §33-18 of this Chapter.
- B. A Person who is exempt under this section:
 - (1) Shall engage in due diligence to ensure that the Person's expenses are reported as authorized under subsection A. of this section; and
 - (2) Is subject to the provisions of this Chapter within a reasonable time after learning of the failure of the registered Lobbyist to report information required by this Article.

§33-24. Other reports.

The Commission may require Lobbyists to submit other reports that the Commission considers necessary to further the policies of this Article.

§33-25. Retention and inspection of documents.

- A. The Commission or an office designated by the Commission shall:
- (1) Maintain all registrations and reports filed under this Article; and
 - (2) Subject to subsection B of this section, make the registrations and reports available during normal office hours for examination and copying by the public.
- B. The Commission may establish administrative procedures for public examination and copying of records, in accordance with State law.
- C. The Commission or an office designated by the Commission shall retain registrations and reports for four (4) years after the date of receipt.

§33-26. Omissions or deficiencies in reports.

- A. After the Commission reviews a Lobbying registration or annual report filed under this Chapter for compliance with the provisions of this Chapter, the Commission shall notify the Lobbyist of any omissions or deficiencies in the Lobbying registration or annual report.
- B. If a Lobbyist does not correct the omission or deficiency within 30 days after notification, the Commission shall refer evidence of noncompliance to the County Attorney for appropriate action under the enforcement provisions of this Chapter.

§33-27. Criminal enforcement.

- A. A Person who knowingly and willfully violates the provisions of this Article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both.
- B. If the Person is a Business Entity, each officer and partner of the Business Entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and, on conviction, is subject to the same penalties as the Business Entity.

ARTICLE VI
Exemptions

§33-28. Exemptions.

- A. The Commission or, if appropriate, the County Commissioners may, after consultation with the County Attorney, grant exemptions to or modification of provisions of this Chapter for a member or prospective member of a County board or commission if, because of the nature of the board or commission, it is determined that:
- (1) The application of this Article to that board, commission, member, or prospective member would:
 - (a) Constitute an unreasonable invasion of privacy; or
 - (b) Reduce the availability of uniquely qualified individuals for public service; and

- (2) The exemption or modification is not contrary to the overall purposes of this Chapter.
- B. The Commission or, if appropriate, the Commissioners, may grant an exemption or modification authorized under subsection A of this section only on the written request of the board, commission, member, or prospective member involved.

ARTICLE VII
Opinions and Complaints

§33-29. Requests for assistance and advice; complaints.

- A. A Person who is or may be subject to this Chapter may seek the assistance or advice of the Commission:
- (1) To determine whether disclosure is required;
 - (2) In the preparation of the required forms;
 - (3) To determine whether a proposed course of conduct or past event constitutes a violation of this Chapter.
- B. The Person requesting assistance or advice shall:
- (1) Make the request in writing providing all pertinent material facts;
 - (2) Meet with the Commission, or its designee, to answer questions regarding the matter; and
 - (3) Provide to the Commission documents or records which the Commission considers pertinent to the request.
- C. At the conclusion of the review of the request, the Commission may:
- (1) Issue a written opinion with recommendations or conclusions regarding the matter; or
 - (2) Decline to make a determination regarding the matter, stating its reasons therefore.
- D. The Commission's opinion is binding on the Commission in any subsequent investigation or complaint proceeding concerning the Person who requested assistance or advice and who acts in reliance on the opinion in good faith, unless the Person omitted or misstated material facts concerning the matter, or other material facts are brought to the attention of the Commission.
- E. Any Person may file a complaint alleging a violation of this Chapter. Complaints must be:
- (1) Filed in writing;
 - (2) Contain the name and address of, and contact information for, the complainant; and
 - (3) State with reasonable specificity the nature of and facts pertinent to the alleged violation.
- F. The Commission, on its own determination, may initiate a complaint or investigation of alleged or perceived violations of this Chapter.

G. ADVISORY OPINIONS – CONFIDENTIALITY.

BEFORE AN ADVISORY OPINION MAY BE MADE PUBLIC, THE COMMISSION SHALL DELETE, AND SHALL NOT REVEAL, THE IDENTITY OF ANY PERSON THAT IS THE SUBJECT OF THE OPINION, AND, TO THE FULLEST EXTENT POSSIBLE, SHALL DELETE, AND SHALL NOT REVEAL, OTHER INFORMATION THAT MAY IDENTIFY SUCH PERSONS.

H. COMPLAINTS - CONFIDENTIALITY.

- (1) THE PROCEEDINGS, MEETINGS, AND ACTIVITIES OF THE COMMISSION AND ITS STAFF, EMPLOYEES, AND AGENTS RELATING TO COMPLAINTS ARE CONFIDENTIAL.**
- (2) UNLESS NECESSARY TO INVESTIGATE AND MAKE A DETERMINATION WITH RESPECT TO A COMPLAINT, AND IN SUCH CASES SUBJECT TO THE RESTRICTIONS IN THIS § 33-29.H, INFORMATION RELATING TO A COMPLAINT, INCLUDING THE IDENTITY OF THE COMPLAINANT AND ANY PERSON THAT IS THE SUBJECT OF THE COMPLAINT, SHALL NOT BE DISCLOSED BY THE COMMISSION, ITS STAFF, EMPLOYEES, OR AGENTS, THE COMPLAINANT, ANY PERSON THAT IS THE SUBJECT OF THE COMPLAINT, OR ANY PERSON CONTACTED WITH RESPECT TO A COMPLAINT.**
- (3) THE RESTRICTIONS IN § 33.29.H(2) SHALL NOT APPLY IF THE MATTER IS REFERRED FOR PROSECUTION; THE COMMISSION DETERMINES THAT A VIOLATION HAS OCCURRED, OR THE PERSON THAT IS THE SUBJECT OF THE COMPLAINT AGREES TO SUCH DISCLOSURE.**
- (4) ON THE REQUEST OF THE PERSON WHO IS SUBJECT OF A COMPLAINT, THE COMMISSION SHALL DISCLOSE TO SUCH PERSON THE IDENTITY OF THE COMPLAINANT.**

**ARTICLE VIII
Enforcement**

§33-30. Civil enforcement.

- A. At the direction of the Commission, the County Attorney may file a petition for injunctive or other relief in the Circuit Court for the County, or in another court of competent jurisdiction, to require compliance with this Chapter.**
- B. The County Attorney may seek to have the court issue an order requiring a Person to cease and desist from a violation of this Chapter, or voiding an official action taken by a Public Official who has a conflict of interest prohibited by this Chapter, or both.**
- C. Except as provided in subsection D. of this section, the court may issue an order to void an official action if:
 - (1) The official action to be voided arises from or concerns the subject matter of the Public Official's conflict of interest; and**
 - (2) The court considers voiding the official action to be in the best interests of the public.****
- D. The court may not void an official action appropriating public funds, levying taxes, or providing for the issuance of bonds, notes, or other evidences of public obligation.**

- E. As part of a petition for relief or as a separate cause of action, the County Attorney may seek to have the court impose a civil penalty of up to \$1,000 for a violation of this Chapter. Each day the violation occurs constitutes a separate offense.
- F. The County Attorney may seek to recover the value of anything received by a Person for violations of this Chapter.

§33-31. Enforcement; termination, suspension, disciplinary action.

In addition to any other enforcement provisions in this Chapter, a Public Official who is subject to the provisions of this Chapter and who is found by the Commission or a court to have violated its provisions is subject to:

- (1) Termination of employment or services;
- (2) Disciplinary action as may be warranted; and/or
- (3) Suspension from receiving payment of salary or other Compensation pending full compliance with the terms of an order of the Commission or a court.

§ 33-32. Severability.

Should any section or provision of this Chapter be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this Chapter as a whole or any part thereof other than the part declared to be unconstitutional or invalid.

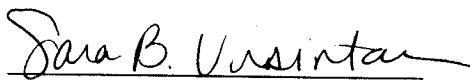
SECTION 2. The title of this legislative bill, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this bill for publication and all other purposes.

SECTION 3. This public local law shall take effect forty-five days after enactment by the County Commissioners.

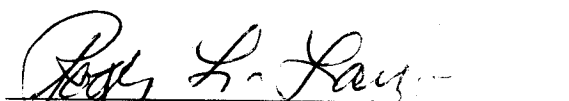
ENACTED THIS EIGHTH DAY OF APRIL 2008.

ATTEST:

**COUNTY COMMISSIONERS OF
CAROLINE COUNTY, MARYLAND**


SARA B. VISINTAINER
EXECUTIVE ASSISTANT


JOHN W. COLE, PRESIDENT


ROGER L. LAYTON, VICE PRESIDENT


JEFFERSON L. GHRIST, COMMISSIONER



NOTE: ~~Strikethrough~~ indicates material deleted by bill amendment.
BOLD CAPITALS indicates material inserted by bill amendment.