
By: **Prince George's County Delegation and Montgomery County Delegation**

Introduced and read first time: February 8, 2006
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 27, 2006

CHAPTER _____

1 AN ACT concerning

2 **Montgomery County - Planning Board - Fines**
3 **PG/MC 125-06**

4 FOR the purpose of authorizing the district council for Montgomery County to
5 authorize the Montgomery County Planning Board to impose a certain
6 maximum fine for a certain continuing violation instead of imposing a separate
7 fine for each day; specifying certain criteria that the district council must
8 consider in establishing a certain schedule of fines; requiring the district council
9 to establish certain standards to specify the date on which certain liability
10 accrues; altering a certain maximum fine; making a technical correction; and
11 generally relating to the Montgomery County Planning Board.

12 BY repealing and reenacting, with amendments,
13 Article 28 - Maryland-National Capital Park and Planning Commission
14 Section 7-116(h)
15 Annotated Code of Maryland
16 (2003 Replacement Volume and 2005 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

Article 28 - Maryland-National Capital Park and Planning Commission

7-116.

(h) (1) (i) In addition to all other remedies provided by law, in Montgomery County, the district council may authorize the planning board to impose civil monetary fines and penalties and, when the public health, safety, or welfare are threatened, issue stop work orders for violations described in item (ii) of this subparagraph.

(ii) This subsection applies to violations of:

- 1. Titles 7 and 8 of this article;
- 2. Montgomery County subdivision regulations and zoning ordinances;
- 3. Any laws or regulations which the Commission or the planning board is exclusively authorized to administer; or
- 4. Any decision made by the Commission or planning board under its authority.

(2) (I) [A] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH:

- 1. A fine, not to exceed [\$500] \$1,000, may be imposed for each violation[. The district council may establish a schedule of fines for each violation and may adopt procedures, consistent with this section, for imposing and collecting those fines.]; AND
- 2. Each day any violation continues shall constitute a separate offense.

(II) AS AN ALTERNATIVE TO IMPOSING A FINE FOR EACH DAY OF A VIOLATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DISTRICT COUNCIL MAY ADOPT A SCHEDULE OF FINES TO ALLOW THE PLANNING BOARD TO IMPOSE A FINE NOT EXCEEDING \$500,000 FOR A CONTINUING VIOLATION INSTEAD OF IMPOSING A SEPARATE FINE FOR EACH DAY.

(III) 1. THE DISTRICT COUNCIL MAY ESTABLISH A SCHEDULE OF FINES FOR EACH VIOLATION AND MAY ADOPT PROCEDURES, CONSISTENT WITH THIS SECTION, FOR IMPOSING AND COLLECTING THOSE FINES.

2. THE SCHEDULE OF FINES SHALL TAKE INTO CONSIDERATION THE FACTORS DEEMED APPROPRIATE BY THE DISTRICT COUNCIL, INCLUDING:

- A. THE WILLFULNESS OF ANY VIOLATION;

1 B. THE PUBLIC COST OF ANY CORRECTIVE ACTION OR
2 RESTORATION;

3 C. ADVERSE IMPACTS CAUSED BY THE VIOLATION WITH
4 RESPECT TO ENVIRONMENTAL RESOURCES OR PUBLIC FACILITIES;

5 D. THE EXTENT TO WHICH ANY VIOLATION IS PART OF A
6 PATTERN OR PRACTICE BY ANY RESPONSIBLE PARTY; AND

7 E. THE IMPACT OF ANY VIOLATION ON FEATURES
8 PRESCRIBED UNDER THE APPLICABLE MASTER PLAN OR OTHER LAND USE PLAN
9 ADOPTED UNDER THIS ARTICLE.

10 (3) The district council may provide that the planning board may enforce
11 the imposition of fines and penalties in a manner consistent with the process
12 requiring certain notification and hearing under ~~Article 66B, § 7.02~~ ARTICLE 23A, §
13 3(B) of the Code. The imposition of fines and penalties under this subsection may not
14 be subject to an appeal to the Board of Zoning Appeals.

15 (4) The district council may provide that the planning board, through
16 counsel, may prosecute violations for which civil monetary fines or penalties are
17 imposed.

18 (5) A violation of a local law implementing the State Forest Conservation
19 Law shall be enforced in accordance with those laws and not in accordance with this
20 subsection.

21 (6) THE DISTRICT COUNCIL SHALL ESTABLISH STANDARDS TO DEFINE
22 THE DATE ON WHICH LIABILITY FOR ANY FINE IMPOSED IN ACCORDANCE WITH THIS
23 SUBSECTION ACCRUES.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2006.