

**COUNTY COUNCIL**  
**OF**  
**TALBOT COUNTY, MARYLAND**

2007 Legislative Session, Legislative Day No. : October 9, 2007

Bill No.: 1108

Expiration Date: December 13, 2007

Introduced by: Mr. Bartlett, Mr. Duncan, and Mr. Foster

**A BILL TO CREATE UNIFIED CODE ENFORCEMENT PROCEDURES APPLICABLE TO THE TALBOT COUNTY CODE, WITH CERTAIN CHAPTERS EXCEPTED, INCLUDING PENALTIES FOR DAILY AND CONTINUING VIOLATIONS, TO DESCRIBE PERSONS RESPONSIBLE FOR VIOLATIONS, TO PROVIDE FOR CIVIL PENALTIES, CIVIL INFRACTIONS, ADMINISTRATIVE ABATEMENT ORDERS, INJUNCTIVE RELIEF, AND NON-ISSUANCE, NON-RENEWAL, SUSPENSION OR REVOCATION OF PERMITS, TO MAKE ALL REMEDIES CUMULATIVE, TO PROVIDE FOR RECOUPMENT OF ENFORCEMENT COSTS, TO PROVIDE FOR APPEALS TO THE TALBOT COUNTY BOARD OF APPEALS, AND TO AMEND CHAPTER 10, ENTITLED "ALARMS" § 10-6 "INSPECTIONS AND ENFORCEMENT, VIOLATIONS AND PENALTIES" OF THE TALBOT COUNTY CODE, TO GRANT THE CHIEF CODE COMPLIANCE OFFICER AUTHORITY TO ENFORCE SAID CHAPTER, AND GENERALLY RELATING TO ENFORCEMENT PROCEDURES UNDER THE TALBOT COUNTY CODE**

By the Council: October 9, 2007

Introduced, read first time, ordered posted, and public hearing scheduled on Tuesday, November 13, 2007 at 2:00 p.m. at the County Council Meeting Room, Talbot County Court House, South Wing, 11 North Washington Street, Easton, Maryland 21601.

By Order \_\_\_\_\_  
Susan W. Moran, Secretary

**A BILL TO CREATE UNIFIED CODE ENFORCEMENT PROCEDURES APPLICABLE TO THE TALBOT COUNTY CODE, WITH CERTAIN CHAPTERS EXCEPTED, INCLUDING PENALTIES FOR DAILY AND CONTINUING VIOLATIONS, TO DESCRIBE PERSONS RESPONSIBLE FOR VIOLATIONS, TO PROVIDE FOR CIVIL PENALTIES, CIVIL INFRACTIONS, ADMINISTRATIVE ABATEMENT ORDERS, INJUNCTIVE RELIEF, AND NON-ISSUANCE, NON-RENEWAL, SUSPENSION OR REVOCATION OF PERMITS, TO MAKE ALL REMEDIES CUMULATIVE, TO PROVIDE FOR RECOUPMENT OF ENFORCEMENT COSTS, TO PROVIDE FOR APPEALS TO THE TALBOT COUNTY BOARD OF APPEALS, AND TO AMEND CHAPTER 10, ENTITLED “ALARMS” § 10-6 “INSPECTIONS AND ENFORCEMENT, VIOLATIONS AND PENALTIES” OF THE TALBOT COUNTY CODE, TO GRANT THE CHIEF CODE COMPLIANCE OFFICER AUTHORITY TO ENFORCE SAID CHAPTER, AND GENERALLY RELATING TO ENFORCEMENT PROCEDURES UNDER THE TALBOT COUNTY CODE**

SECTION ONE: BE IT ENACTED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND, that Chapter 58 of the Talbot County Code entitled "CODE COMPLIANCE; VIOLATIONS AND PENALTIES," shall be and is hereby adopted as set forth herein.

**CHAPTER 58. CODE COMPLIANCE; VIOLATIONS AND PENALTIES.**

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<p><b>CHAPTER 58. CODE COMPLIANCE; VIOLATIONS AND PENALTIES</b></p>
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**§ 58-1. Applicability.**

The provisions of this Chapter apply to every Chapter, Article, and Section of this Code except Chapter 8 (Airport); Chapter 11, (Alcoholic Beverages); Chapter 15 (Animals); Chapter 102 (Parks and Recreation); Chapter 121, (Public Landings); and Chapter 159 (Smoking and Tobacco Products).

**§ 58-2. Code compliance.**

Subject to the approval of the County Council, the County Manager shall appoint a Chief Code Compliance Officer. The Chief Code Compliance Officer shall enforce, and supervise and delegate enforcement of this Code through subordinate Code Compliance Officers.

**§ 58-3. Violations.**

No person shall violate any provision of this Code. Each violation that occurs and each calendar day that a violation continues shall be a separate offense. Any person who violates any provision of this Code shall be subject to separate fines, orders, sanctions, and civil penalties for each offense.

**§ 58-4. Responsible persons.**

The following persons may each be held jointly or severally responsible for a violation: (1) persons who apply for or obtain any permit or approval, (2) contractors, (3) subcontractors, (4) property owners, (5) managing agents, or, (5) any other person who has committed, assisted, or participated in the violation.

**§ 58-5. Civil Penalties.**

A. General.

Subject to the limitation set forth in Paragraph B, below, each offense shall be punishable by a civil penalty of up to \$1,000 per calendar day. The amount of a civil penalty shall be administratively imposed by the Chief Code Compliance Officer pursuant to Art. 24, § 14-101, Md. Ann. Code. Before imposing any civil penalty, the person(s) believed to have violated this Code shall receive: (1) written notice of the alleged violation(s) including which, if any, are continuing violations, and, (2) an opportunity to be heard. The amount of the civil penalty for each violation, including each continuing violation, shall be determined separately. For each continuing violation, the amount of the civil penalty shall be determined per day. In accordance with Art. 24, § 14-101, Md. Ann. Code, to set the amount of any civil penalty the Chief Code Compliance Officer shall consider:

- (1) The severity of the violation for which the penalty is to be assessed;
- (2) The presence or absence of good faith of the violator;
- (3) Any history of prior violations.

B. Specific amounts.

When a section of this Code other than Paragraph A., above, establishes a different amount or maximum limit for any violation, the amount or limit so established shall control and the civil penalty imposed pursuant to Paragraph A., above, shall not exceed such amount or limit.

C. Continuing violations.

Civil penalties for continuing violations shall accrue for each violation, every day each violation continues, with no requirement for additional assessments, notice, or hearings. The

total amount payable for continuing violations shall be the amount assessed per day for each violation multiplied by the number of days that each violation has continued.

D. Notice of compliance and inspections.

The person(s) responsible for any continuing violation shall promptly provide the Chief Code Compliance Officer written notice of the date(s) the violation has been or will be brought into compliance and the date(s) for the County inspection to verify compliance. Civil penalties for continuing violations continue to accrue under Paragraph B above until the County receives such written notice and verifies compliance by inspection or otherwise.

E. Other damages.

Assessment and payment of civil penalties shall be in addition to and not in substitution for recovery by the County of all damages, costs, and other expenses caused by the violation, including the cost to correct any violation or repair, restore, or replace any County property.

F. Other permits and approvals.

Payment of all civil penalties assessed shall be a condition precedent to the issuance of any permit or other approval required by this Code.

**§ 58-6. Civil infractions.**

In addition to other remedies, violations of this Code may be prosecuted as municipal infractions. In that event, all penalties, procedures for enforcement and other provisions concerning enforcement, violations and penalties shall be as specified by Article 23A § 3 (b), Md. Ann. Code, as amended from time to time. All references to “municipal,” “municipality” or other such terms in Article 23A § 3 (b), shall refer to Talbot County, Maryland, and all references to “enforcement officer(s)” shall refer to the Chief Code Compliance Officer and his subordinates.

**§ 58-7. Administrative abatement orders.**

A. Issuance.

The Chief Code Compliance Officer may issue an administrative abatement order to any person to perform any act or thing required by this Code. The administrative abatement may order such person:

- (1) To correct, discontinue or abate any violation.
- (2) To cease any activity being performed in violation of this Code.
- (3) To apply for any permit, approval, special exception, or variance required by this Code.
- (4) To remove any construction materials, equipment, and any structures or other construction work built or erected in violation of this Code.

- (5) To restore any property to its condition as it existed before any violation of this Code.
- (6) To perform any condition or obligation required by this Code or by any permit, approval, special exception, variance, license, contract, deed, or other instrument required or executed pursuant to this Code.

B. Service.

Administrative abatement orders shall be sent to the alleged violator by certified mail, return receipt requested, and simultaneously by first-class mail, postage prepaid, bearing a return address. Service shall be effective upon mailing. In addition, any other method of service reasonably calculated to provide actual notice, and any method that does provide actual notice, shall be sufficient, including service by personal delivery to a responsible person at any construction site or posting the order in a conspicuous place on any structure, sign, land, or equipment.

C. Contents.

An administrative abatement order shall include:

- (1) A description of each violation, including the applicable County ordinance, regulation, or other requirement allegedly violated;
- (2) The time within which any required action is to occur, taking into account the specific action required to comply with the order and any existing or intervening harm or threat to the public health, safety, and welfare. Except for emergencies, which can require compliance as soon as 24 hours or otherwise less than 30 days, there is a rebuttable presumption that request for compliance within 30 days from the date of the order is reasonable.
- (3) Notice of the right to appeal the order to the Board of Appeals and the period within which any such appeal must be filed.

**§ 58-8. Cumulative remedies.**

The remedies available to the County under this Chapter are cumulative and not alternative or exclusive, and the decision to pursue one remedy does not preclude pursuit of others.

**§ 58-9. Injunctive relief.**

A. General.

The County may institute injunctive or other appropriate actions or proceedings to bring about the discontinuance of any violation of this Code, administrative order, permit, decision or other imposed condition. The pendency of an appeal to the Board of Appeals or subsequent judicial review shall not prevent the County from seeking injunctive relief to

enforce an administrative order, permit, decision or other imposed condition, or to restrain a violation pending the outcome of the appeal or judicial review.

B. Civil fines.

In an action for injunctive relief to enforce an administrative order, the court may also impose a civil fine of up to \$500 for each day that the administrative order was violated, but not exceeding \$10,000, after considering:

- (1) The willfulness of the violation;
- (2) The harm to the environment or the community in which the violation occurred; and
- (3) The cost to the County of enforcing the administrative order.

**§ 58-10. Non-issuance, Non-renewal, suspension or revocation of permit.**

A. A Department Head may decline to issue or renew, or may suspend or revoke any permit or license issued under the authority of, or required by this Code on the following grounds:

- (1) False, misleading, inaccurate, incomplete, or incorrect information given on any application; or
- (2) Serious or repeated violations of this Code, or any terms, conditions or restrictions in the permit or license itself.

B. The Department Head shall give written notice and opportunity to be heard before any non-issuance, non-renewal, suspension or revocation and shall render a written decision on the matter, which shall be considered an administrative order and may be appealed to the Board of Appeals.

**§ 58-11. Enforcement costs.**

In any action or proceeding in which the County substantially prevails, the County may recover all costs incurred to enforce the terms of this Code, including counsel fees and litigation expenses.

**§ 58-12. Appeals.**

A. Appeals.

An appeal to the Talbot County Board of Appeals (the "Board") may be filed by any person aggrieved by, any order, requirement, decision or determination by the Chief Code Compliance Officer or Department Head in connection with the administration and enforcement of this Chapter.

- (1) An appeal is taken by filing with the Board of Appeals a written notice of appeal in accordance with Chapter 20, "Board of Appeals" and in accordance with the Board of Appeals Rules of Procedure, accompanied by the appropriate filing fee. Appeals shall be made on forms obtained from the Board of Appeals Secretary. A notice of appeal shall be considered filed with the Board of Appeals when delivered to the Board. The date and time of filing shall be entered on the appeal by the Board of Appeals staff.
- (2) An appeal must be filed within 30 days after the date of the decision or order being appealed.
- (3) An appeal stays all actions by the Chief Code Compliance Officer seeking enforcement or compliance with the order or decision being appealed, unless the Chief Code Compliance Officer certifies to the Board of Appeals that (because of facts stated in the certificate) in his/her opinion, such stay will cause imminent peril to life or property. In such a case, action by the Chief Code Compliance Officer shall not be stayed except by order of the Board of Appeals or a Court upon application of the party seeking the stay.

SECTION TWO: BE IT ENACTED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND, that Chapter 10, Article I of the Talbot County Code entitled "Fire Alarms" Section 10-6, shall be and is hereby amended as set forth herein:

**§ 10-6. Inspections and enforcement; violations and penalties.**

A. The Fire Marshal or his designees shall have the right to inspect any fire protection system on the premises where it is installed during reasonable hours. The Fire Marshal, any Deputy Fire Marshal, any certified law enforcement officer, and the Chief Code Compliance Officer and his designees appointed pursuant to Chapter 58, Talbot County Code, shall have the authority to enforce the provisions of this article.

B. Failure to comply with the provisions of this article shall be a municipal infraction, punishable by a fine not to exceed \$250. Any such municipal infraction shall be prosecuted in accordance with the procedures provided by Art. 23A, § 3, Annotated Code of Maryland (1999 Cum. Supp.), as amended.

C. In addition to any other remedy or penalty provided by law, this article may be enforced by the Chief Code Compliance Officer and his designees in accordance with the provisions of Chapter 58, Talbot County Code. Civil penalties imposed pursuant to Chapter 58 shall not exceed \$250 per violation.

SECTION THREE. Severability. The parts and sub-parts of this ordinance are intended to be severable. If any Court of competent jurisdiction should determine by a valid and final judgment that any part of this ordinance, or the application thereof to any person or circumstance, is unconstitutional, illegal, or void for any reason, then, notwithstanding that determination, the remaining provisions hereof and the application thereof to all other persons and circumstances shall remain in full force and effect.

SECTION FOUR: Effective Date. Be it further enacted, that this ordinance shall take effect sixty (60) days from the date of its passage.

**PUBLIC HEARING**

Having been posted and Notice of time and place of hearing and Title of Bill No. 1108 having been published, a public hearing was held on Tuesday, November 13, 2007 at 2:00 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

**BY THE COUNCIL**

Read the third time.

ENACTED: November 13, 2007

By Order \_\_\_\_\_  
Secretary

Duncan - Aye

Pack - Aye

Foster - Aye

Bartlett - Aye

Harrison - Aye