



Bill No. 16-16

Concerning: Enforcement of County Laws
and Regulations

Introduced: August 15, 2016

Revised: _____ Draft No. _____

Enacted: October 4, 2016

Effective: December 3, 2016

Expires: _____

Frederick County Code, Chapter 1

Section(s) 1-1-9

COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

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

AN ACT to: Establish provisions for the enforcement of County laws and regulations and procedures for handling violations.

Executive: Jan Gardner Date Received: 10-10-16

Approved: ✓ Date: 10-10-16

Vetoed: _____ Date: _____

By amending:

Frederick County Code, Chapter, 1 Section(s) 1-1-9

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.

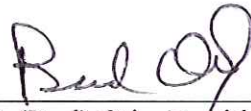
Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

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The County Council of Frederick County, Maryland, finds it necessary and appropriate to enact Section 1-1-9 of the Frederick County Code to establish provisions for the enforcement of County laws and regulations, and procedures for handling violations.

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



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

WC 10/4/16

§1-1-9. ENFORCEMENT OF COUNTY LAWS AND REGULATIONS

(A) Purpose.

This section implements the authority contained in Local Government Article, Annotated Code of Maryland, to provide for the enforcement of County laws and regulations by civil fines.¹

(B) Applicability; nonexclusive remedy.

(1) Applicability. The provisions of this section shall apply unless the Code or Regulations contain other specific enforcement provisions.

(2) Nonexclusive Remedy. Nothing in this subtitle shall prevent an Enforcing Agency or Enforcement Official from seeking other remedies provided by law or regulations, such as injunctions or criminal prosecution.

(C) Authority of the County Attorney.

The County Attorney is authorized to prosecute all civil violations under this subtitle. The County Attorney or the County Attorney's designees may institute proceedings on behalf of the County in any court of competent jurisdiction to enforce payment of the civil fines imposed pursuant to this subtitle. The County Attorney may institute proceedings to obtain other available legal remedies, including but not limited to injunctive relief, actions for damages, etc.

(D) Definitions.

Words and phrases used in this subtitle shall have their usual meanings except as specified below:

(1) Civil infraction: A violation of the County Code or of a regulation adopted pursuant to the County Code, which is punishable by a civil fine.

(2) Enforcement Official: An individual in an agency or department authorized to enforce its laws and regulations; generally the Department or agency head or his/her designated representative; or the Sheriff of Frederick County and the Sheriff's designees.

(3) Enforcing Agency: the Department or agency charged with enforcing a law or regulation, or the Sheriff of Frederick County.

(4) Person: an individual, partnership, joint venture, corporation, association, or organization.

(5) Repeated violation: a recurring violation of the same provision of the County Code or regulation.

(E) Fines.

(1) Amount of Fine. Unless another amount for a specific violation has been established in the Code, the civil fine shall be within the range of the amounts shown below:

¹ Ann. Code of Maryland, Local Government Art. § 10-202.

<u>Class of Offense</u>	<u>Minimum Fine</u>	<u>Maximum Fine</u>
<u>A</u>	<u>\$500.00</u>	<u>\$1,000.00</u>
<u>B</u>	<u>250.00</u>	<u>500.00</u>
<u>C</u>	<u>100.00</u>	<u>250.00</u>
<u>D</u>	<u>50.00</u>	<u>100.00</u>
<u>E</u>	<u>25.00</u>	<u>50.00</u>

(F) Payment of Fines.

All fines are due and payable by the date indicated in the citation. The fine shall be payable to the Treasurer of Frederick County, and delivered to the office of the Enforcement Official, or the Office of the County Attorney.

(G) Citations.

(1) Authority to serve. -- An Enforcement Official may serve a citation on a person:

(a) who the official believes is committing or has committed a civil infraction; or

(b) on the basis of an affidavit that:

(i) cites the facts of the alleged infraction; and

(ii) is submitted to a designated Enforcement Official of the County.

(2) Service.

(a) The citation shall be served on the defendant:

(i) in accordance with Maryland Rule 3-121; or

(ii) for real property-related violations, if an affidavit is made that good faith efforts to serve the defendant under Maryland Rule 3-121(a) have not succeeded, by:

1. regular mail to the defendant's last known address; and

2. posting the citation at the property where the civil infraction has occurred or is occurring and, if located in the County, at the defendant's residence or place

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of business.

(b) The Enforcement Official shall retain a copy of the citation.

(3) Contents. -- The citation shall contain:

(a) the Enforcement Official's certification:

(i) attesting to the truth of the matter set forth in the citation; or

(ii) that the citation is based on an affidavit;

(b) the name and address of the defendant;

(c) the nature of the civil infraction;

(d) the location and time that the civil infraction occurred;

(e) the amount of the fine assessed;

(f) the manner, location, and time in which the fine may be paid to the County;

(g) notice of the defendant's right to elect to stand trial; and

(h) notice of the effect of failing to pay the fine or demand a trial within the required time.

(H) Election to stand trial.

(1) Written notice. -- the defendant may elect to stand trial for the civil infraction by providing written notice of intent to stand trial to the Enforcing Agency at least 10 days before the payment date specified in the citation.

(2) Scheduling procedure. --

(a) After receiving the written notice of intention to stand trial, the Enforcing Agency shall forward a copy of the citation and notice to the District Court having venue.

(b) After receiving the citation and notice, the District Court shall:

(i) schedule the case for trial; and

(ii) notify the defendant of the trial date.

(I) Citation -- Failure to pay or elect to stand trial.

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(1) In general. -- If the defendant does not pay the fine by the date of payment set forth on the citation and does not send to the Enforcing Agency the written notice of intent to stand trial:

_____ (a) the defendant is liable for the fine;

_____ (b) the Enforcing Agency may double the fine to an amount not exceeding \$1,000 and request adjudication of the case through the District Court, including the filing of a demand for judgment on affidavit; and

_____ (c) the District Court promptly shall schedule the case for trial and summon the defendant to appear.

(2) Entry of judgment for failure to respond. -- If the County makes a proper demand for judgment on affidavit and the defendant does not respond to a summons issued under subsection (a)(3) of this section, the District Court shall enter judgment against the defendant in favor of the County in the amount then due.

(J) Summons -- Failure to pay or appear.

If the defendant does not pay the fine as provided in the citation and does not appear in District Court as provided in the summons:

(1) the County may double the fine to an amount not exceeding \$ 1,000; and

(2) the court may enter judgment against the defendant in the amount then due if the proper demand for judgment on affidavit has been made.

(K) Proceedings.

(1) In general. -- In a civil infraction proceeding:

_____ (a) the District Court shall confirm that the defendant has received a copy of and understands the charges;

_____ (b) the defendant may enter a plea of guilty or not guilty;

_____ (c) the District Court shall apply the evidentiary standards provided by law or rule for the trial of a civil case;

_____ (d) the defendant may:

_____ (i) cross-examine witnesses;

_____ (ii) produce evidence or witnesses on the defendant's own behalf;

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_____ (iii) testify; and

_____ (iv) be represented by counsel of the defendant's choice and at the defendant's expense; and

_____ (e) the County has the burden to prove by clear and convincing evidence that the defendant has committed the infraction.

_____ (2) Verdict. -- The District Court may:

_____ (a) enter a verdict of guilty or not guilty; or

_____ (b) before entering a verdict, place the defendant on probation.

(L) Penalties.

If the District Court finds that the defendant has committed a civil infraction:

(1) _____ (i) the court shall order the defendant to pay the fine, including any doubling of the fine, not exceeding the limit under § 6-102(c) of this subtitle;

_____ (ii) the fine imposed is a judgment in favor of the County; and

_____ (iii) if the fine remains unpaid for 30 days after the judgment is entered, the judgment is enforceable in the same manner and to the same extent as other civil judgments for money unless the court has suspended or deferred the payment of the fine as provided under item (2) of this section;

(2) the court may suspend or defer the payment of the fine under conditions that the court sets;

(3) the defendant is liable for the costs of the court proceedings; and

(4) the court may order the defendant to abate the infraction or enter an order authorizing the County to abate the infraction at the defendant's expense.

(M) Abatement of infraction by County.

(1) Defendant to be billed for cost. -- If the County abates an infraction under a District Court order, the County shall present the defendant with a bill for the cost of abatement by:

_____ (a) regular mail to the defendant's last known address; or

_____ (b) any other means that are reasonably calculated to give notice of the bill to the defendant.

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(2) Judgment. -- If the defendant does not pay the bill within 30 days after it is presented under subsection A. of this section, on a motion of the County, the District Court shall enter a judgment against the defendant for the cost of the abatement.

(N) Fines, penalties, or forfeitures remitted to County.

All fines, penalties, or forfeitures collected by the District Court for a civil infraction shall be remitted to the Treasurer of Frederick County.

(O) Contempt of court.

If, without good cause, a defendant does not pay a fine or cost imposed by the District Court, the Court may treat the failure as contempt of court.

(P) Adjudication not a criminal conviction.

Adjudication of a municipal infraction is not a criminal conviction for any purpose.

(Q) Criminal Citation.

Where it appears there is an intentional violation of the County Code has occurred, criminal action may be brought an a fine of up to \$1,000.00 and imprisonment not exceeding 6 months may be imposed.