

Bill No. 15-10

Concerning: Amendment to Chapter 1-18 of the
Frederick County Code (Waters, Sewage and Sewage
Disposal)

Revised: _____ Draft No. _____

Introduced: August 18, 2015

Expires: _____

Enacted: October 6, 2015

Executive: Jan H. Gardner 10/9/15

Effective: December 5, 2015

Frederick County Code, Chapter 1-18, Section(s) New
Section 6

COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council President Bud Otis on behalf of County Executive Jan Gardner

AN ACT to:

Amend the Chapter 1-18 of the Frederick County Code to establish civil citation authority for violations of Chapter 1-18 or Chapter 2-13 of the Public Local Laws of Frederick County, or of any rule or regulation promulgated thereunder, including but not limited to the Frederick County Water and Sewer Regulations, pursuant to the authority in §2-2-29 of the above-referenced Public Local Laws.

By amending:

Frederick County Code, Chapter 1-18, Section(s) 6 (new)

Other:

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

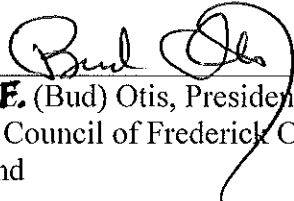
Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

Bill No. 15-10

The County Council of Frederick County, Maryland, finds it necessary and appropriate to amend Chapter 1-18 of the Frederick County Code by adding new Section 6, which establishes civil citation authority for violations of Chapter 1-18 or Chapter 2-13 of the Public Local Laws of Frederick County, or of any rule or regulation promulgated thereunder, including but not limited to the Frederick County Water and Sewer Regulations, pursuant to the authority in §2-2-29 of the above-referenced Public Local Laws.

NOW, THEREFORE, BE IT ENACTED, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.



Harold **E.** (Bud) Otis, President
County Council of Frederick County,
Maryland

MJC 10/6/15

§ 1-18-6. CIVIL INFRACTIONS.

(A) This section is authorized by §2-2-29 of the Public Local Laws of Frederick County, which states that the County governing body may provide: (1) that any violation of a county ordinance, resolution, rule, regulation or bylaw shall be a civil offense known as a “civil infraction”, and (2) for the issuance of citations for civil infractions.

(B) Therefore, any violation of this Chapter 1-18 or Chapter 2-13 of the above-referenced Public Local Laws, or of any rule or regulation promulgated hereunder or thereunder, including but not limited to the Frederick County Water and Sewer Regulations, is a civil infraction for which a civil citation may be issued by the Director of the Division of Utilities and Solid Waste Management (“Director”) or the Director’s authorized agent, as provided in this section.

(C) If, after investigation, a civil infraction is believed to exist, the Director or the Director’s authorized agent shall deliver a citation or warning to the responsible party(ies) for the civil infraction. If the Director or authorized agent is unable to locate the responsible party, the Director or authorized agent may post the citation or warning in a conspicuous place on the property on which the civil infraction occurred and/or mail a copy of same to the owner of the property or other responsible person, which shall be sufficient for delivery of the warning or citation under this section.

(D) The citation or warning, as provided for in this section, shall be in writing and shall contain the following:

- (1) The name and address, or other identifying information if the address is not known, of the person charged or warned;
- (2) The nature of the violation;
- (3) The location of the violation;
- (4) The date(s) of the violation;
- (5) The amount or potential amount of the fine assessed;
- (6) The manner, location and time in which the fine may be paid, or violation corrected, if applicable;
- (7) The person's right to stand trial for the violation if applicable;
- (8) A certification by the Director or authorized agent attesting to the truth of the matters set forth.

(E) Whenever an alleged or possible civil infraction comes to the attention of the Director or authorized agent, the following procedures shall apply:

- (1) The Director or authorized agent will investigate whether a violation has occurred;
- (2) If the Director finds that a violation has occurred, a warning will be issued to the person(s) responsible in the form and manner as outlined in this section, with reasonable time stated to abate or to prevent future infractions;

(3) If the violation continues or is allowed to occur after the reasonable time stated, the Director or authorized agent will issue a citation to the person(s) responsible in the form and manner as outlined in this section. Notwithstanding the provision of step (2) above, the Director or authorized agent may issue a citation at step (2) without the prior issuance of a warning.

(F) A fine of \$200 shall be imposed upon any person responsible for each civil infraction. Each day that a violation exists shall be considered a separate civil infraction. All fines shall be payable to the Treasurer of Frederick County, Maryland, and shall be delivered to the DUSWM offices.

(G) A person who receives a citation may elect to stand trial for the civil infraction by filing with the Director a notice of intention to stand trial. The notice shall be delivered to the Director at least 10 days before the due date for payment of the fines as set forth in the citation. Upon receipt of the notice of intention to stand trial, the Director or authorized agent shall forward to the District Court of Frederick County, Maryland, a copy of the citation and the notice of intention to stand trial. Upon receipt of the citation, the District Court shall schedule the case for trial and notify the defendant of the trial date. All fines, penalties, or forfeitures collected by the District Court for any civil infraction shall be remitted to the Treasurer of Frederick County, Maryland.

(H) If a person who receives a citation for a civil infraction fails to pay the fine by the payment date set forth on the citation and fails to file a notice of intention to stand trial at least 10 days prior to the payment date, a formal notice of the civil infraction shall be sent to the person's last known address. If the citation is not satisfied within 15 days from the date specified on the notice, the person shall be liable for \$400 for each civil infraction. If the citation is not satisfied within 35 days of the date specified on the formal notice, the Director may request adjudication of the case through the District Court by following appropriate civil procedures.

(I) Adjudication of a civil infraction under this subsection is not a criminal conviction, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.

(J) In a proceeding before the District Court, the violation shall be prosecuted in the same manner and to the same extent as set forth for municipal infractions in Md. Code, Local Government Article, Title 6. However, the County Attorney is hereby authorized to prosecute all civil infractions under this section.

(K) If a person is found by the District Court to have committed a civil infraction, that person shall be liable for the costs of the proceedings in the District Court.

(L) Depending on the circumstances of each case and after consultation with the County Attorney, the Director or authorized agent has the discretionary authority to reduce or suspend all or a portion of the fine.

(M) Nothing contained in this section shall prohibit or prevent the Director or authorized agent from seeking other appropriate legal remedies, such as injunctions or criminal prosecution.

(N) Provisions of this section are in addition to, and not in lieu of, those penalties specified in other sections of the Frederick County Code, including the Public Local Laws of Frederick County.