

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

1999 Legislative Session

Bill No. CB-11-1999

Chapter No. 8

Proposed and Presented by Council Members Hendershot, Wilson and Shapiro

Introduced by Council Members Hendershot, Wilson and Shapiro

Co-Sponsors _____

Date of Introduction March 30, 1999

BILL

1 AN ACT concerning

2 Housing and Property Standards

3 For the purpose of authorizing the Director to condemn open, hazardous commercial and
4 industrial buildings, provide for a lien on the property for the costs of such work, and make
5 conforming amendments.

6 BY adding:

7 SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.

8 Section 13-246.01 and 13-246.02,

9 The Prince George's County Code

10 (1995 Edition, 1998 Supplement).

11 BY repealing and reenacting:

12 SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.

13 Sections 13-232, 13-233, 13-245, and 13-246,

14 The Prince George's County Code

15 (1995 Edition, 1998 Supplement).

16 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
17 Maryland, that Sections 13-246.01 and 13-246.02 of the Prince George's County Code be and the
18 same are hereby added:

19 **SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.**

20 **DIVISION 7. PROPERTY STANDARDS AND MAINTENANCE.**

21 **Sec. 13-246.01. Condemnation of open, hazardous structures.**

1 (a) If the Director determines that a structure is open and vacant, constitutes a public
 2 nuisance, and is an immediate and continuing hazard to the community in which the property is
 3 located, then the Director shall be authorized to post a notice of not less than two feet by two feet
 4 in size on the front of the structure. The notice shall be dated as of the date of the posting and
 5 shall state that unless the structure is demolished, repaired, or enclosed, and unless any garbage,
 6 refuse, and other hazardous, noxious, or unhealthy substances or materials are removed so that
 7 an immediate and continuing hazard to the community no longer exists, then the structure may
 8 be demolished, repaired, or enclosed, or any garbage, refuse, and other hazardous, noxious, or
 9 unhealthy substances or materials may be removed, by the County.

10 (b) Not later than 30 days following the posting of the notice, the Director shall do all of
 11 the following:

12 (1) Cause to be sent, by certified mail, a notice to all owners of record of the property
 13 stating the intent of the County to demolish, repair, or enclose the building, or remove any
 14 garbage, refuse, or other hazardous, noxious, or unhealthy substances or materials if that action is
 15 not taken by the owner;

16 (2) Cause to be published, for three consecutive days, in a newspaper of record a
 17 notice setting forth (i) the address of the property or structure or description of the real estate
 18 sufficient for its identification, (ii) a statement that the property is open and vacant and
 19 constitutes a public nuisance and an immediate and continuing hazard to the community, and (iii)
 20 a statement that the County intends to demolish, repair, or enclose the building, or remove any
 21 garbage, refuse, or other hazardous, noxious, or unhealthy substances or materials if the owner
 22 fails to do so.

23 (3) If a structure is an identified historic resource on the Adopted and Approved
 24 Historic Sites and District Plan of Prince George's County, Maryland, cause a copy of the notice
 25 to be sent to the Historic Preservation Commission and demolition shall not be authorized
 26 without approval of the Historical Preservation Commission.

27 (c) A person objecting to the proposed actions of the County may file his or her objection
 28 in an appropriate form in a court of competent jurisdiction.

29 (d) If the structure is not demolished, repaired, or enclosed, or the garbage, refuse, or other
 30 hazardous, noxious, or unhealthy substances or materials are not removed, within 30 days of
 31 mailing the notice to the owners of record, or within 30 days of the last day of publication of the

1 notice, whichever is later, the Director shall have the power to demolish, repair, or enclose the
 2 structures, or to remove any garbage, refuse, or other hazardous, noxious, or unhealthy
 3 substances or materials.

4 (e) The County may proceed to demolish, repair, or enclose a structure or remove any
 5 garbage, refuse, or other hazardous, noxious or unhealthy substances or materials under this
 6 Section within a 120-day period following the date of the mailing of the notice if the Director
 7 determines that the demolition, repair, enclosure, or removal of any garbage, refuse, or other
 8 hazardous, noxious, or unhealthy substances or materials is necessary to remedy the immediate
 9 and continuing hazard. If, however, before the Director proceeds with any of the actions
 10 authorized by this Section, any person has initiated an action under this Section in a court of
 11 competent jurisdiction and has served a copy of the complaint on the County, then the County
 12 shall not proceed with the demolition, repair, enclosure, or removal of garbage, refuse, or other
 13 substances until the court determines that action is necessary to remedy the hazard and issues an
 14 order authorizing the County to do so.

15 (f) The Board of Appeals shall not have jurisdiction to grant a variance or waive this
 16 Section except upon a finding that litigation is pending in the courts and is being actively
 17 pursued.

18 **Sec. 13-246.02. Creation of a tax lien.**

19 (a) There is created a tax lien on real property for monies expended by the County for the
 20 demolition, repair, or enclosure of a building, or removal of garbage, refuse, or other hazardous,
 21 noxious, or unhealthy substances or materials where the responsible party refuses or fails to
 22 comply with the lawful order of the Director after due notice thereof, either actual or constructive
 23 or as provided in this Division.

24 (b) Following the demolition, repair, or enclosure of a building, or removal of garbage,
 25 debris, or other hazardous, noxious, or unhealthy substances or materials under this Division, the
 26 County may file a notice of lien against the real estate for the cost of the demolition, repair,
 27 enclosure, or removal within 180 days after the repair, demolition, enclosure, or removal
 28 occurred, for the cost and expense incurred, with the Director of Finance. The notice of lien
 29 shall consist of a sworn statement by the Director setting forth (i) a description of the real estate,
 30 such as the address or other description of the property, sufficient for its identification; (ii) the
 31 expenses incurred by the County in undertaking the remedial actions authorized by this Division;

(iii) the date or dates that the expenses were incurred by the Director; (iv) a statement that the building was open and vacant and constituted an immediate and continuing hazard to the community; (v) a statement that the required sign was posted on the building, that notice was sent by certified mail to the owners of record, and that notice was published in accordance with this section; and (vi) a statement as to when and where the notice was published.

(c) Upon certification from the County Attorney that a tax lien has been created, the amount of such lien shall be collected by the Director of Finance in the same manner as other County real estate taxes.

SECTION 2. BE IT FURTHER ENACTED that Sections 13-232, 13-233, 13-245, and 13-246, of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.

DIVISION 7. PROPERTY STANDARDS AND MAINTENANCE.

Sec. 13-232. Responsible person.

All owners of property [as defined in Section 13-231(d)] are responsible for complying with the requirements of this Division.

Sec. 13-233. Maintenance requirements.

(a) All improved and unimproved property shall be maintained in a clean, safe, secure, and sanitary condition and in conformance with this Division so as not to create a public nuisance or adversely affect the public health, safety, or welfare.

[(b) With the exception of historic sites, any vacant structure located on property commercially or industrially zoned, or on residentially zoned property if used for commercial or industrial purposes, which has been cited as a public nuisance and remains under violation for greater than twelve (12) months must be rehabilitated to current standards as contained in Subtitles 4 and 13 of this Code within six (6) months of notice or the structure will be razed. Any structure rehabilitated after such notice is given must obtain a new use and occupancy permit. The Board of Appeals shall not have jurisdiction to grant a variance or waive this Section except upon a finding that litigation is pending in the courts and is being actively pursued, which litigation should finally determine legal ownership of the property or will result in the disposition of an insurance claim arising from the subject property.]

Sec. 13-245. Appeals.

(a) [A responsible party] Except as provided in this Section, an owner may appeal a notice of violation or a decision of the Director with respect to any provision of this Division by filing an appeal with the Board of Administrative Appeals for Prince George's County, Maryland, within thirty (30) calendar days or within the period required for compliance, whichever is shorter. The appeal shall state in detail the reasons for the appeal.

(b) The decision of the Board of Administrative Appeals shall be given in writing within sixty (60) days after the hearing is concluded. Failure to render the decision within the time period allowed shall affirm the decision of the Director. The Board of Appeals shall not have jurisdiction to grant a variance from, extend the time of performance, or waive any requirement of Section 13-246.01, except upon a finding that litigation is pending in the courts and is being actively pursued.

(c) Any party aggrieved by the decision of the Board of Administrative Appeals with respect to this Division may appeal such decisions to the Circuit Court for Prince George's County, Maryland, pursuant to the rules governing appeals from administrative agencies. All appeals shall be on the record.

Sec. 13-246. Enforcement and penalty.

(a) In the event that an owner does not comply with a notice of violation within the time period provided (including any period allowed by appeal) and upon verification by the Director that the violation still exists, the Director may issue upon the responsible parties a civil citation pursuant to Subtitle 28, Division 3, of this Code.

(b) The person issued the civil citation shall be subject to a monetary fine of One Hundred Dollars (\$100.00) for the first and second violation, Five Hundred Dollars (\$500.00) for the third violation and for each repeat violation in excess of three (3).

(c) Each day the violation continues is deemed a separate offense and is subject to an additional citation and fine in the same dollar amount as the initial or repeat citation.

(d) In addition, any person who violates or fails to comply with any provision of this Division shall, upon conviction, be guilty of a misdemeanor and subject to a fine not exceeding Five Hundred Dollars (\$500.00) or imprisonment not to exceed ninety (90) days, or both.

(e) In addition to the other remedies provided herein, the County Attorney, on behalf of the County, may institute an injunction, mandamus, or other appropriate action or proceeding to

enforce the provisions of this Division.

(f) The Police Department shall be authorized to issue a criminal citation in lieu of the issuance of a civil citation pursuant to Subtitle 28, Division 3.

[(g) A tax lien shall be created on real property for monies expended by the County for the abatement of violations of this Division where the responsible party refuses or fails to comply with the lawful order of the Department of Environmental Resources after due notice thereof and issuance of an order by a court of competent jurisdiction. Upon certification from the County Attorney that a tax lien has been created, the amount of such lien shall be collected by the Director of Finance in the same manner as other County real estate taxes.]

SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this 20th day of April, 1999.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
M. H. Jim Estepp
Chairman

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Wayne K. Curry
County Executive

KEY:

Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.