
By: St. Mary's County Delegation

Introduced and read first time: January 31, 1997

Assigned to: Commerce and Government Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 10, 1997

CHAPTER ____

1 AN ACT concerning

2 **St. Mary's County - Enforcement of Ordinances and Regulations**

3 FOR the purpose of authorizing the County Commissioners of St. Mary's County to
4 provide for the enforcement of certain ordinances, rules, and regulations in the
5 same manner and to the same extent as municipal infractions in the District Court;
6 authorizing the prosecution of certain violations of ordinances and resolutions of St.
7 Mary's County as misdemeanors in the District Court; providing for the prospective
8 application of this Act; and generally relating to the prosecution of violations of
9 ordinances and regulations of St. Mary's County.

10 BY repealing and reenacting, without amendments,
11 Article 23A - Corporations - Municipal
12 Section 3
13 Annotated Code of Maryland
14 (1996 Replacement Volume)

15 BY repealing and reenacting, with amendments,
16 Article 25 - County Commissioners
17 Section 10-I and 10J
18 Annotated Code of Maryland
19 (1996 Replacement Volume)

20 BY adding to
21 Article 25 - County Commissioners
22 Section 10J-1
23 Annotated Code of Maryland
24 (1996 Replacement Volume)

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1 BY repealing and reenacting, with amendments,
 2 Article 66B - Zoning and Planning
 3 Section 5.05 and 7.01
 4 Annotated Code of Maryland
 5 (1995 Replacement Volume and 1996 Supplement)

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

8 **Article 23A - Corporations - Municipal**

9 3.

10 (a) The legislative body of any municipality shall have power to provide that
 11 violations of ordinances and resolutions authorized by this article shall be punishable as
 12 misdemeanors, but no penalty shall exceed a fine of \$1,000 and imprisonment for 6
 13 months. Imprisonment in default of fine and costs shall be regulated by the provisions of
 14 Article 38, § 4 of the Code.

15 (b) (1) The legislative body of a municipality may provide that violations of any
 16 municipal ordinance shall be a "municipal infraction" unless the violation is declared to
 17 be a felony or a misdemeanor by State law. In addition, the legislative body of a
 18 municipality may classify as a "municipal infraction": (i) a violation of any zoning or land
 19 use ordinance or regulation authorized to be adopted or enacted by that municipality; and
 20 (ii) littering within the municipality as prohibited under Article 27, § 468 of the Code. For
 21 purposes of this article a municipal infraction is a civil offense.

22 (2) A fine not to exceed \$1,000 may be imposed for each municipal
 23 infraction. The fine is payable to the municipality by the person charged in the citation
 24 within 20 calendar days of service of the citation.

25 (3) (i) Those officials authorized by the legislative body of the
 26 municipality to act as enforcement officers may serve a citation on any person:

27 1. Whom they believe is committing or has committed a
 28 municipal infraction; or

29 2. On the basis of an affidavit submitted to an appropriate
 30 official of the municipality, to be named by the municipality, citing the facts of the alleged
 31 infraction.

32 (ii) The citation shall be served on the defendant:

33 1. In accordance with Rule 3-121 of the Maryland Rules; or

34 2. For real property-related violations, if proof is made by
 35 affidavit that good faith efforts to serve the defendant under Rule 3-121(a) of the
 36 Maryland Rules have not succeeded, by:

37 A. Regular mail to the defendant's last known address; and

38 B. Posting of the citation at the property where the infraction
 39 has occurred or is occurring, and, if located within the municipality in which the

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1 infraction has occurred or is occurring, at the residence or place of business of the
2 defendant.

3 (iii) The citation shall contain:

4 1. The enforcement officer's certification:

5 A. Attesting to the truth of the matter set forth in the citation;

6 or

7 B. That the citation is based on an affidavit;

8 2. The name and address of the person charged;

9 3. The nature of the infraction;

10 4. The location and time that the infraction occurred;

11 5. The amount of the infraction fine assessed;

12 6. The manner, location, and time in which the fine may be paid
13 to the municipality;

14 7. The person's right to elect to stand trial for the infraction;

15 and

16 8. The effect of failing to pay the assessed fine or demand a
17 trial within the prescribed time.

18 (iv) The enforcement officer shall retain a copy of the citation.

19 (4) (i) If a citation is served without a summons as provided in paragraph
20 (6) of this subsection, the person charged in the citation may elect to stand trial for the
21 infraction by notifying the municipality in writing of the person's intent to stand trial. The
22 written notice shall be given at least 5 days prior to the date of payment as set forth in the
23 citation.

24 (ii) Upon receipt of the written notice of the intent to stand trial, the
25 municipality shall forward to the District Court having venue a copy of the citation and
26 the written notice.

27 (iii) Upon receipt of the citation and the written notice, the District
28 Court shall schedule the case for trial and notify the defendant of the trial date.

29 (5) (i) If a person charged in a citation fails to pay the fine by the date of
30 payment set forth on the citation and fails to deliver to the municipality the written notice
31 of intent to stand trial, the person is liable for the assessed fine.

32 (ii) The municipality may double the fine to an amount not to exceed
33 \$1,000 and request adjudication of the case through the District Court, including the
34 filing of a demand for judgment on affidavit.

35 (iii) The District Court shall promptly schedule the case for trial and
36 summons the defendant to appear.

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1 (iv) The defendant's failure to respond to such summons shall result in
2 the entry of judgment against the defendant in favor of the municipality in the amount
3 then due if a proper demand for judgment on affidavit has been made.

4 (6) (i) 1. An enforcement officer may also serve a summons with a
5 citation that requires the person to appear in District Court on a specified date and time.

6 2. The summons shall specify that the person is not required to
7 appear in District Court if the fine is paid as provided in the citation.

8 3. If approved by the Chief Judge of the Maryland District
9 Court, the citation form may contain the summons.

10 4. The enforcement officer shall coordinate the selection of
11 court dates with the appropriate District Court officials.

12 (ii) If the defendant fails to pay the fine as provided in the citation and
13 fails to appear in District Court as provided in the summons:

14 1. The municipality may double the fine to an amount not to
15 exceed \$1,000; and

16 2. The Court may enter judgment against the defendant in the
17 amount then due if the proper demand for judgment on affidavit has been made.

18 (7) If any person shall be found by the District Court to have committed a
19 municipal infraction:

20 (i) 1. The District Court shall order the person to pay the fine,
21 including any doubling of the fine, not to exceed the limits under paragraph (2) of this
22 subsection;

23 2. The fines imposed shall constitute a judgment in favor of the
24 municipality; and

25 3. If the fine remains unpaid for 30 days following the date of
26 its entry, the judgment shall be enforceable in the same manner and to the same extent as
27 other civil judgments for money unless the Court has suspended or deferred the payment
28 of the fine as provided under subparagraph (ii) of this paragraph;

29 (ii) The District Court may suspend or defer the payment of any fine
30 under conditions that the Court sets;

31 (iii) The person shall be liable for the costs of the proceedings in the
32 District Court; and

33 (iv) The Court may order the person to abate the infraction or enter an
34 order permitting a municipality to abate any such infraction at the person's expense.

35 (8) (i) If a municipality abates an infraction pursuant to an order of the
36 District Court, the municipality shall present the defendant with a bill for the cost of
37 abatement by:

38 1. Regular mail to the defendant's last known address; or

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1 Article 25 - County Commissioners

2 10-I.

3 (a) The County Commissioners of St. Mary's County may regulate any public
4 road, street, avenue, lane, alley or bridge, sidewalk, curb, gutter, and storm drainage
5 facilities within St. Mary's County which is not within the corporate limits of any
6 incorporated city or town and which has not been designated or maintained as a part of
7 the State or federal highway system or any extension with respect to:

8 (1) The weight of vehicles;

9 (2) The parking of vehicles;

10 (3) The abandonment of vehicles;

11 (4) Use by private and public utilities in the construction and maintenance
12 necessitated by the performance of their purpose;

13 (5) The construction and maintenance of driveway connections where those
14 connections are provided;

15 (6) The speed of vehicles.

16 (b) The County Commissioners of St. Mary's County shall enact by ordinance
17 rules and regulations governing the grading, constructing, improving, maintaining, and
18 repairing of roads, now used by the public or intended for public use, including roads
19 proposed for subdivisions, whether now recorded or hereafter proposed, including
20 sidewalks, curbs and gutters, driveway entrances and storm drainage facilities and
21 appurtenances to be located within the subdivision.

22 (c) The County Commissioners of St. Mary's County shall provide appropriate
23 traffic control devices when mandated by the ordinance adopted pursuant to
24 SUBSECTION (A) OF THIS SECTION.

25 (d) The County Commissioners of St. Mary's County may regulate the
26 engineering, constructing, and accepting of any new public road, street, avenue, lane,
27 alley, bridge, sidewalk, curb, gutter, and storm drainage facilities into the county roads
28 system.

29 (e) In St. Mary's County, except as provided in subsection (f) of this section, any
30 violations of this subtitle shall be a misdemeanor punishable by a fine of not more than
31 \$1,000 or six months imprisonment for each and every violation, or both fine and
32 imprisonment, in the discretion of the judge. Every day that said violation continues shall
33 be a separate offense.

34 [(f) (1) The County Commissioners for St. Mary's County may provide a civil
35 penalty for any violations of this subtitle which shall be enforced as provided in this
36 subsection.

37 (2) A county employee with the duty of enforcing this subtitle may deliver a
38 citation to a person believed to be committing a violation thereof. A copy of the citation
39 shall be retained by the county employee and shall bear a certification attesting to the
40 truth of the matters set forth. The citation shall contain:

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- 1 (i) The name and address of the person charged;
- 2 (ii) The nature of the violation;
- 3 (iii) The place and time of the violation;
- 4 (iv) The amount of the fine assessed;
- 5 (v) The manner, location, and time in which the fine may be paid; and
- 6 (vi) The person's right to elect to stand trial for the violation.

7 (3) A preset fine, not to exceed \$500, may be imposed for each violation.
8 The County Commissioners may establish a schedule of fines for each violation and may
9 adopt procedures for collection of these fines.

10 (4) A person who receives a citation may elect to stand trial for the offense
11 by filing with the county employee a notice of intention to stand trial. The notice shall be
12 given at least 5 days before the date of payment as set forth in the citation. On receipt of
13 the notice of intention to stand trial, the county employee shall forward to the District
14 Court having venue a copy of the citation and the notice of intention to stand trial. On
15 receipt of the citation, the District Court shall schedule the case for trial and notify the
16 defendant of the trial date. All fines, penalties, or forfeitures collected by the District
17 Court for violations shall be remitted to St. Mary's County.]

18 (F) THE COUNTY COMMISSIONERS MAY PROVIDE FOR A CIVIL PENALTY FOR
19 VIOLATION OF ANY ORDINANCE, RULE, OR REGULATION ENACTED UNDER THIS
20 SECTION. IN A PROCEEDING BEFORE THE DISTRICT COURT, THE VIOLATION SHALL
21 BE ENFORCED IN THE SAME MANNER AND TO THE SAME EXTENT AS SET FORTH FOR
22 MUNICIPAL INFRACTIONS IN ARTICLE 23A, § 3(B) OF THE CODE.

23 (g) In addition to all other remedies provided by law, St. Mary's County shall have
24 the right of ex parte injunctive relief against a violator requiring correction or elimination
25 of any violation.

26 10J.

27 (a) The County Commissioners for St. Mary's County may:

28 (1) Adopt rules and regulations for erosion and siltation control
29 requirements to facilitate sedimentation control within the county; and

30 (2) Provide for the enforcement of this section and of any ordinance or
31 regulation made thereunder.

32 (b) A violation of any ordinance or regulation made under this section is a
33 misdemeanor, and the County Commissioners may provide for punishment by fine or
34 imprisonment or both.

35 [(c) The County Commissioners for St. Mary's County may provide a civil penalty
36 for sedimentation control violations which shall be enforced as provided in this section.

37 (d) A county employee with the duty of enforcing the sedimentation control
38 ordinance may deliver a citation to a person believed to be committing a violation thereof.

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1 A copy of the citation shall be retained by the county employee and shall include a
2 certification attesting to the truth of the matters set forth. The citation shall contain:

- 3 (1) The name and address of the person charged;
- 4 (2) The nature of the violation;
- 5 (3) The place and time of the violation;
- 6 (4) The amount of the fine assessed;
- 7 (5) The manner, location, and time in which the fine may be paid; and
- 8 (6) The person's right to elect to stand trial for the violation.

9 (e) A preset fine, not to exceed \$500, may be imposed for each violation. The
10 County Commissioners may establish a schedule of fines for each violation and may adopt
11 procedures for collection of these fines.

12 (f) (1) A person who receives a citation may elect to stand trial for the offense
13 by filing with the county employee with the duty of enforcing the sedimentation control
14 ordinance a notice of intention to stand trial.

15 (2) The notice shall be given at least 5 days before the date of payment as
16 set forth in the citation.

17 (3) On receipt of the notice of intention to stand trial, the county employee
18 shall forward to the District Court having venue, a copy of the citation, and the notice of
19 intention to stand trial.

20 (4) On receipt of the citation, the District Court shall schedule the case for
21 trial and notify the defendant of the trial date.

22 (5) All fines, penalties, or forfeitures collected by the District Court for
23 sedimentation control violations shall be remitted to St. Mary's County.]

24 (C) THE COUNTY COMMISSIONERS MAY PROVIDE FOR A CIVIL PENALTY FOR
25 VIOLATION OF ANY ORDINANCE, RULE, OR REGULATION ENACTED UNDER THIS
26 SECTION. IN A PROCEEDING BEFORE THE DISTRICT COURT, THE VIOLATION SHALL
27 BE ENFORCED IN THE SAME MANNER AND TO THE SAME EXTENT AS SET FORTH FOR
28 MUNICIPAL INFRACTIONS IN ARTICLE 23A, § 3(B) OF THE CODE.

29 [(g)] (D) In addition to all other remedies provided by this section, St. Mary's
30 County has the right of ex parte injunctive relief against a violator requiring correction or
31 elimination of any violation.

32 10J-1.

33 EXCEPT AS PROVIDED IN §§ 10-I(F) AND 10J(C) OF THIS ARTICLE, ARTICLE 66B,
34 §§ 5.05(D) AND 7.01(C) OF THE CODE, AND NOTWITHSTANDING ANY OTHER
35 PROVISION OF LAW TO THE CONTRARY, IN ST. MARY'S COUNTY, THE COUNTY
36 COMMISSIONERS MAY PROVIDE THAT:

37 (1) VIOLATIONS OF COUNTY ORDINANCES AND RESOLUTIONS SHALL
38 BE PUNISHABLE AS MISDEMEANORS AND ENFORCED IN THE SAME MANNER AND TO

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1 THE SAME EXTENT AS MUNICIPAL VIOLATIONS UNDER ARTICLE 23A, § 3(A) OF THE
2 CODE; AND

3 (2) VIOLATIONS OF COUNTY ORDINANCES SHALL BE PROSECUTED IN
4 THE SAME MANNER AND TO THE SAME EXTENT AS SET FORTH FOR MUNICIPAL
5 INFRACTIONS IN ARTICLE 23A, § 3(B) OF THE CODE.

6 **Article 66B - Zoning and Planning**

7 5.05.

8 (a) Except as provided in subsections (b) [and (c)] THROUGH (D) of this section,
9 whoever, being the owner or agent of the owner of any land located within a subdivision
10 transfers or sells or agrees to sell or negotiate to sell any land by reference to or
11 exhibition of or by other use of a plat of a subdivision, before the plat has been approved
12 by the planning commission and recorded or filed in the office of the appropriate county
13 clerk, shall forfeit and pay a civil penalty of not less than \$200 and not more than \$1,000
14 in the discretion of the court, for each lot or parcel so transferred or sold or agreed or
15 negotiated to be sold; and the description of the lot or parcel by metes and bounds in the
16 instrument of transfer or other document used in the process of selling or transfer or
17 other document used in the process of selling or transferring shall not exempt the
18 transaction from the penalties or from the remedies herein provided. The county or
19 municipal corporation may enjoin the transfer or sale or agreement by action for
20 injunction brought in any court of equity jurisdiction or may recover the penalty by civil
21 action in any court of competent jurisdiction.

22 (b) In Charles and St. Mary's Counties this section does not apply to the sale or
23 negotiation for sale of industrial property.

24 (c) In Frederick and Carroll Counties, this section does not apply to the contract
25 for sale or negotiation for sale of property zoned industrial, commercial, or both
26 industrial and commercial, if a plat is approved and recorded in accordance with this
27 article prior to the transfer of land.

28 (D) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (A) OF THIS
29 SECTION, IN ST. MARY'S COUNTY THE COUNTY COMMISSIONERS MAY PROVIDE A
30 CIVIL PENALTY FOR A SUBDIVISION VIOLATION. IN A PROCEEDING BEFORE THE
31 DISTRICT COURT, THE SUBDIVISION VIOLATION SHALL BE ENFORCED IN THE SAME
32 MANNER AND TO THE SAME EXTENT AS SET FORTH FOR MUNICIPAL INFRACTIONS
33 IN ARTICLE 23A, § 3(B) OF THE CODE.

34 7.01.

35 (a) (1) The local legislative body may provide by ordinance for the enforcement
36 of this article and of any ordinance or regulation made thereunder. A violation of this
37 article or of such ordinance or regulation is a misdemeanor, and such local legislative
38 body may provide for punishment by fine or imprisonment or both. It is also empowered
39 to provide civil penalties for such violation.

40 (2) In addition to the jurisdiction as defined in subsection (c) of this section,
41 the legislative body of Baltimore County may provide by ordinance for an administrative

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1 proceeding to enforce its zoning regulations, including the imposition of civil fines and
2 penalties for zoning violations.

3 (b) In case any building or structure is erected, constructed, reconstructed,
4 altered, repaired, converted, or maintained, or any building, structure, sign, or land is
5 used in violation of this article or of any ordinance or other regulations made under
6 authority conferred hereby, the proper local authorities of the jurisdiction in addition to
7 other remedies, may institute any appropriate action or proceeding to prevent the
8 unlawful erection, construction, reconstruction, alteration, repair, conversion,
9 maintenance, or use, to restrain, correct, or abate the violation, to prevent the occupancy
10 of the building, structure, or land, or to prevent any illegal act, conduct, business, or use
11 in or about the premises. However, despite any provisions of this section, the proper local
12 authorities may not institute any action or proceeding to abate a transfer which has been
13 completed or to prevent the occupancy of a building, structure, or land involved in the
14 transfer as a result of a violation of § 5.05 or § 5.06 of this article. Further provided, that
15 any property subdivided in violation of §§ 5.05 and 5.06 of this article shall remain subject
16 to the adopted subdivision regulations.

17 (c) (1) In this subsection, the following words have the meanings indicated.

18 (i) "Commission" means the planning and zoning commission or
19 similar body of the county.

20 (ii) "Local legislative body" means:

21 1. The elected body of a county, whether known as county
22 commissioners, or county council; and

23 2. The Mayor and City Council of Baltimore.

24 (iii) "Zoning official" means a county employee with the duty of
25 enforcing the zoning ordinance.

26 (2) The local legislative body may provide a civil penalty for a zoning
27 violation, which shall be enforced as provided in this subsection.

28 (3) The zoning official may deliver a citation to a person believed to be
29 committing a civil zoning violation. A copy of the citation shall be retained by the zoning
30 official and shall bear a certification attesting to the truth of the matters set forth. The
31 citation shall contain:

32 (i) The name and address of the person charged;

33 (ii) The nature of the violation;

34 (iii) The place where and time that the violation occurred;

35 (iv) The amount of the fine assessed;

36 (v) The manner, location, and time in which the fine may be paid; and

37 (vi) The person's right to elect to stand trial for the violation.

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1 (4) A preset fine, not to exceed \$500, may be imposed for each violation.
2 The local legislative body may establish a schedule of fines for each violation and may
3 adopt procedures for collection of these fines.

4 (5) A person who receives a citation may elect to stand trial for the offense
5 by filing with the zoning official a notice of intention to stand trial. The notice shall be
6 given at least 5 days before the date of payment as set forth in the citation. On receipt of
7 the notice of intention to stand trial, the zoning official shall forward to the District Court
8 having venue, a copy of the citation and the notice of intention to stand trial. On receipt
9 of the citation, the District Court shall schedule the case for trial and notify the defendant
10 of the trial date. All fines, penalties, or forfeitures collected by the District Court for
11 zoning violations shall be remitted to the county in which the zoning violation occurred.

12 (6) If a person who receives a citation for a violation fails to pay the fine by
13 the date of payment set forth on the citation and fails to file a notice of intention to stand
14 trial, a formal notice of the violation shall be sent to the owner's last known address. If
15 the citation is not satisfied within 15 days from the date of the notice, the person is liable
16 for an additional fine not to exceed twice the original fine. If, after 35 days, the citation
17 is not satisfied, the zoning official may request adjudication of the case through the
18 District Court. The District Court shall schedule the case for trial and summon the
19 defendant to appear.

20 (7) Adjudication of a violation under this subsection is not a criminal
21 conviction, nor does it impose any of the civil disabilities ordinarily imposed by a criminal
22 conviction.

23 (8) In a proceeding before the District Court, the violation shall be
24 prosecuted in the same manner and to the same extent as set forth for municipal
25 infractions in Article 23A, § 3(b)(8) through (15) of the Code. The governing body of any
26 county may authorize the county attorney to prosecute a civil zoning violation.

27 (9) If a person is found by the District Court to have committed a civil
28 zoning violation, he shall be liable for the costs of the proceedings in the District Court.

29 (D) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (C) OF THIS
30 SECTION, IN ST. MARY'S COUNTY THE COUNTY COMMISSIONERS MAY PROVIDE A
31 CIVIL PENALTY FOR A ZONING VIOLATION. IN A PROCEEDING BEFORE THE
32 DISTRICT COURT, THE ZONING VIOLATION SHALL BE ENFORCED IN THE SAME
33 MANNER AND TO THE SAME EXTENT AS SET FORTH FOR MUNICIPAL INFRACTIONS
34 IN ARTICLE 23A, § 3(B) OF THE CODE.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed
36 only prospectively and may not be applied or interpreted to have any effect on or
37 application to any violation of a St. Mary's County ordinance occurring before the
38 effective date of this Act.

39 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
40 October 1, 1997.

