

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

BILL NO. 23-023

Introduced by Council President Vincenti at the request of the County Executive

Legislative Day No. 23-015 Date May 9, 2023

AN ACT to repeal and reenact, with amendments, Section 1-23, General penalty, of Article II, Miscellaneous, of Chapter 1, General Provisions, of the Harford County Code, as amended and to repeal and reenact, with amendments, Section 267-14, Violations and penalties, of Article II, Administration and Enforcement, Part 1, Standards, of Chapter 267, Zoning, of the Harford County Code, as amended; to provide for a civil penalty process for addressing infractions of the Code, resolutions, local law, rule, regulation or order, and generally relating to civil penalties.

By the Council, May 9, 2023

Introduced, read first time, ordered posted and public hearing scheduled:

on: June 13, 2023

at: 6:00 PM

By Order: *Mylia A. Dixon*, Council Administrator

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on _____, and concluded on _____.

_____, Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

1 WHEREAS, the Department of Planning & Zoning has no ability to enforce the Zoning Code
2 or the Subdivision Regulations through issuance and enforcement of a civil citation and the
3 Department of Inspections, Licenses and Permits has limited ability to enforce the codes and
4 regulations that it administers through issuance and enforcement of a civil penalty; and

5 WHEREAS, enforcement pursuant to a civil penalty process is preferable to enforcement
6 pursuant to a criminal penalty process as the County generally does not desire to subject a person to
7 criminal prosecution and penalties for a violation of development regulations; and

8 WHEREAS, the Land Use Article of the Maryland Annotated Code authorizes the Council
9 to provide for enforcement of development regulations through a civil penalty process (*see* Md. Code
10 Ann., Land Use § 11-202) as set forth in Sections 11-201 *et seq.* of the Land Use Article; and

11 WHEREAS, the option of enforcement pursuant to a civil penalty process as permitted
12 pursuant to the Land Use Article should prove to be more equitable and more effective in achieving
13 compliance with development codes and regulations;

14 NOW THEREFORE for the purpose of repealing and reenacting, with amendments Section
15 1-23, General penalty, of Article II, Miscellaneous, of Chapter 1, General Provisions, of the
16 Harford County Code, and Section 267-14, Violations and penalties, of Article II, Administration
17 and Enforcement, Part 1, Standards, of Chapter 267, Zoning, of the Harford County Code:

18 Section 1. Be It Enacted By The County Council of Harford County, Maryland that Section 1-
19 23, General penalty, of Article II, Miscellaneous, of Chapter 1, General Provisions, of the Harford
20 County Code, as amended, be, and it is hereby, repealed and reenacted, with amendments, all to read
21 as follows:

- 22 **Chapter 1. General Provisions**
- 23 **Article II. Miscellaneous**
- 24 **§ 1-23. General penalty.**

1 A. THIS SECTION APPLIES TO CHAPTER 267 OF THIS CODE AND [Whenever, in this
2 Code or in any law, resolution, local law, rule, regulation or order of the County, any act is
3 prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or
4 whenever, in such Code or law, resolution, local law, rule, regulation or order, the doing of
5 any act is required or the failure to do any act is declared to be unlawful or an offense or a
6 misdemeanor, where] WHENEVER no specific penalty is provided [therefor,] FOR the
7 violation of any [such] provision of this Code or any law, resolution, local law, rule,
8 regulation or order OR WHENEVER A COUNTY DEPARTMENT ELECTS TO ISSUE A
9 CIVIL CITATION TO ADDRESS A VIOLATION OF ANY LAW, RESOLUTION,
10 LOCAL LAW, RULE OR REGULATION. A VIOLATION [shall] MAY be punished by
11 EITHER A CIVIL PENALTY OR a CRIMINAL PENALTY WITH A CRIMINAL FINE
12 not to exceed [one thousand dollars (\$1,000[.])] AND/or [by] imprisonment [for not more
13 than six (6) months] NOT TO EXCEED 6 MONTHS, OR BOTH in the discretion of the
14 court.

15 (1) CIVIL PENALTY. A COUNTY DEPARTMENT DIRECTOR OR DESIGNEE
16 MAY IMPOSE A FINE NOT TO EXCEED \$500 FOR EACH VIOLATION OF
17 CHAPTER 267 OF THIS CODE, AND A FINE NOT TO EXCEED \$1,000 FOR A
18 VIOLATION OF ANY OTHER LAW, RESOLUTION, LOCAL LAW, RULE,
19 REGULATION OR ORDER FOR WHICH NO SPECIFIC CIVIL PENALTY IS
20 PROVIDED.

21 (2) CITATIONS.

22 (a) DEFINITIONS.

23 [1] "CITATION" SHALL MEAN AND REFER TO THE FORM USED

1 TO ISSUE OR ASSESS A CIVIL FINE;

2 [2] A “CIVILLY FINABLE OFFENCE” IS ANY VIOLATION OF
3 ANY REQUIREMENT OF THE CODE FOR WHICH A SPECIFIC
4 PENALTY IS NOT OTHERWISE PROVIDED. ADDITIONALLY,
5 A “CIVILLY FINABLE OFFENCE” SHALL BE DEEMED TO BE
6 COMMITTED EACH AND EVERY DAY AFTER A PERSON:

7 [a] FAILS TO ELECT TO STAND TRIAL FOR A
8 VIOLATION FOR WHICH A CIVIL CITATION IS
9 ISSUED; OR

10 [b] IS ADJUDICATED TO HAVE VIOLATED THIS CODE
11 BY A COURT OF LAW AFTER A TRIAL ON A
12 CITATION; OR

13 [c] FAILS TO PAY IN FULL A CIVIL FINE PURSUANT TO
14 AN ORDER OF A COURT;

15 [3] “OFFICIAL” SHALL MEAN AND REFER TO A DEPARTMENT
16 DIRECTOR OR THE COUNTY EMPLOYEE(S) AUTHORIZED
17 BY A DEPARTMENT DIRECTOR TO ISSUE CITATIONS.

18 (b) ISSUANCE OF CITATION. AN OFFICIAL MAY DELIVER A
19 CITATION TO A PERSON WHO HAS COMMITTED A VIOLATION.

20 (c) CITATION CONTENTS.

21 [1] THE CITATION SHALL CONTAIN:

22 [a] THE NAME AND ADDRESS OF THE PERSON FINED
23 FOR A CODE VIOLATION;

1 [b] THE NATURE OF THE VIOLATION, INCLUDING THE
2 CODE PROVISION(S) VIOLATED;

3 [c] THE LOCATION AND TIME OF THE VIOLATION;

4 [d] THE AMOUNT OF THE FINE;

5 [e] THE MANNER, LOCATION AND TIME FOR PAYMENT
6 OF THE FINE; AND

7 [f] NOTICE OF THE CITED PERSON'S RIGHT TO ELECT
8 TO STAND TRIAL FOR THE VIOLATION AND HOW
9 TO EXERCISE THAT RIGHT.

10 [2] THE CITATION SHALL BEAR A CERTIFICATION
11 ATTESTING TO THE TRUTH OF THE MATTERS SET FORTH
12 IN THE CITATION.

13 (d) COPY OF CITATION. THE OFFICIAL SHALL KEEP A COPY OF THE
14 CITATION.

15 (3) PROCESS.

16 (a) NOTICE OF INTENTION TO STAND TRIAL. A PERSON WHO
17 RECEIVES A CITATION MAY ELECT TO STAND TRIAL FOR THE
18 VIOLATION BY FILING A NOTICE OF INTENTION TO STAND
19 TRIAL WITH THE OFFICIAL AT LEAST 5 BUSINESS DAYS BEFORE
20 THE DATE SET FORTH IN THE CITATION FOR THE PAYMENT OF
21 FINES.

22 (b) NOTICE TO DISTRICT COURT. AFTER RECEIVING A NOTICE OF
23 INTENTION TO STAND TRIAL, THE COUNTY SHALL FORWARD

1 THE NOTICE, WITH A COPY OF THE CITATION, TO THE DISTRICT
2 COURT.

3 (c) TRIAL ASSIGNMENT. AFTER RECEIVING THE CITATION AND
4 NOTICE, THE DISTRICT COURT SHALL:

5 [1] SCHEDULE THE CASE FOR TRIAL; AND

6 [2] NOTIFY THE PARTIES OF THE TRIAL DATE.

7 (d) NOTICE OF FAILURE TO RESPOND. IF A PERSON THAT RECEIVES
8 A CITATION FOR A VIOLATION FAILS:

9 [1] TO TIMELY FILE A NOTICE OF INTENTION TO STAND
10 TRIAL; OR

11 [2] TO PAY THE FINE BY THE DATE OF PAYMENT SET FORTH
12 IN THE CITATION;

13 THEN THE OFFICIAL SHALL MAIL A NOTICE OF THE VIOLATION
14 TO THE PERSON'S LAST KNOWN ADDRESS.

15 (e) ADDITIONAL FINES FOR NONPAYMENT OF CITATION. IF THE
16 PERSON THAT RECEIVES THE CITATION DOES NOT PAY OR
17 OTHERWISE SATISFY THE CITATION WITHIN 15 DAYS AFTER
18 THE DATE THE NOTICE OF FAILURE TO RESPOND IS MAILED,
19 THE AMOUNT OF THE FINE SHALL BE DOUBLED SO THAT IT IS
20 TWICE THE AMOUNT OF THE ORIGINAL FINE.

21 (f) REQUEST FOR ADJUDICATION OF UNPAID VIOLATION.

22 [1] IF THE PERSON THAT RECEIVES THE NOTICE OF FAILURE
23 TO RESPOND DOES NOT PAY OR OTHERWISE SATISFY THE

1 CITATION WITHIN 35 DAYS AFTER THE NOTICE OF
2 FAILURE TO RESPOND IS MAILED, THE COUNTY MAY
3 REQUEST THE DISTRICT COURT TO ENFORCE PAYMENT
4 OF THE FINE.

5 [2] IF THE COUNTY REQUESTS ENFORCEMENT OF PAYMENT,
6 THE DISTRICT COURT SHALL:

7 [a] SCHEDULE THE CASE FOR TRIAL; AND

8 [b] SUMMON THE DEFENDANT TO APPEAR.

9 B. AN ATTORNEY FROM THE COUNTY DEPARTMENT OF LAW SHALL
10 PROSECUTE CIVIL PROCEEDINGS BROUGHT UNDER THIS SECTION.

11 [B.]C. Each day that any violation of any provision of this Code or of any law, resolution, local law,
12 rule, regulation or order of the County shall continue shall constitute a separate offense.

13 [C.]D. Imprisonment in default of fine and costs shall be regulated by the provisions of [§ 4 of
14 Article 38] THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE, of the Annotated
15 Code of Maryland, [1957,] and any amendments thereto.

16 [D.]E. In addition to the penalties hereinabove provided, any condition caused or permitted to exist
17 in violation of any of the provisions of this Code or any law, resolution, local law, rule,
18 regulation or order of the County shall be deemed a public nuisance and may be prevented,
19 restrained, corrected or abated by the County, as provided by law, including the recovery of
20 the amount of expense relating thereto by suit if necessary, AND THE COSTS OF
21 ABATEMENT SHALL CONSTITUTE A LIEN ON THE PROPERTY OF THE
22 VIOLATOR IF AND AS PERMITTED BY LAW, WITH [and] each day that such condition
23 continues TO [shall] be regarded as a new and separate offense.

1 [E.]F. The suspension or revocation of any license, permit, certificate or other privilege conferred
2 by the County shall not be regarded as a penalty for the purposes of this Code but shall be in
3 addition thereto.

4 **Chapter 267. Zoning.**

5 **Part 1. Standards.**

6 **Article II. Administration and Enforcement.**

7 **Section 267-14 Violations and penalties.**

- 8 A. Whenever the provisions of this Part 1 have been violated, the Director of Planning OR
9 HIS AUTHORIZED DESIGNEE(S) shall give notice, by first class mail, to the owner,
10 tenant or occupant of the property alleged to be in violation, stating the nature of the
11 violation and ordering that any unlawful activity be abated.
- 12 B. Any owner, tenant or occupant who uses or permits the use of land, buildings or structures
13 contrary to the provisions of this Part 1 shall be guilty of a misdemeanor and shall be fined
14 not more than \$500.00 for each offense. Each day of a continuing violation shall be
15 considered a separate misdemeanor.
- 16 C. ANY OWNER, TENANT OR OCCUPANT WHO USES OR PERMITS THE USE OF
17 LAND, BUILDINGS OR STRUCTURES CONTRARY TO THE PROVISIONS OF
18 THIS PART 1 SHALL HAVE COMITTED A CIVITLLY FINABLE OFFENSE (*SEE*
19 *SECTION 1-23 OF THE CODE*). [The County may recover damages in a civil action for
20 violation of this Part 1 and shall adopt legislation for the imposition of civil penalties as
21 authorized by state law.]
- 22 D. In the event of a violation of any of the provisions of this Part 1 or any amendment or
23 supplement thereto, the Director of Planning, any adjacent or neighboring property owner

1 or any person who would be specially damaged by such violation, in addition to other
2 remedies provided by law, may institute a suit for injunction, mandamus, abatement or
3 other appropriate action or other proceeding to prevent, restrain, correct or abate such
4 unlawful activity or use.

5 Section 2. And Be It Further Enacted that this Act shall take effect 60 calendar days from the
6 date it becomes law.

EFFECTIVE:

The Council Administrator does hereby certify that seven (7) copies of this Bill are immediately available for distribution to the public and the press.



Council Administrator

AS INTRODUCED