

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2019 Legislative Session

Bill No. CB-47-2019

Chapter No. 41

Proposed and Presented by The Chair (by request – County Executive)

Introduced by Council Members Turner, Anderson-Walker, Davis, Dernoga, Franklin,
Glaros, Harrison, Hawkins, Ivey, Streeter and Taveras

Date of Introduction October 22, 2019

BILL

1 AN ACT concerning

2 Building Code – Unpermitted Construction

3 For the purpose of amending and adopting certain provisions of the International Building Code
4 and International Residential Code related to unpermitted construction, establishing the authority
5 to cite persons for unpermitted construction, and establishing the authority to impose a civil
6 penalty on persons cited for unpermitted construction or other violations of the Building Code.

7 BY repealing and reenacting with amendments:

8 SUBTITLE 4. BUILDING CODE.

9 Sections 4-116, 4-117, and 4-119

10 The Prince George's County Code
11 (2015 Edition; 2018 Supplement).

12 BY adding:

13 SUBTITLE 28. CIVIL MONETARY FINES OR
14 PENALTIES.

15 Section 28-268

16 The Prince George's County Code
17 (2015 Edition; 2018 Supplement).

18 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
19 Maryland, that Sections 4-116, 4-117, and 4-119 of the Prince George's County Code be and the
20 same are hereby repealed and reenacted with the following amendments:

21 **SUBTITLE 4. BUILDING CODE.**

DIVISION 1. BUILDING CODE.

SUBDIVISION 2. AMENDMENTS TO THE INTERNATIONAL BUILDING CODE.

Sec. 4-116. Administration; Section 114, Violations.

[(a) Section 114.4 is amended to read as follows: "Violation Penalties." Any person, firm, association, partnership, or corporation, or combination thereof, who shall violate a provision of the IBC/IRC, or of this Subtitle, or fail to comply with any of the requirements thereof, violates a lawful order issued thereunder, or any person who shall erect, construct, alter, or repair a building or structure in violation of an approved plan or directive of the Building Official, or of a permit or certificate issued under the provisions of the IBC/IRC, shall be guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars (\$1,000.00) per day that the violation persists or by imprisonment for six (6) months, or both. Each day that a violation continues shall be deemed a separate offense.]

(a) Section 114.4 of the IBC and R113.1 of the IRC are [is] amended to read as follows: "Violation Penalties"

114.4.1 Civil Penalties

114.4.1.1 Civil Fines: Any person, firm, association, partnership, corporation, or combination thereof who shall violate a provision of the International Building Code (IBC)/International Residential Code (IRC), or of this Subtitle, or fail to comply with any of the requirements thereof, violates a lawful order issued thereunder, or any person who shall erect, construct, alter, or repair a building or structure or mechanical or electrical system without all required permits or in violation of an approved plan or directive of the Building Official, or of a permit or certificate issued under the provisions of this Subtitle or the IBC/IRC, may be liable for a civil fine that shall not exceed one thousand dollars (\$1,000) per violation. Each day that a violation continues shall be deemed a separate offense.

114.4.1.1.1 Assessment of Civil Fines: A civil fine shall be assessed in conjunction with a written notice of violation issued under this Subtitle. When a civil fine is issued, the notice of violation shall state the amount of the civil fine and a description of the circumstances giving rise to the assessment. A civil fine assessed under this section shall be due and payable within 30 days after the Building Official issues the written notice.

1 114.4.1.1.2 Appeal of Civil Fine: A written notice of violation
 2 assessing a civil fine under this section shall be a final decision of the Director or the Director's
 3 designee as is contemplated in Sec. 4-119 of the Prince George's County Code.

4 114.4.1.1.3 Recording of Civil Fine as tax lien: If a civil fine
 5 assessed under this section has not been paid within 30 days after the written notice of violation,
 6 the Director shall cause the written notice of violation to be recorded with the Director of
 7 Finance for Prince George's County. Recordation of the notice of violation shall constitute a lien
 8 on the subject property and shall be collected in the same manner as other County real estate
 9 taxes. The filing of an appeal of a civil fine shall not affect the recordation of a tax lien under this
 10 subsection.

11 114.4.1.1.4 Release of tax lien: Upon receiving notice that the
 12 Board of Administrative Appeals has issued a decision in favor of an appellant regarding a civil
 13 fine imposed under this subsection, the Director of Finance shall release the tax lien.

14 114.4.1.1.5 Civil Fine in addition to other sanctions: A civil fine
 15 imposed under this subsection is in addition to any other sanction provided by law.

16 114.4.1.2 Civil Citation

17 114.4.1.2.1 In the event that a responsible party does not comply with a notice
 18 of violation within the time period provided, including any period allowed by appeal, and upon
 19 verification by the Director or the Director's designee that the violation still exists, the Director
 20 or the Director's designee may issue upon the responsible parties a civil citation pursuant to
 21 Subtitle 28, Division 3, of this Code; and for properties subject to foreclosure the Director shall
 22 issue upon the responsible parties a civil citation pursuant to Subtitle 28, Division 3, of this
 23 Code.

24 114.4.1.2.2. Separate Violation: Each day the violation continues is
 25 deemed a separate offense and is subject to an additional citation and fine in the same dollar
 26 amount as the repeat citation(s).

27 114.4.1.2.3. Civil Citation in addition to other sanctions: A civil citation
 28 imposed under this subsection is in addition to any other sanction provided by law.

29 114.4.2 Criminal Penalties:

30 114.4.2.1 Criminal Sanctions: Any person, firm, association, partnership,
 31 corporation, or combination thereof, who shall violate a provision of the International Building

1 Code (IBC)/International Residential Code (IRC), or of this Subtitle, or fail to comply with any
 2 of the requirements thereof, violates a lawful order issued thereunder, or any person who shall
 3 erect, construct, alter, or repair a building or structure or mechanical or electrical system without
 4 all required permits or in violation of an approved plan or directive of the Building Official, or of
 5 a permit or certificate issued under the provisions of this subtitle or the IBC/IRC, shall be guilty
 6 of a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000.00) per
 7 violation while the violation activity persists or by imprisonment for six (6) months, or both.
 8 Each day that a violation continues, shall be deemed a separate offense.

9 (b) 114.5 Disclosure Requirements:

10 114.5.1 Disclosure to Prospective Purchaser or Lessee: When the owner of
 11 a dwelling unit or structure has received a notice of violation issued under this Subtitle, the
 12 owner shall provide a copy of the notice of violation to a prospective purchaser or lessee.

13 114.5.2 Recordation: The Director may record a notice of violation issued
 14 under this Subtitle among the land records in the Circuit Court for Prince George's County.

15 **Sec. 4-117. - Administration; Section 115, Stop Work Order.**

16 [(a)] [Section 115.3 is amended to read as follows: "Unlawful Continuance." Any
 17 person, firm, association, partnership, or corporation, or combination thereof, who shall continue
 18 work in violation of the provisions of a "Stop Work Order," or shall remove or cause to be
 19 removed a "Stop Work Order" sign still in effect and operation, shall be guilty of a
 20 misdemeanor, punishable by a fine of not more than One Thousand Dollars (\$1,000.00) per day
 21 that the unlawful work continues, or imprisonment for six (6) months, or both.]

22 (a) Section 115.2 and 115.3 of the IBC, and R114.1 and R114.2 of the IRC are amended to
 23 read as follows: 115.2 Issuance: The Stop Work Order shall be in writing and shall be given to
 24 the owner of the property involved, the owner's authorized agent or the person performing the
 25 work. Upon issuance of a Stop Work Order, the cited work shall immediately cease. The Stop
 26 Work Order shall state the reason for the order and the conditions under which the cited work
 27 will be permitted to resume. Stop Work Order will be in full force until all fees and penalties are
 28 paid and permits have been secured for all illegal and/or unpermitted construction.

29 (b) 115.3 Unlawful Continuance:

30 115.3.1 Civil Penalties:

1 115.3.1.1 Civil Fines: Any person, firm, association, partnership, or
2 corporation, or combination thereof, who shall continue work in violation of the provisions of a
3 Stop Work Order, or shall remove or cause to be removed a Stop Work Order sign still in effect
4 and operation, may be liable for a civil fine that shall not exceed one thousand dollars (\$1,000)
5 per violation. Each day that a violation continues shall be deemed a separate offense.

6 115.3.1.1.1 Assessment of Civil Fines: A civil fine shall be
7 assessed in conjunction with a written notice of violation issued under this Subtitle. When a civil
8 fine is issued, the notice of violation shall state the amount of the civil fine and a description of
9 the circumstances giving rise to the assessment. A civil fine assessed under this section shall be
10 due and payable within 30 days after the Building Official issues the written notice.

11 115.3.1.1.2 Appeal of Civil Fine: A written notice of violation
12 assessing a civil fine under this section shall be a final decision of the Director or the Director's
13 designee as is contemplated in Sec. 4-119 of the Prince George's County Code.

14 115.3.1.1.3 Recording of Civil Fine as tax lien: If a civil fine
15 assessed under this section has not been paid within 30 days after the written notice of violation,
16 the Director shall cause the written notice of violation to be recorded with the Director of
17 Finance for Prince George's County. Recordation of the notice of violation shall constitute a lien
18 on the subject property and shall be collected in the same manner as other County real estate
19 taxes. The filing of an appeal of a civil fine shall not affect the recordation of a tax lien under this
20 subsection.

21 115.3.1.1.4 Release of tax lien: Upon receiving notice that the
22 Board of Administrative Appeals has issued a decision in favor of an appellant regarding a civil
23 fine imposed under this subsection, the Director of Finance shall release the tax lien.

24 115.3.1.1.5 Civil Fine in addition to other sanctions: A civil fine
25 imposed under this subsection is in addition to any other sanction provided by law.

26 115.3.1.2 Civil Citation:

27 115.3.1.2.1 In the event that a responsible party does not comply with a notice
28 of violation within the time period provided, including any period allowed by appeal, and upon
29 verification by the Director or the Director's designee that the violation still exists, the Director
30 or the Director's designee may issue upon the responsible parties a civil citation pursuant to
31 Subtitle 28, Division 3, of this Code and, for properties subject to foreclosure, the Director shall

1 issue upon the responsible parties a civil citation pursuant to Subtitle 28, Division 3, of this
 2 Code.

3 115.3.1.2.2 Separate Violation: Each day the violation continues is deemed a
 4 separate offense and is subject to an additional citation and fine in the same dollar amount as the
 5 repeat citation(s).

6 115.3.1.2.3 Civil Citation in addition to other sanctions: A civil citation
 7 imposed under this subsection is in addition to any other sanction provided by law.

8 115.3.2 Criminal Penalties: Any person, firm, association, partnership, or
 9 corporation, or combination thereof, who shall continue work in violation of the provisions of a
 10 Stop Work Order, or shall remove or cause to be removed a Stop Work Order sign still in effect
 11 and operation, shall be guilty of a misdemeanor, punishable by a fine of not more than One
 12 Thousand Dollars (\$1,000.00) per violation for as long as that the unlawful work continues, or
 13 imprisonment for six (6) months, or both.

14 * * * * *

15 **Sec. 4-119. - Administration; Section 113, Board of Appeals.**

16 (a) Section 113.1.1, Application for Appeal. The owner or occupant of a building or
 17 structure or any directly aggrieved person may appeal to the Board of Administrative Appeals
 18 from a final decision of the Director or the Director's designee. An application for appeal may be
 19 made when it is claimed that the true intent of the IBC/IRC or of this Subtitle has been
 20 incorrectly interpreted or applied. Notice of an appeal shall be in writing and filed within [thirty
 21 (30)] fifteen (15) days after the decision is rendered by the Director or the Director's designee; in
 22 the event the Director's written decision is served by mail, the date of decision for the purposes
 23 of determining the timeliness of an appeal shall be the postmark date or, if sent by another
 24 delivery carrier, the date that the item was delivered into the care of the delivery carrier.

25 Provided, however, that in the case of a structure or dwelling unit which is unsafe or dangerous,
 26 or where inadequate sediment control measures exist and sediment is leaving a site, and in any
 27 other situation when the Director or the Director's designee has determined that immediate
 28 corrective action is necessary, the Director or the Director's designee may, in the Director's or the
 29 Director's designee's order, limit the time for an appeal to a shorter period. Should the Director or
 30 director's designee limit the time for an appeal in such a manner, the written decision issued by
 31 the Director or director's designee shall clearly state the date by which an appeal shall be taken.

1 The Board of Administrative Appeals shall not have the power or duty to hear and decide an
2 appeal regarding the expiration of a permit pursuant to Section 4-352 of the County Code.
3 Appeals hereunder shall be in accordance with Subtitle 2, Division 4, of the County Code.

4 * * * * *

5 SECTION 2. BE IT ENACTED by the County Council of Prince George's County,
6 Maryland, that Section 28-268 of the Prince George's County Code be and the same is hereby
7 added:

8 **SUBTITLE 28. CIVIL MONETARY FINES OR PENALTIES.**

9 **DIVISION 3. MISCELLANEOUS CIVIL VIOLATIONS.**

10 **SUBDIVISION 2. SPECIFIC CIVIL PENALTIES PRESCRIBED.**

11 **Sec. 28-268. – Building Code Violations.**

12 (a) Any person who violates any of the provisions of Subtitle 4 of the County Code
13 shall, upon citation issued pursuant to Subdivision 1, be deemed to have committed a civil
14 violation and shall pay to the County a civil monetary fine in the amount prescribed by
15 Subsection (b) of this Section. Each separate day of violation that remains uncorrected is a
16 distinct civil violation subject to an additional citation and fine in the amount prescribed by
17 Subsection (b) of this Section.

18 (b) The civil monetary fine for each civil violation of this Subtitle shall be Two
19 Hundred Fifty Dollars (\$250.00). For a repeated civil violation, the following fines shall
20 apply:

<u>2nd violation</u>	<u>\$500.00</u>
<u>Each subsequent violation</u>	<u>\$1,000.00</u>

21
22 SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby
23 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
24 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
25 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
26 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
27 Act, since the same would have been enacted without the incorporation in this Act of any such
28 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,
29 or section.

1 SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
2 calendar days after it becomes law.

Adopted this 19th day of November, 2019.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Todd M. Turner
Chair

ATTEST:

Donna J. Brown
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Angela D. Alsobrooks
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.

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