

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2011 Legislative Session

Bill No. CB-57-2011

Chapter No. 45

Proposed and Presented by Council Member Lehman

Introduced by Council Members Lehman, Turner, Franklin, Toles, Patterson and Olson

Co-Sponsors _____

Date of Introduction October 18, 2011

BILL

1 AN ACT concerning

2 Code Enforcement and Penalties

3 For the purpose of making amendments to certain code enforcement provisions related to
4 violations, fines and appeals in the County; and generally relating to code enforcement.

5 BY repealing and reenacting with amendments:

6 SUBTITLE 9. ELECTRICITY.

7 Sections 9-124, 9-124.01, and 9-125,
8 The Prince George's County Code
9 (2007 Edition, 2010 Supplement).

10 SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.

11 Sections 13-111, 13-116, 13-214, 13-245, 13-246, 13-270
12 and 13-271,
13 The Prince George's County Code

14 (2007 Edition, 2010 Supplement).

15 SUBTITLE 28. CIVIL MONETARY FINES.

16 Sections 28-130, 28-131, 28-132, 28-221, 28-240, 28-
17 241, 28-242, 28-257, 28-258, 28-259, 28-261, 28-262,
18 and 28-263,

19 The Prince George's County Code
20 (2007 Edition, 2010 Supplement).

21

1 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
2 Maryland, that Sections 9-124, 9-124.01, and 9-125 of the Prince George's County Code be and
3 the same are hereby repealed and reenacted with amendments:

4 **SUBTITLE 9. ELECTRICITY.**

5 **DIVISION 1. ELECTRICAL CODE.**

6 * * * * *

7 **Sec. 9-124. Notice of Violation.**

8 (a) The Chief Electrical Inspector or authorized representative shall serve written notice of
9 violations within three (3) working days of the inspection to persons responsible for work which
10 is found in violation of the Electrical Code or which is not in compliance with the approved
11 plans. Such notices shall order the discontinuance of the illegal action or condition and order the
12 correction of the violation.

13 (b) If there is no response to the notice of violation within fifteen (15) [thirty (30)] days,
14 the Chief Electrical Inspector shall refer the violation to the Board of Registration for Master
15 Electricians and Electrical Contractors. The Board shall take such action as it deems appropriate.

16 * * * * *

17 **Sec. 9-124.01. Appeals.**

18 Any person(s) responsible for work which is found in violation of the Electrical Code or
19 any person(s) responsible for work which is not in compliance with approved plans, may appeal
20 to the Board of Registration for Master Electricians and Electrical Contractors from a final
21 decision of the Chief Electrical Inspector. Application for appeal may be made when it is
22 claimed that the true intent of the National Electrical Code or of this Division has been
23 incorrectly interpreted or applied. The nature of such appeal shall be in writing and filed with
24 the Board of Registration within fifteen (15) [thirty (30)] days after the decision is rendered by
25 the Chief Electrical Inspector.

26 * * * * *

27 **Sec. 9-125. Penalties.**

28 Any person who shall violate the provisions of the Electrical Code or who shall fail to
29 comply with any of the requirements thereof, or who shall perform electrical work in violation of
30 approved plans or directions of the Chief Electrical Inspector, or of a permit or certificate issued
31 under the provisions of the Electrical Code shall be guilty of a misdemeanor, punishable by a

1 fine of [not more than] One Thousand Dollars (\$1,000.00) or by imprisonment not exceeding one
2 (1) year or both. Each day a violation continues shall be deemed a separate offense.

3 SECTION 2. BE IT ENACTED by the County Council of Prince George's County,
4 Maryland, that Sections 13-111, 13-116, 13-214, 13-245, 13-246, 13-267, 13-270 and 13-271 of
5 the Prince George's County Code be and the same are hereby repealed and reenacted with
6 amendments:

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

8 **DIVISION 2. AMENDMENTS TO HOUSING CODE.**

9 * * * * *

10 **Sec. 13-111. Same. Section 106, Violations.**

11 Section 106.4 is amended to read as follows:

12 "**106.4 Violation penalties.** Every person in violation of this Code shall be guilty of a
13 misdemeanor, and upon conviction thereof shall be punishable by a fine of [not exceeding] Five
14 Hundred Dollars (\$500.00) or by imprisonment not to exceed ninety (90) days, or both. Each
15 day that the violation continues shall constitute a separate offense. The application of the
16 foregoing penalties shall not preclude the filing of an action for injunctive relief in a court of
17 competent jurisdiction."

18 * * * * *

19 **Sec. 13-116. Same. Section 106, Violations.**

20 (a) Section 111.1 is amended to read as follows:

21 "**111.1 Appeals by owner or occupant.** Whenever it is claimed that the true intent and
22 meaning of this Code has been misconstrued or wrongly interpreted, the owner or occupant or
23 duly authorized agent may appeal the decision of the Code Official to the Board of Appeals for
24 Prince George's County. Notice of such appeal shall be in writing and filed within fifteen (15)
25 [thirty (30)] days after the decision is rendered by the Code Official. In the case of a structure or
26 dwelling unit which, in the opinion of the Code Official, is unsafe or dangerous, the Code
27 Official may, by order and proper notice, shorten the time for the filing of an appeal. Appeals
28 arising under this Section shall be made using forms provided by the Board of Appeals and shall
29 be filed with the Board of Appeals, which will then notify the appellant in writing of the time
30 and place of the hearing."

31 (b) Section 111.2 is amended to read as follows:

1 **"111.2 Decisions of the Board of Appeals for Prince George's County.** The Board of
 2 Appeals for Prince George's County (hereinafter, the Board of Appeals) shall hold a hearing
 3 upon the appeal. The County shall have the initial burden to establish the basis for the
 4 determination from which the appeal was taken. The appellant owner or occupant shall have the
 5 burden to establish by a preponderance of the evidence that the County or its agencies have
 6 misconstrued or wrongly interpreted the intent and meaning of this Code. The Board of Appeals
 7 shall determine only whether there was substantial evidence for the Code Official to take the
 8 enforcement action from which the appeal was taken. The Board of Appeals may not substitute
 9 its judgment for that of the Code Official. However, the Board of Appeals may grant variances
 10 of the application of any provision of this Code when the substantial credible evidence clearly
 11 establishes that the enforcement thereof would do manifest injustice or would be contrary to the
 12 spirit and purpose of the Code. A decision of the Board of Appeals to vary the application of any
 13 provision of this Code or to modify an order of the Code Official shall specify in what manner
 14 such variation or modification is made, shall state the conditions upon which it is made, shall
 15 make findings of fact in support of the variance, and shall state the supporting reasons for the
 16 variance. Every decision of the Board of Appeals shall be given in writing within thirty (30)
 17 [sixty (60)] days of the hearing and shall indicate the vote of the members upon the decision. A
 18 failure on the part of the Board of Appeals to render a decision within the prescribed time period
 19 shall affirm the decision of the Code Official. A copy of each such decision shall be promptly
 20 filed with the Code Official, and the issuing agency shall maintain a file of such decisions which
 21 shall be open to the public for inspection during regular business hours. A certified copy shall be
 22 sent by mail or otherwise delivered to the appellant. The County or an owner or occupant
 23 aggrieved by a decision of the Board of Appeals may appeal the decision to the Circuit Court for
 24 Prince George's County, Maryland, in accordance with Section 5(U) of Article 25A of the
 25 Maryland Annotated Code."

26 * * * * *

27 **Sec. 13-214. Penalties.**

28 Anyone who operates a Group Residential Facility without a certificate as required by this
 29 Division and anyone who operates a Group Residential Facility while such certificate is
 30 suspended or revoked shall be guilty of a misdemeanor and upon conviction thereof shall be
 31 subject to a fine of [not to exceed] one thousand dollars (\$1,000.00) and for each subsequent

1 violation within a thirty-six (36) month period from the first violation and costs. In addition to
2 the remedies provided in Section 13-211, the County may seek enforcement of the provisions of
3 this Division by injunction or other appropriate remedy at law or equity. Furthermore, nothing
4 contained herein shall be construed to abridge or impair the right of the County or any resident
5 involved in a program administered by a Group Residential Facility to seek in a Court of law,
6 damages or other relief on account of injury to persons or property.

7 * * * * *

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

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

10 * * * * *

11 **Sec. 13-245. Appeals.**

12 (a) Except as provided in this Section, an owner may appeal a notice of violation or a
13 decision of the Director with respect to any provision of this Division by filing an appeal with
14 the Board of Administrative Appeals for Prince George's County, Maryland, within fifteen (15)
15 [thirty (30)] calendar days or within the period required for compliance, whichever is shorter.
16 The appeal shall state in detail the reasons for the appeal.

17 (b) The decision of the Board of Administrative Appeals shall be given in writing within
18 thirty (30) [sixty (60)] days after the hearing is concluded. Failure to render the decision within
19 the time period allowed shall affirm the decision of the Director. The Board of Appeals shall not
20 have jurisdiction to grant a variance from, extend the time of performance, or waive any
21 requirement of Section 13-246.01, except upon a finding that litigation is pending in the courts
22 and is being actively pursued.

23 **Sec. 13-246. Enforcement and penalty.**

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

28 (b) The person issued the civil citation shall be subject to a monetary fine of One Hundred
29 Dollars (\$100.00) for the first [and second] violation, Five Hundred Dollars (\$500.00) for the
30 second [third] violation and One Thousand Dollars (\$,1000) for each subsequent [repeat]
31 violation within a thirty-six (36) month period from the first violation [in excess of three (3)].

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SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.

DIVISION 7. ANTLITTER AND WEED ORDINANCE.

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Sec. 13-270. Appeals.

Within ten (10) calendar days from the certified mailing of the notice, or within ten (10) calendar days after personal service of the notice, or within ten (10) calendar days after the posting of the property, whichever is applicable, the owner or responsible person may file an appeal with the Board of Administrative Appeals stating in detail the reasons as to why the action proposed by the Director should not be taken. Upon receipt of such appeal, the Board of Administrative Appeals shall put the cause on its agenda at their earliest convenience, notify the appellant thereof, and hear the merits of the appeal. The evidence at the hearing shall be limited to challenges of the Director's determination that a violation exists and/or granting an extension of time. The Board's decision shall be given in writing within thirty (30) [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. Any party aggrieved by the decision of the Board of Administrative Appeals with respect to this Division may appeal such decision to the Circuit Court of Prince George's County, Maryland, pursuant to the rules governing appeals from administrative agencies. All appeals shall be on the record.

Sec. 13-271. Civil monetary fine; injunctive relief.

(a) In addition to the provisions of Sections 13-267 through 13-270 of this Code, a person found in violation of this Division 9 shall be liable to a civil fine in accordance with Division 3 of Subtitle 28 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 second [third] violation and One Thousand Dollars (\$,1000) for each subsequent [repeat] violation within a thirty-six (36) month period from the first violation [in excess of three (3)].

* * * * *

SECTION 3. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 28-130, 28-131, 28-132, 28-221, 28-240, 28-241, 28-242, 28-257, 28-258, 28-259, 28-261, 28-262, and 28-263 of the Prince George's County Code be and the same

are hereby repealed and reenacted with amendments:

SUBTITLE 28. CIVIL MONETARY FINES.

DIVISION 1. ZONING VIOLATIONS.

* * * * *

Sec. 28-130. Right to elect trial; notice.

A person who receives a citation may elect to stand trial for the offense by filing with the designated zoning official a notice of intention to stand trial. The notice shall be given at least five (5) days before the date of payment as set forth in the citation. On receipt of the notice of intention to stand trial, the zoning official shall forward to the District Court within thirty (30) days, a copy of the citation and the notice of intention to stand trial. On receipt of the citation, the District Court shall schedule the case for trial and notify the defendant of the trial date. The County shall request that the court set a date for trial within forty-five (45) days of receipt of the citation.

Sec. 28-131. Failure to pay fine or file notice of intention to stand trial.

If a person who receives a citation for a violation fails to pay the fine by the date of payment set forth in the citation and fails to file a notice of intention to stand trial, a formal notice of the violation shall be sent to the person's last known address. If the citation is not satisfied within fifteen (15) days from the date of the notice, the person is liable for an additional fine not to exceed twice the original fine. If, after fifteen (15) [thirty-five (35)] days, the citation is not satisfied, the zoning official may request adjudication of the case through the District Court. The District Court shall schedule the case for trial and summon the defendant to appear. The County shall request that the court set a date for trial within forty-five (45) days of receipt of the citation.

Sec. 28-132. Proceedings before the District Court.

(a) The County Attorney shall prosecute all civil violations before the District Court.

(b) Upon a finding of a violation the civil fine imposed by the Court shall be in an amount deemed appropriate by the Court but shall not be less than half the amount in the schedule contained in Section 28-111 of this Division. The Court may suspend or defer the payment of the civil fine upon such reasonable grounds as the Court determines.

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DIVISION 2. HOUSING CODE VIOLATIONS.

SUBDIVISION 2. CIVIL VIOLATIONS AND FINES.

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Sec. 28-221. Schedule of civil monetary fines.

(a) The civil monetary fine for each civil violation of the Housing Code shall be One Hundred Dollars (\$100.00), except as provided in Subsection (b).

(b) For a repeated civil violation, at the same location, within a thirty-six (36) month period, the following fines shall apply:

| | |
|---|--|
| 2nd violation | [\$250.00] <u>500.00</u> |
| Each <u>subsequent</u> violation [in excess of two (2)] | [\$500.00] <u>1,000.00</u> |

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DIVISION 2. HOUSING CODE VIOLATIONS.

SUBDIVISION 4. TRIAL FOR CIVIL VIOLATIONS.

Sec. 28-240. Right to elect trial; notice.

A person who receives a citation may elect to stand trial for the offense by filing with the Department a notice of intention to stand trial. The notice shall be given at least five (5) days before the date of payment as set forth in the citation. On receipt of the notice of intention to stand trial, the Director shall forward to the District Court within thirty (30) days, a copy of the citation and the notice of intention to stand trial. On receipt of the citation, the District Court shall schedule the case for trial and notify the defendant of the trial date. The County shall request that the court set a date for trial within forty-five (45) days of receipt of the citation.

Sec. 28-241. Failure to pay fine or file notice of intention to stand trial.

If a person who receives a citation for a violation fails to pay the fine by the date of payment set forth in the citation and fails to file a notice of intention to stand trial, a formal notice of the violation shall be sent to the person's last known address. If the citation is not satisfied within fifteen (15) days from the date of the notice, the person is liable for an additional fine not to exceed twice the original fine. If, after fifteen (15) [thirty-five (35)] days, the citation is not satisfied, the Director may request adjudication of the case through the District Court. The District Court shall schedule the case for trial and summon the defendant to appear. The County shall request that the court set a date for trial within forty-five (45) days of receipt of the citation.

Sec. 28-242. Proceedings before the District Court.

(a) The County Attorney shall prosecute all civil violations before the District Court.

(b) Upon a finding of a violation the civil fine imposed by the Court shall be in an amount deemed appropriate by the Court but shall not be less than half the amount in [not to exceed] the schedule contained in Section 28-221(a) and (b). The Court may suspend or defer the payment of the civil fine upon such reasonable grounds as the Court determines.

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DIVISION 3. MISCELLANEOUS CIVIL VIOLATIONS.

SUBDIVISION 1. GENERAL.

* * * * *

Sec. 28-257. Right to elect trial; notice.

A person who receives a citation may elect to stand trial for the offense by filing with the County office concerned a notice of intention to stand trial. The notice shall be given at least five (5) days before the date of payment as set forth in the citation. On receipt of the notice of intention to stand trial, the County shall forward to the District Court within thirty (30) days, a copy of the citation and the notice of intention to stand trial. On receipt of the citation, the District Court shall schedule the case for trial and notify the defendant of the trial date. The County shall request that the court set a date for trial within forty-five (45) days of receipt of the citation.

Sec. 28-258. Failure to pay fine or file notice of intention to stand trial.

If a person who receives a citation for a violation fails to pay the fine by the date of payment set forth in the citation and fails to file a timely notice of intention to stand trial, a formal notice of the violation shall be sent to the person's last address, if known. If the citation is not satisfied within fifteen (15) days from the date of the notice, the person is liable for an additional fine not to exceed twice the original fine. If, after fifteen (15) [thirty-five (35)] days, the citation is not satisfied, the County may request adjudication of the case through the District Court. The District Court shall schedule the case for trial and summon the defendant to appear. The County shall request that the court set a date for trial within forty-five (45) days of receipt of the citation.

Sec. 28-259. Proceedings before the District Court.

(a) The County Attorney shall prosecute all civil violations before the District Court.

(b) Upon a finding of a violation the civil fine imposed by the Court shall be in an amount deemed appropriate by the Court but shall not be less than half the amount in the schedule contained in Section 28-111 of this Division. The Court may suspend or defer the payment of the civil fine upon such reasonable grounds as the Court determines.

* * * * *

Sec. 28-261. Grading, pollution, drainage, floodplain, and erosion control violations.

(a) Any person who violates any provision of the County Code concerning grading, pollution, drainage, floodplain, and erosion control shall, upon citation issued pursuant to Subdivision 1, be deemed to have committed a civil violation and shall pay to the County a civil monetary fine in the amount prescribed by Subsection (b) of this Section.

* * * * *

(c) For a repeated civil violation, at the same location, within a thirty-six (36) month period, the following fines shall apply:

| | |
|---|------------|
| 2nd violation | \$500.00 |
| [3rd violation | \$750.00] |
| Each <u>subsequent</u> violation [in excess of three (3)] | \$1,000.00 |

* * * * *

Sec. 28-262. Fire Code Violations.

(a) Any person who violates any of the following provisions of the County Code shall, upon citation issued pursuant to Subdivision 1, be deemed to have committed a civil violation and shall pay to the County a civil monetary fine in the amount prescribed by Subsection (b) of this Section:

(b) The civil monetary fine for each civil violation of the provisions enumerated in Subsection (a), except Section 11-292.01, shall be Two [One] Hundred Fifty Dollars (\$250.00) [(\$100.00)], except as provided in Subsection (c) of this Section and as provided in Section 11-277(c). The civil monetary fine for each civil violation of Section 11-292.01 shall be Five Thousand Dollars (\$5,000.00).

(c) For a repeated civil violation, the following fines shall apply:

| | |
|---|-----------------------------|
| 2nd violation | \$[200.00] <u>500.00</u> |
| [3rd violation | \$400.00] |
| Each <u>subsequent</u> violation [in excess of three (3)] | \$1,000.00 |

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Sec. 28-263. Unobstructed Building Access Violations.

(a) Any person who violates Section 4-180(a)(9) of this Code concerning unobstructed accessible routes to buildings shall, upon citation issued pursuant to Subdivision 1, be deemed to have committed a civil violation and shall pay to the County a civil monetary fine in the amount prescribed by Subsection (b) of this Section.

(b) The civil monetary fine for each civil violation of the County Code concerning unobstructed accessible routes for disabled persons to buildings shall be Two [One] Hundred Fifty Dollars (\$250.00) [(\$100.00)], except as provided in Subsection (c).

(c) For a repeated civil violation, at the same location, within a thirty-six (36) [twelve (12)] month period, the following fines shall apply:

| | |
|---|------------|
| 2nd [violation | \$250.00 |
| 3 rd violation] | \$500.00 |
| Each <u>subsequent</u> violation [in excess of three (3)] | \$1,000.00 |

* * * * *

SECTION 4. BE IT FURTHER ENACTED that the provisions of this Act are hereby declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since the same would have been enacted without the incorporation in this Act of any such invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

1 SECTION 5. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
2 calendar days after it becomes law.

Adopted this 15th day of November, 2011.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Ingrid M. Turner
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Rushern L. Baker, III
County Executive

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.