

Bill No. 22-09
Concerning: Enforcement of County
Laws - Notice of Violation - Appeals
Revised: 10-12-11 Draft No. 5
Introduced: May 5, 2009
Enacted: October 18, 2011
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN ACT to:

- (1) authorize an enforcement agency to issue a notice of violation to enforce certain County laws;
- (2) limit the jurisdiction of the Board of Appeals regarding certain enforcement actions taken by certain enforcement agencies;
- (3) clarify when certain appeals may be taken and remove the right to appeal certain orders and decisions;
- (4) make technical corrections and repeal obsolete provisions of law; and
- (5) generally amend County law regarding enforcement.

By amending

Montgomery County Code
Chapter 1. General Provisions
Section 1-18

Chapter 2. Administration
Sections 2-112 and 2-114

Chapter 2A, Administrative Procedures Act
Section 2A-11

Chapter 8. Buildings
Sections 8-22 and 8-23

Chapter 19. Erosion, Sediment Control and Storm Water Management
Sections 19-9 and 19-12

Chapter 22. Fire Safety Code
Sections 22-3, 22-14, 22-18, and 22-27
Chapter 48. Solid Waste

Sections 48-26, 48-27, and 48-28

Chapter 49. Streets and Roads
Section 49-9

By repealing

Montgomery County Code
Chapter 22. Fire Safety Code
Section 22-21

Chapter 58. Weeds
Section 58-6

| | |
|-------------------------------------|--|
| Boldface | <i>Heading or defined term.</i> |
| <u>Underlining</u> | <i>Added to existing law by original bill.</i> |
| [Single boldface brackets] | <i>Deleted from existing law by original bill.</i> |
| <u>Double underlining</u> | <i>Added by amendment.</i> |
| [[Double boldface brackets]] | <i>Deleted from existing law or the bill by amendment.</i> |
| * * * | <i>Existing law unaffected by bill.</i> |

The County Council for Montgomery County, Maryland approves the following Act:

27 notice of violation only if the violation presents a danger to
 28 public safety, health, or property.

29 (4) A person may not appeal to the Board of Appeals a decision by
 30 an enforcement officer to issue or decline to issue a notice of
 31 violation under this subsection.

32 (5) This subsection does not apply if another County law expressly
 33 allows an enforcement officer to issue a notice of violation or
 34 warning before a citation is issued.

35 **2-112. Jurisdiction.**

36 * * *

37 (c) The Board has the following appellate jurisdiction.

| | |
|--|---|
| The [board] Board must hear and decide each appeal taken under: | Those appeals involve: |
| * * * | |
| [Section 22-21 <u>Section 22-21</u> | Fire safety orders] <u>Fire safety licenses and permits</u> |
| * * * | |
| [Chapter 27A | Individual water supply and sewage disposal systems] |
| * * * | |
| Section 48-28 | [Removal of solid waste and weeds] <u>Permits and licensing</u> |
| [Section 49-16 | Removal of obstructions to vision along highways] |
| <u>Section 49-35</u> | <u>Permits for grading and construction</u> |

| | |
|----------------------|--|
| <u>Section 49-36</u> | <u>Permit conditions and procedures</u> |
| [Section 49-39A | Grading and construction of roads, sidewalks, and curbs] |
| | * * * |
| [Section 58-6 | Weed removal] |
| Chapter 59 | Special exceptions decided by Hearing Examiner |

* * *

38

39 **2-114. Appeals from decisions.**

40 [Any decision by the county board of appeals may, within thirty (30) days
 41 after the decision is rendered, be appealed by any person aggrieved by the decision of
 42 the board and a party to the proceeding before it, to the circuit court for the county
 43 which shall have power to affirm the decision of the board, or if such decision is not
 44 in accordance with law, to modify or reverse such decision, with or without
 45 remanding the case for rehearing as justice may require. Whenever any such appeal
 46 is taken a copy thereof shall be served on the board by the clerk of the court and the
 47 board shall promptly give notice of the appeal to all parties to the proceeding before
 48 it and shall, within the time limit prescribed by the Maryland Rules of Procedure, file
 49 with the court the originals or certified copies of all papers and evidence presented to
 50 the board in the proceeding before it, together with a copy of its opinion which shall
 51 include a statement of the facts found and the grounds for its decision. Any party to
 52 the proceeding in the circuit court aggrieved by the decision of the court may appeal
 53 from such decision to the court of appeals within thirty (30) days from the date
 54 thereof. The review proceedings provided by this section shall be exclusive.]

55 (a) If a party in a matter adjudicated by the Board of Appeals is aggrieved
 56 by a final decision of the Board in the matter, the party may seek
 57 judicial review of the decision in the Circuit Court under the applicable

58 Maryland Rules of Procedure governing judicial review of
59 administrative agency decisions. A party aggrieved by the decision of
60 the Circuit Court may appeal that decision to the Court of Special
61 Appeals.

62 (b) Unless the court reviewing the Board's decision orders a stay, the
63 decision remains in effect pending a final decision of the court.

64 **2A-11. Judicial review.**

65 [Any party aggrieved by a final decision in a case governed by this article,
66 whether such decision is affirmative or negative in form, may appeal said decision
67 to the circuit court for Montgomery County, Maryland, in accord with the
68 provisions of the Maryland Rules of Procedure governing administrative appeals.
69 Said court shall have the power to affirm, reverse or modify the decision or remand
70 the case for further proceedings as justice may require. The filing of such appeal
71 shall not stay the order of the hearing authority. Any party to the proceeding in the
72 circuit court may appeal from such decision to the appellate courts of Maryland
73 pursuant to applicable provisions of the Maryland Rules of Procedure.]

74 (a) A party aggrieved by a final decision in a case governed by this
75 Article may seek judicial review of the decision in the Circuit Court
76 under the applicable Maryland Rules of Procedure governing judicial
77 review of administrative agency decisions. A party aggrieved by the
78 decision of the Circuit Court may appeal that decision to the Court of
79 Special Appeals.

80 (b) Unless the court reviewing the decision of the hearing authority orders
81 a stay, the hearing authority's decision remains in effect pending a
82 final decision of the court.

83 **8-22. Violations.**

84 [(a) *Notice of violation.* The director shall serve a notice or order on the
85 person responsible for the erection, construction, alteration, extension,
86 repair, use or occupancy of a building or structure in violation of the
87 provisions of this chapter or any other applicable federal, state or local
88 law or regulation or in violation of a detail statement or a plan
89 approved thereunder or in violation of a permit or certificate issued
90 under the provisions of this chapter; and such order shall direct the
91 discontinuance of the illegal action or condition and the abatement of
92 the violation.]

93 [(b) *Prosecution of violation.* If the violation cited in the notice or order is
94 not abated within the period set forth in said notice or order, the
95 director may institute the appropriate proceeding at law or in equity to
96 restrain, correct or abate such violation or to require the removal or
97 termination of the unlawful use of the building or structure in
98 violation of the provisions of this chapter or of the order or direction
99 made pursuant thereto.]

100 [(c) *Violation penalties.* Any person who violates a provision of this
101 chapter or fails to comply with any of the requirements thereof or who
102 erects, constructs, alters or repairs a building or structure in violation
103 of an approved plan or who refuses, ignores or violates an order of the
104 director or a condition of permit or certificate issued under the
105 provisions of this chapter shall be subject to punishment for a class A
106 violation as set forth in section 1-19 of chapter 1 of the County Code.
107 Each day a violation continues to exist shall constitute a separate
108 offense.]

109 A person has committed a class A violation if the person violates any
110 provision of this Chapter or another applicable federal, state, or County law

111 regulating an aspect of building construction which the Department enforces,
 112 including:

- 113 (a) building, altering, or repairing a building or structure in violation of an
 114 approved plan; or
- 115 (b) violating an order of the Director or any condition of an approved plan,
 116 permit, or certificate issued under this Chapter.

117 **8-23 [Board of appeals] Appeals.**

118 (a) Any person aggrieved by the issuance, denial, renewal, amendment,
 119 suspension, or revocation of a permit, [or any other decision or order of
 120 the Department] or the issuance or revocation of a stop work order,
 121 under this Chapter may appeal to the County Board of Appeals within
 122 30 days after the permit is issued, denied, renewed, amended,
 123 suspended, or revoked [or the order or decision is issued] or the stop
 124 work order is issued or revoked. A person may not appeal any other
 125 order of the Department, [[including a decision to issue or rescind a stop
 126 work order]] and may not appeal an amendment of a permit if the
 127 amendment does not make a material change to the original permit. A
 128 person must not contest the validity of the original permit in an appeal
 129 of an amendment or a stop work order.

130 (b) After notice and hearing, the Board may affirm, remand, modify, or
 131 reverse the [order or decision] action of the Department.

132 (c) Any party may [[appeal]] seek judicial review of a decision of the Board
 133 [[to the Circuit Court]] under Section 2-114.

134 **19-9. Permit revocation or suspension; stop work order.**

135 * * *

136 (f) This Section [must not be interpreted as restricting] does not restrict the
 137 Department from proceeding directly with any available alternative

138 enforcement procedures under [section 19-19 of this chapter] Section
139 19-69.

140 * * *

141 **19-12. Inspections.**

142 * * *

143 (h) This Section does not restrict the Department from proceeding directly
144 with any available alternative enforcement procedure under Section 19-
145 69.

146 **22-3. Construction and scope of Chapter.**

147 * * *

148 (e) [Nothing in this chapter shall be construed as rendering] This Chapter
149 does not render any other applicable [laws] law or regulation invalid.
150 [In any situation where] If a conflict [exists] arises between [a provision
151 of] this [chapter] Chapter and another [code] law or regulation, the fire
152 marshal and [appropriate] the head of the agency responsible for
153 enforcing the conflicting [code shall determine in concert] law or
154 regulation must agree which [provisions shall apply] applies. [Conflicts
155 which are unreconcilable shall] If they cannot agree, any remaining
156 conflict must be referred to the [director of the department of fire and
157 rescue services] Fire Chief. The decision of the [director of fire and
158 rescue services] Fire Chief in any matter relating to fire safety [shall be]
159 is final], except that any person aggrieved by such decision shall have
160 the right to appeal to the county board of appeals in accordance with
161 chapter 2 of the County Code]. Within [thirty (30)] 30 days [following
162 the discovery of] after any [serious] remaining conflict has been
163 resolved, the [director] Fire Chief and the head of the agency
164 responsible for enforcing the conflicting [code shall] law or regulation

165 must forward to the [county executive] County Executive a joint
 166 [recommendations for the removal of] proposal to amend a law or
 167 regulation to eliminate the conflict [from the County Code or the
 168 regulations adopted pursuant thereto].

169 **22-14. [Standards adopted] National standards.**

170 [The following codes, standards and model laws, published by the National
 171 Fire Protection Association, International, 470 Atlantic Avenue, Boston,
 172 Massachusetts 02210, in Volumes 1-10 and Volume 16 of the sixteen-volume set
 173 of National Fire Codes, are adopted in their entirety in these regulations except as
 174 herein set forth. The text of these adopted codes, standards and model laws shall
 175 be fully enforceable as other regulations adopted under the provisions of this
 176 chapter as if the same were incorporated and set forth at length therein. The dates
 177 or additions of the individual codes and standards shall be as listed in the National
 178 Fire Codes of the National Fire Protection Association, more specifically, the 1978
 179 edition thereof. The codes, standards and model laws adopted pursuant to these
 180 regulations shall not waive any provision of this chapter nor be less restrictive than
 181 its provisions.

| <u>NFPA</u> <u>No.</u> | <u>Code Standards</u> |
|---------------------------|--|
| 32 | Standard for Drycleaning Plants |
| 88A | Standard for Parking Structures |
| 88B | Standard for Repair Garages |
| 101 | Code for Life Safety from Fire in Building and Structures |
| 102 | Standard for Tents, Grandstands and Air-Supported Structures Used for Places of Assembly |
| 501A | Standards for Installation of Mobile Homes |
| 1122L | Code for Unmanned Rockets |

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| <u>NFPA No.</u> | <u>Engineering Practice Standards Flammable and Combustible Liquids</u> |
| 30 | Flammable and Combustible Liquids Code |
| 321 | Standard on Basic Classification of Flammable and Combustible Liquids |
| 327 | Standard Procedures for Cleaning and Safeguarding Small Tanks and Containers |
| 385 | Recommended Regulatory Standards for Tank Vehicles for Flammable and Combustible Liquids |
| 386 | Standard for Portable Shipping Tanks |
| <u>NFPA No.</u> | <u>Flammable Gasses</u> |
| 50 | Standard for Bulk Oxygen Systems at Consumer Sites |
| 50A | Standard for Gaseous Hydrogen Systems at Consumer Sites |
| 50B | Standard for Liquefied Hydrogen Systems at Consumer Sites |
| 56A | Standard for the Use of Inhalation Anesthetics (Flammable and Nonflammable) |
| 56B | Standard for Inhalation Therapy |
| 56D | Standard for Hyperbaric Facilities |
| 56E | Standard for Hypobaric Facilities |
| 56F | Standard for Nonflammable Medical Gas Systems |
| 58 | Standard for Storage and Handling of Liquefied Petroleum Gases |
| 59 | Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants |
| 59A | Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG) |
| <u>NFPA No.</u> | <u>Hazardous Materials and Processes</u> |

| | |
|-----------------|--|
| 33 | Standard for Spray Finishing Using Flammable and Combustible Materials |
| 34 | Standard for Dip Tanks Containing Flammable or Combustible Liquids |
| 35 | Standard for the Manufacture of Organic Coatings |
| <u>NFPA No.</u> | <u>Hazardous Materials and Processes</u> |
| 40 | Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film |
| 40E | Code for the Storage of Pyroxylin Plastic |
| 43A | Code for the Storage of Liquid and Solid Oxidizing Materials |
| 43C | Code for the Storage of Gaseous Oxidizing Materials |
| 43D | Code for the Storage of Pesticides in Portable Containers |
| 51 | Standard for the Installation and Operation of Oxygen Fuel Gas Systems for Welding and Cutting |
| 51B | Standard for Fire Prevention in Use of Cutting and Welding Processes |
| 56C | Safety Standard for Hospital Laboratories |
| 57 | Standard for Fumigation |
| 490 | Code for the Storage of Ammonium Nitrate |
| 495 | Code for the Manufacturing, Transportation, Storage and Use of Explosive Materials |
| 654 | Standard for the Prevention of Dust Explosions in the Plastics Industry |
| <u>NFPA No.</u> | <u>Transportation</u> |
| 407 | Standard for Aircraft Fuel Servicing |
| 505 | Standard for Type Designations, Areas of Use, Maintenance and Operation of Powered Industrial Trucks |

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| <u>NFPA No.</u> | <u>Fire Extinguishing Systems</u> |
| 11 | Standard for Foam Extinguishing Systems |
| 11A | Standard for High Expansion Foam Systems (Expansion Ratios from 100:1 to 1000:1) |
| 11B | Standard on Synthetic Foam and Combined Agent Systems |
| 12 | Standard on Carbon Dioxide Extinguishing Systems |
| 12A | Standard on Halogenated Fire Extinguishing Agent Systems – Halon 1301 |
| <u>NFPA No.</u> | <u>Fire Extinguishing Systems</u> |
| 12B | Standard on Halogenated Fire Extinguishing Agent Systems – Halon 1211 |
| 13 | Standard for the Installation of Sprinkler Systems |
| 14 | Standard for the Installation of Standpipes and Hose Systems |
| 15 | Standard for Water Spray Fixed Systems for Fire Protection |
| 16 | Standard for the Installation of Foam-Water Sprinkler Systems and Foam-Water Spray Systems |
| 17 | Standard for Dry Chemical Extinguishing Systems |
| 20 | Standard for Installation of Centrifugal Fire Pumps |
| 24 | Standard for Outside Protection |
| 75 | Standard for the Protection of Electronic Commuter/Data Processing Equipment |
| <u>NFPA No.</u> | <u>Portable Fire Extinguishers</u> |
| 10 | Standard for the Installation of Portable Fire Extinguishers |
| <u>NFPA No.</u> | <u>Fire Warning Systems</u> |

| | |
|-----------------|--|
| 71 | Standard for the Installation, Maintenance and Use of Central Station Protective Signaling Systems for Guard, Fire Alarm and Supervisory Service |
| 72A | Standard on Installation, Maintenance and Use of Local Protective Signaling Systems for Watchmen, Fire Alarm and Supervisory Service |
| 72B | Standard for the Installation, Maintenance and Use of Auxiliary Protective Signaling Systems for Fire Alarm Service |
| 72C | Standard for the Installation, Maintenance and Use of Remote Station Protective Signaling Systems |
| <u>NFPA No.</u> | <u>Fire Warning Systems</u> |
| 72D | Standard for the Installation, Maintenance and Use of Proprietary Protective Signaling Systems for Watchmen, Fire Alarm and Supervisory Service |
| 72E | Standard for Automatic Fire Detectors |
| 74 | Standard for the Installation, Maintenance and Use of Household Fire Warning Equipment |
| <u>NFPA No.</u> | <u>Storage</u> |
| 81 | Standard for Fur Storage, Fumigation and Cleaning |
| 231 | Standard for Indoor General Storage |
| 231B | Standard for Storage of Cellular Rubber and Plastic Materials |
| 231C | Standard for Rack Storage of Materials |
| 232 | Standard for the Protection of Records |
| <u>NFPA No.</u> | <u>Building Construction and Facilities</u> |
| 31 | Standard for Oil Burning Equipment |
| 37 | Standard for Stationary Combustion Engines and Gas Turbines |
| 54 | National Fuel Gas Code |

| | |
|-----------------|---|
| 80 | Standard for Fire Doors and Windows |
| 82 | Standard for Rubbish Handling and Incinerators |
| 86A | Standard for Ovens and Furnaces, Design, Location and Equipment |
| 86B | Standard for Industrial Furnaces, Design, Location and Equipment |
| 90A | Standard for the Installation of Air Conditioning and Ventilating Systems |
| 91 | Standard for the Installation of Blower and Exhaust Systems for Dust, Stock, Vapor Removal or Conveying |
| 96 | Standard for the Installation of Equipment for the Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment |
| <i>NFPA No.</i> | <i>Building Construction and Facilities</i> |
| 211 | Standard for Chimneys, Fireplaces and Vents |
| 241 | Standard for Safeguarding Building Construction and Demolition Operations |
| 418 | Standard on Roof-Top Heliport Construction Protection] |

182 The Fire Chief must recommend that the Executive adopt by regulation under
 183 Section 22-13 those parts of the National Fire Code as published by the National Fire
 184 Protection Association, or a comparable code published by a similar organization,
 185 that the Fire Chief finds will promote the purposes of this Chapter.

186 **22-18. Compliance.**

187 (a) *Generally.* [Any person who shall violate any of the provisions of this
 188 chapter; or shall fail to comply therewith; or shall permit or maintain
 189 such a violation; or shall violate or fail to comply with any order made
 190 thereunder; or shall build in violation of any details, statements,
 191 specifications or plans submitted or approved thereunder; or shall
 192 operate not in accordance with the provisions of any certificate,
 193 permit or approval issued thereunder; or who shall fail to comply with

194 such an order as affirmed or modified by the board of appeals within
 195 the time fixed therein shall severally for each and every violation and
 196 noncompliance respectively, be guilty of a misdemeanor. The
 197 imposition of a penalty for any violation shall not excuse the violation
 198 nor shall the violation be permitted to continue. Prosecution or lack
 199 thereof of either the owner, occupant, or the person in charge shall not
 200 be deemed to relieve any of the others.] A person has committed a
 201 Class A violation if that person violates, permits a violation of, or
 202 does not comply with:

203 (1) this Chapter;

204 (2) an order issued under this Chapter;

205 (3) any building specification or plan approved under this Chapter;
 206 or

207 (4) any certificate, permit, or approval issued under this Chapter.

208 (b) *Orders or notices.* [Any order or notice issued or served as provided
 209 in this code shall be complied with by the owner, operator, occupant
 210 or other person responsible for the condition or violation to which the
 211 order or notice pertains. Every order or notice shall set forth a time
 212 limit for compliance dependent upon the hazard and danger created by
 213 the violation. In cases of extreme danger to persons or property
 214 immediate compliance shall be required. If the building or other
 215 premises is owned by one person and occupied by another, under
 216 lease or otherwise, and the order or notice requires additions or
 217 changes in the building or premises such as would immediately
 218 become real estate and be the property of the owner of the building or
 219 premises, such order or notice shall be complied with by the owner

220 unless the owner and occupant have otherwise agreed between
 221 themselves, in which event the occupant shall comply.]

222 (1) Any order or notice regarding a condition or violation which
 223 must be corrected must:

224 (A) set a deadline for compliance that is based on the danger
 225 created by the condition or violation;

226 (B) be complied with by the owner and any other person
 227 responsible for the condition or violation; and

228 (C) require immediate compliance if the condition or
 229 violation presents an extreme danger to any person or
 230 property.

231 (2) If the property is occupied by a person other than the owner, the
 232 owner is responsible for compliance with the order or notice
 233 unless within 5 days after the order or notice is issued:

234 (A) the owner and occupant agree that the occupant will
 235 comply with the order or notice; and

236 (B) the owner and occupant notify the Fire Chief of this
 237 decision.

238 (c) *Unauthorized tag removal.* [It shall be a misdemeanor for any person
 239 or user, firm or agent to continue the use of any device or appliance
 240 which has been tagged under section 22-16(c), unless written
 241 authority to remove such tag is given by the director. Removing or
 242 mutilating the tag shall be deemed a misdemeanor.] A person has
 243 committed a Class A violation if that person:

244 (1) continues using any device or appliance that was tagged under
 245 Section 22-16; or

246 (2) removes the tag without written permission of the Fire Chief.

247 **22-21. [Appeals] ~~[[Reserved]] Appeals.~~**

248 [(a) *From orders.* Any person aggrieved by an order issued under this
 249 chapter may appeal within the abatement period but not to exceed ten
 250 (10) days from such order to the county board of appeals pursuant to
 251 sections 2-108 to 2-116 of the County Code. Such appeal shall not
 252 stay execution of the order more than ten (10) days, unless the board
 253 of appeals shall grant further stay upon application of the person filing
 254 the appeal. No stay of execution shall be permitted for any order
 255 issued pursuant to this chapter that requires immediate compliance,
 256 unless a court of competent jurisdiction shall order such stay of
 257 execution.

258 (b) *Decisions of department.* Any person aggrieved by the issuance,
 259 denial, renewal or revocation of a permit, license, certificate or any
 260 other decision of the department made hereunder may appeal to the
 261 county board of appeals, which after hearing upon notice shall have
 262 authority to affirm, modify or reverse the order or decision made.]

263 (a) Any person aggrieved by the issuance, denial, renewal, amendment,
 264 suspension, or revocation of a permit, license, or certificate under this
 265 Chapter may appeal to the County Board of Appeals within 10 days
 266 after the permit, license, or certificate is issued, denied, renewed,
 267 amended, suspended, or revoked. After notice and hearing, the Board
 268 may affirm, modify, or reverse the action taken.

269 (b) If a party is aggrieved by a final decision of the Board under this
 270 Chapter, the party may seek judicial review of the decision in the Circuit
 271 Court under the applicable Maryland Rules of Procedure governing
 272 judicial review of administrative agency decisions. A party aggrieved
 273 by the decision of the Circuit Court may appeal that decision to the

274 Court of Special Appeals.

275 (c) Unless the court reviewing the Board's decision orders a stay, the
276 decision remains in effect until a final decision of the court.

277 **22-27. [Permits and certificates of approval for] Approval of fire detection**
278 **systems and devices.**

279 * * *

280 [(f) *Appeals.* If a certificate of approval or permit required by this Section
281 has been denied, the applicant may appeal to the County Board of
282 Appeals under Section 22-21.]

283 **Chapter 48. SOLID [WASTES] WASTE (TRASH).**

284 **48-26. [Same] Permits and licenses — Fees.**

285 * * *

286 **48-27. [Same] Permits and licenses — Refusal to renew; revocation or**
287 **suspension.**

288 * * *

289 **48-28. [Appeals from orders and decisions under chapter] Permits and**
290 **licenses — Appeals.**

291 [The county board of appeals shall have full authority to hear testimony and
292 decide all appeals taken from decisions or orders of the director under this
293 chapter.] Any person aggrieved by the issuance, denial, renewal, suspension, or
294 revocation of a permit or license [or any other decision or order of the director
295 made] under this Chapter may appeal to the [county board of appeals] County
296 Board of Appeals within [ten (10)] 10 days [from such order or decision] after the
297 action is taken. [Upon notice, after hearing, the board shall have authority to] The
298 Board may affirm, remand, modify, or reverse the [order or decision of the
299 director] action of the Department. [Such] An appeal [shall] to the Board must not

300 stay [execution of] the [order] action unless the [board] Board, upon application,
 301 [shall grant] grants a stay of [such order] the action.

302 **49-9. Removal of items that [obstruct the vision of motorists on public**
 303 **highways or] interfere with the use of public rights-of-way.**

304 * * *

305 [(b) *Petition for hearings.* Any person aggrieved by any order issued under
 306 this Section may, within 10 days after receiving the order, petition in
 307 writing for a hearing before the Board of Appeals. Within 30 days
 308 after receiving a petition, the Board must hold a hearing. The Board
 309 may affirm, modify or rescind the order. The County must not
 310 remove any obstruction or enforce any order issued under this Section
 311 until either:

- 312 (1) the Board has affirmed the order; or
- 313 (2) the time to petition for a hearing has expired and no petition
 314 was filed.] Reserved.

315 * * *

316 **58-6. [Appeals] Reserved.**

317 [(a) The County Board of Appeals may hear testimony and decide all
 318 appeals of decisions or orders of the director under this chapter.]

319 [(b) Any person aggrieved by any decision or order of the director under
 320 this chapter may appeal to the County Board of Appeals within 10
 321 days after the order or decision is issued.]

322 [(c) After notice and hearing, the board may affirm, modify, or reverse the
 323 order or decision of the director.]

324 [(d) An appeal does not stay execution of an order unless the board, on
 325 application, grants a stay.]

326 [(e) Any party may appeal a decision of the board to the Circuit Court
327 under section 2-114.]

328 **Sec. 2. Transition.** This Act does not apply to any appeal to the Board of
329 Appeals that was filed before this Act took effect.

330 **Sec. 3. Regulations.** Regulations 6-06AM and 7-06AM remain in effect,
331 notwithstanding any amendment to the County Code in Section 1 of this Act, except
332 for any provision of the National Fire Code that authorizes or refers to an appeal to
333 the Board of Appeals.

334 *Approved:*

335

336 Valerie Ervin 10/18/2011
337 Valerie Ervin, President, County Council Date

338 *Approved:*

339

340

341 Isiah Leggett, County Executive Date

342 *This is a correct copy of Council action.*

343

344

345 Linda M. Lauer, Clerk of the Council Date