

COUNTY COUNCIL
OF
DORCHESTER COUNTY, MARYLAND

2003 Legislative Session,

Legislative Day No. August 26, 2003

Introduced By: County Council

Bill No. 2003- 13

AN ACT OF THE COUNTY COUNCIL OF DORCHESTER COUNTY ADDING NEW CHAPTER 147 ENTITLED "VIOLATIONS OF ORDINANCES – COUNTY INFRACTIONS AND MISDEMEANORS" TO THE DORCHESTER COUNTY CODE, AUTHORIZING THE COUNTY COUNCIL OF DORCHESTER COUNTY TO ENFORCE ORDINANCES AS COUNTY INFRACTIONS IN THE DISTRICT COURT; AUTHORIZING THE PROSECUTION OF CERTAIN VIOLATIONS OF ORDINANCES OF DORCHESTER COUNTY AS MIDEMEANORS IN THE DISTRICT COURT; PROVIDING THAT FINES IMPOSED BY THE DISTRICT COURT FOR CERTAIN COUNTY INFRACTIONS CONSITUTE A JUDGMENT FOR THE COUNTY; ESTABLISHING THAT IF A FINE REMAINS UNPAID FOR A CERTAIN PERIOD OF TIME THE JUDGMENT SHALL BE ENFORCEABLE IN THE SAME MANNER AND EXTENT AS OTHER CIVIL JUDGMENTS; SPECIFYING THE PROCEDURES FOR THE SERVICE OF A CITATION FOR A COUNTY INFRACTION; PERMITTING A COURT SUMMONS TO BE SERVED WITH A CITATION FOR A COUNTY INFRACTION UNDER CERTAIN CIRCUMSTANCES; ESTABLISHING A PROCEDURE FOR THE COUNTY TO COLLECT COSTS FOR THE ABATEMENT OF A COUNTY INFRACTION UNDER CERTAIN CIRCUMSTANCES; REQUIRING CERTAIN INFORMATION TO BE CONTAINED IN CERTAIN CITATIONS; AUTHORIZING THE COUNTY TO DESIGNATE AN ATTORNEY TO PROSECUTE COUNTY INFRACTIONS; PROVIDING FOR A CERTAIN STANDARD OF PROOF TO BE IN A PROCEEDING FOR A COUNTY INFRACTION; PROVIDING FOR THE APPLICATION OF THIS ACT; AND GENERALLY RELATING TO THE PROSECUTION OF VIOLATIONS OF ORDINANCES IN DORCHESTER COUNTY.

Introduced, read first time, ordered posted on official bulletin board of County, County Office Building, 501 Court Lane, Cambridge, Maryland 21613.

Ordered publication for once a week for two successive weeks, and public hearing scheduled on Tuesday, September 9th, 2003 in Room 110, County Office Building, 501 Court Lane, Cambridge, Maryland at 6:20 p.m.

By order:


Jane Baynard, County Manager

AN ACT OF THE COUNTY COUNCIL OF DORCHESTER COUNTY ADDING NEW CHAPTER 147 ENTITLED "VIOLATIONS OF ORDINANCES – COUNTY INFRACTIONS AND MISDEMEANORS" TO THE DORCHESTER COUNTY CODE, AUTHORIZING THE COUNTY COUNCIL OF DORCHESTER COUNTY TO ENFORCE ORDINANCES AS COUNTY INFRACTIONS IN THE DISTRICT COURT; AUTHORIZING THE PROSECUTION OF CERTAIN VIOLATIONS OF ORDINANCES OF DORCHESTER COUNTY AS MIDEMEANORS IN THE DISTRICT COURT; RPROVIDING THAT FINES IMPOSED BY THE DISTRICT COURT FOR CERTAIN COUNTY INFRACTIONS CONSITUTE A JUDGMENT FOR THE COUNTY; ESTABLISHING THAT IF A FINE REMAINS UNPAID FOR A CERTAIN PERIOD OF TIME THE JUDGMENT SHALL BE ENFORCEABLE IN THE SAME MANNER AND EXTENT AS OTHER CIVIL JUDGMENTS; SPECIFYING THE PROCEDURES FOR THE SERVICE OF A CITATION FOR A COUNTY INFRACTION; PERMITTING A COURT SUMMONS TO BE SERVED WITH A CITATION FOR A COUNTY INFRACTION UNDER CERTAIN CIRCUMSTANCES; ESTABLISHING A PROCEDURE FOR THE COUNTY TO COLLECT COSTS FOR THE ABATEMENT OF A COUNTY INFRACTION UNDER CERTAIN CIRCUMSTANCES; REQUIRING CERTAIN INFORMATION TO BE CONTAINED IN CERTAIN CITATIONS; AUTHORIZING THE COUNTY TO DESIGNATE AN ATTORNEY TO PROSECUTE COUNTY INFRACTIONS; PROVIDING FOR A CERTAIN STANDARD OF PROOF TO BE IN A PROCEEDING FOR A COUNTY INFRACTION; PROVIDING FOR THE APPLICATION OF THIS ACT; AND GENERALLY RELATING TO THE PROSECUTION OF VIOLATIONS OF ORDINANCES IN DORCHESTER COUNTY.

SECTION ONE: Acting under Article 25A, Section 5A and Section 5(s) of the Annotated Code of Maryland, (the "Acts") be it ENACTED and ORDAINED by the County Council of Dorchester County, Maryland that new Chapter 147 entitled "Violations of Ordinances – County Infractions and Misdemeanors" be added to the Dorchester County Code to read as follows:

CHAPTER 147

VIOLATIONS OF ORDINANCES – COUNTY INFRACTIONS AND MISDEMEANORS

§ 147-1. Misdemeanors.

The County Council of Dorchester County may provide that violations of ordinances authorized to be adopted or enacted by Dorchester County shall be punishable as misdemeanors, but no penalty shall exceed a fine of \$1,000 and imprisonment for six (6) months. Imprisonment in default of fine and costs shall be regulated by the provisions of Article 38, § 4 of the Annotated Code of Maryland.

§ 147-2. County Infractions.

The County Council of Dorchester County may provide that a violation of any County ordinance is a County infraction unless the violation is declared to be a felony or a misdemeanor by State law.

§ 147-3. Civil offense.

For purposes of this Chapter a County infraction is a civil offense.

§ 147-4. Civil fine.

- A. A fine not to exceed \$1,000 may be imposed for each County infraction.
- B. The fine is payable to the County by the person charged in the citation within twenty (20) calendar days of service of the citation.

§ 147-5. Procedure – Enforcement of County Infraction.

- A. Those officials authorized by Dorchester County to act as enforcement officers may serve a citation on any person:
1. who they believe is committing or has committed a county infraction; or
 2. on the basis of an affidavit submitted to an appropriate official of the county, to be named by the county, citing the facts of the alleged infraction.
- II. The citation shall be served on the defendant:
1. in accordance with Maryland Rule 3-121; or
 2. for real property related violations, if proof is made by affidavit that good faith efforts to serve the defendant under Maryland Rule 3-121(A) have not succeeded, by:
 - (a) regular mail to the defendant's last known address; and
 - (b) posting of the citation at the property where the infraction has occurred or is occurring, and, if located within Dorchester County, at the residence or place of business of the defendant.

§ 147-5. Contents of the Citation – Service – Fines – Trial

The citation shall contain:

- A. The enforcement officer's certification:
1. attesting to the truth of the matter set forth in the citation; or
 2. that the citation is based on an affidavit;
 3. the name and address of the person charged;
 4. the nature of the infraction;
 5. the location and time that the infraction occurred;
 6. the amount of the infraction fine assessed;
 7. the manner, location, and time in which the fine may be paid to the county;
 8. the person's right to elect to stand trial for the infraction; and
 9. the effect of failing to pay the assessed fine or demand a trial within the prescribed time.
- B. The enforcement officer shall retain a copy of the citation.
- C.
- I. If a citation is served without a summons as provided in paragraph (7), the person charged in the citation may elect to stand trial for the infraction by notifying the County in writing of the person's intent to stand trial.
 - II. The written notice shall be given at least five (5) days prior to the date of payment as set forth in the citation.
 - III. Upon receipt of the written notice of the intent to stand trial, the County shall forward to the District Court having venue a copy of the citation and the written notice.
 - IV. Upon receipt of the citation and the written notice, the District Court shall schedule the case for trial and notify the defendant of the trial date.
- D.
- I. If a person charged in a citation fails to pay the fine by the date of payment set forth on the citation and fails to deliver to the County the written notice of intent to stand trial, the person is liable for the assessed fine.

- II. The County may double the fine to an amount not to exceed \$1,000 and request adjudication of the case through the District Court, including the filing of a demand for judgment on affidavit.
 - III. The District Court shall promptly schedule the case for trial and summons the defendant to appear.
 - IV. The defendant's failure to respond to such summons shall result in the entry of judgment against the defendant in favor of the County in the amount then due if a proper demand for judgment on affidavit has been made.
- E.
- 1. An enforcement officer may also serve a summons with a citation that requires the person to appear in District Court on a specified date and time to be set by the Court.
 - 2. The summons shall specify that the person is not required to appear in District Court if the fine is paid as provided in the citation.
 - 3. If approved by the Chief Judge of the Maryland District Court, the citation form may contain the summons.
 - 4. The enforcement officer shall coordinate the selection of court dates with the appropriate District Court officials.
- II.
- If the defendant fails to pay the fine as provided in the citation and fails to appear in District Court as provided in the summons:
 - 1. The County may double the fine to an amount not to exceed \$1,000; and
 - 2. The court may enter judgment against the defendant in the amount then due if the proper demand for judgment of affidavit has been made.
- F. If any person is found by the District Court to have committed a county infraction:
- I.
 - 1. The District Court shall order the person to pay the fine, including any doubling of the fine, not to exceed the limits under paragraph (2) of this subsection;
 - 2. The fines imposed shall constitute a judgment in favor of the County; and
 - 3. If the fine remains unpaid for 30 days following the date of its entry, the judgment shall be 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 (II) of this paragraph;
 - II. The District Court may suspend or defer the payment of any fine under conditions that the court sets;
 - III. The person shall be liable for the costs of the proceedings in the District Court; and
 - IV. The court may order the person to abate the infraction or enter an order permitting the County to abate the infraction at the person's expense.
- G. I. If the County abates an infraction in accordance with an order of the District Court, the County shall present the defendant with a bill for the cost of abatement by:
- 1. Regular mail to the defendant's last known address; or
 - 2. Any other means that are reasonably calculated to bring the bill to the defendant's attention.

- II. If the defendant does not pay the bill within 30 days after presentment, upon a motion of the County, the District Court shall enter a judgment against the defendant for the cost of the abatement.
- H. All fines, penalties, or forfeitures collected by the District Court for a County infraction shall be remitted to the County.
- I. If a defendant fails to pay any fine or cost imposed by the District Court without good cause, the District Court may punish the failure as contempt of court.
- J. Adjudication of a County infraction, as defined in paragraph (1) of this subsection, is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.
- K. In any proceeding for a County infraction:
 - I. It shall be the burden of the County to prove that the defendant has committed the infraction by clear and convincing evidence, and in any such proceeding, the District Court shall apply the evidentiary standards as prescribed by law or rule for the trial of civil causes;
 - II. The District Court shall ensure that the defendant has received a copy of the charges against the defendant and that the defendant understands those charges;
 - III. The defendant shall be entitled to cross-examine all witnesses who appear against the defendant, to produce evidence or witnesses in the defendant's own behalf, or to testify in the defendant's own behalf, if the defendant elects to do so;
 - IV. The defendant shall be entitled to be represented by counsel of the defendant's own selection and at the defendant's own expense; and
 - V. The defendant may enter a plea of guilty or not guilty of the infraction as charged, and the verdict of the District Court shall be guilty of a county infraction or not guilty of a county infraction, or the District Court may, before rendering judgment, place the defendant on probation.
- L.
 - I. The court costs in a county infraction proceeding in which costs are imposed are five dollars (\$5).
 - II. A defendant may not be liable for payment to the criminal injuries compensation fund.
- M. The State's Attorney of Dorchester County is authorized to prosecute a county infraction and is authorized to enter a Nolle Prosequi in such cases or to place such cases on the stet docket.
- N. Notwithstanding the provisions of paragraph M. of this subsection, Dorchester County may designate an attorney to prosecute any county infraction in the same manner as the State's Attorney of Dorchester County.

SECTION TWO: AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any violation of a Dorchester County ordinance occurring before the effective date of this Act.

SECTION THREE: AND BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF DORCHESTER COUNTY that General Code Publishers is directed to codify new Chapter 147, "Violations of Ordinances – County Infraction and Misdemeanors", in the Dorchester County Code accordingly.

SECTION FOUR: BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF DORCHESTER COUNTY that this Bill shall be known as Bill Number 2003- 13 of Dorchester County, Maryland and shall take effect sixty (60) days after its final passage.

PASSED this 9th day of September, 2003.

ATTEST:

COUNTY COUNCIL OF DORCHESTER COUNTY

BY: Jane Baynard
Jane Baynard, County Manager

Effie M. Elzey
Effie M. Elzey, President

APPROVED this 9th day of September, 2003.

ATTEST:

COUNTY COUNCIL OF DORCHESTER COUNTY

BY: Jane Baynard
Jane Baynard, County Manager

Effie M. Elzey
Effie M. Elzey, President

Flowers aye
Elzey aye
Bramble aye
Yockey aye
Nichols aye

FILED
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