

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council Of Howard County, Maryland

2009 Legislative Session

Legislative Day No. **13**

Bill No. 53 -2009

Introduced by: The Chairperson at the request of the County Executive

AN ACT requiring residential multi-family common ownership communities to register with the Department of Inspections, Licenses and Permits; defining certain terms; requiring that certain information be kept current; authorizing the inspection of common areas; authorizing the issuance of notice of violations and citations; providing for the method of service of a notice of violation or citation; providing for certain civil and criminal penalties, and generally relating to multi-family residential common ownership communities in Howard County.

Introduced and read first time _____, 2009. Ordered posted and hearing scheduled.

By order _____
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2009.

By order _____
Stephen LeGendre, Administrator

This Bill was read the third time on _____, 2009 and Passed ____, Passed with amendments ____, Failed ____.

By order _____
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____ day of _____, 2009 at ____ a.m./p.m.

By order _____
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive _____, 2009

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. *Be It Enacted*** by the County Council of Howard County, Maryland, that new
2 Subtitle 11 “Common Ownership Community Registration” is added to Title 14
3 “Licenses, permits and inspections” of the Howard County Code to read as follows:
4

5 **Title 14. Licenses, permits and inspections.**

6 **SUBTITLE 11. COMMON OWNERSHIP COMMUNITY REGISTRATION.**
7

8 **SECTION 14.1100. PURPOSE; APPLICABILITY.**

9 (A) THE PURPOSE OF THIS SUBTITLE IS TO PROTECT THE PUBLIC HEALTH, SAFETY, AND
10 WELFARE BY FURTHER ENHANCING THE DEPARTMENT’S ABILITY TO CONDUCT FIRE SAFETY
11 INSPECTIONS BY REQUIRING A COMMON OWNERSHIP COMMUNITY TO REGISTER WITH THE
12 DEPARTMENT.

13 (B) THIS SUBTITLE SHALL APPLY TO COMMON OWNERSHIP COMMUNITIES AS DEFINED IN
14 THIS SUBTITLE.
15

16 **SECTION 14.1101. DEFINITIONS.**

17 IN THIS SUBTITLE THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

18 (A) *COMMON AREA* MEANS:

19 (1) ALL OF A MULTI-FAMILY RESIDENTIAL BUILDING, EXCEPT THE INDIVIDUAL
20 DWELLING UNITS; AND

21 (2) THE PROPERTY OWNED BY THE COMMON OWNERSHIP COMMUNITY THAT IS
22 SURROUNDING THE MULTI-FAMILY RESIDENTIAL BUILDING.

23 (B) *COMMON OWNERSHIP COMMUNITY* MEANS:

24 (1) A MULTI-FAMILY RESIDENTIAL BUILDING THAT IS SUBJECT TO A
25 CONDOMINIUM REGIME PURSUANT TO TITLE 11 OF THE REAL PROPERTY
26 ARTICLE OF THE ANNOTATED CODE OF MARYLAND; OR

27 (2) A MULTI-FAMILY RESIDENTIAL “COOPERATIVE HOUSING CORPORATION”, AS
28 THAT TERM IS DEFINED IN SECTION 5-6B-01 OF THE CORPORATIONS AND
29 ASSOCIATIONS ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

30 (C) *COUNCIL OF UNIT OWNERS* SHALL HAVE THE MEANING DESCRIBED IN SECTION 11-109 OF
31 THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

1 (D) *DEPARTMENT* MEANS THE DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS.

2 (E) *DIRECTOR* MEANS THE DIRECTOR OF THE DEPARTMENT OF INSPECTIONS, LICENSES AND
3 PERMITS OR THE DIRECTOR'S DESIGNEE.

4 (F) *RELEVANT FIRE SAFETY REQUIREMENTS* MEANS FIRE SAFETY REQUIREMENTS SET FORTH
5 IN:

6 (1) THE PROPERTY MAINTENANCE CODE FOR RENTAL HOUSING, SET FORTH IN
7 TITLE 3, SUBTITLE 7 OF THIS CODE;

8 (2) THE HOWARD COUNTY FIRE PREVENTION CODE, SET FORTH IN SECTION
9 17.104 OF THIS CODE; AND

10 (3) THE HOWARD COUNTY BUILDING CODE, SET FORTH IN TITLE 3, SUBTITLE 1
11 OF THIS CODE AND ANY CODES ADOPTED IN THE HOWARD COUNTY
12 BUILDING CODE BY REFERENCE.

13
14 **SECTION 14.1102. REGISTRATION.**

15 (A) A COMMON OWNERSHIP COMMUNITY SHALL REGISTER WITH THE DEPARTMENT
16 ANNUALLY ON A FORM PROVIDED BY THE DEPARTMENT.

17 (B) UPON THE RECOMMENDATION OF THE COUNTY EXECUTIVE, THE COUNTY COUNCIL
18 MAY ADOPT A REGISTRATION FEE BY RESOLUTION.

19 (C) WITHIN 30 DAYS OF THE CHANGE, A COMMON OWNERSHIP COMMUNITY SHALL NOTIFY
20 THE DEPARTMENT IF THERE IS A CHANGE IN:

21 (1) THE NAME OF THE COMMUNITY;

22 (2) THE OWNERSHIP INTEREST OF THE COMMUNITY, INCLUDING A CHANGE IN A
23 RESIDENT AGENT OR OFFICER;

24 (3) THE MANAGEMENT COMPANY OR MAINTENANCE COMPANY; OR

25 (4) ANY OTHER INFORMATION REQUIRED ON THE REGISTRATION FORM.
26

27 **SECTION 14.1103. INSPECTION AND ENFORCEMENT AUTHORITY.**

28 (A) THE DIRECTOR SHALL INTERPRET, ADMINISTER, ENFORCE, AND IMPLEMENT THE
29 PROVISIONS OF THIS SUBTITLE FOR:

30 (1) FAILURE TO REGISTER OR FAILURE TO NOTIFY THE DEPARTMENT OF A
31 CHANGE IN INFORMATION AS REQUIRED BY THIS SUBTITLE; OR

- 1 (2) FAILURE TO COMPLY WITH RELEVANT FIRE SAFETY REQUIREMENTS.
- 2 (B) THE DIRECTOR MAY:
- 3 (1) INSPECT A COMMON AREA FOR COMPLIANCE WITH RELEVANT FIRE SAFETY
- 4 REQUIREMENTS; AND
- 5 (2) ENTER A COMMON AREA AT A REASONABLE TIME TO MAKE INSPECTIONS
- 6 PURSUANT TO THIS SUBTITLE.
- 7 (C) INSPECTIONS, WHICH ARE PURELY GOVERNMENTAL IN NATURE, ARE MADE SOLELY FOR
- 8 THE PUBLIC BENEFIT AND SHALL NOT BE CONSTRUED AS PROVIDING ANY WARRANTY OR
- 9 REPRESENTATION CONCERNING THE CONDITION OF THE COMMON AREA TO THE PUBLIC.
- 10 (D) THE COMMON OWNERSHIP COMMUNITY, OCCUPANT, TENANT, OR OTHER PERSON IN
- 11 CHARGE OF A COMMON AREA SUBJECT TO THIS SUBTITLE SHALL GIVE THE DIRECTOR ENTRY
- 12 AND FREE ACCESS TO ANY PART OF THE COMMON AREA, PROPERTY, OR PREMISES FOR THE
- 13 PURPOSES OF INSPECTION UNDER THIS SUBTITLE. IF ENTRY OR ACCESS IS REFUSED OR
- 14 RESTRICTED, THE DIRECTOR MAY SEEK A COURT ORDER TO ALLOW ENTRY AND ACCESS.

15

16 **SECTION 14.1104. NOTICES OF VIOLATION; CITATIONS.**

17 (A) IF THE DIRECTOR DETERMINES THAT THERE HAS BEEN A VIOLATION OF THIS SUBTITLE

18 OR OF RELEVANT FIRE SAFETY REQUIREMENTS OR HAS REASONABLE GROUNDS TO BELIEVE

19 THAT A VIOLATION HAS OCCURRED, THE DIRECTOR SHALL ISSUE A NOTICE OF VIOLATION

20 UNDER THIS SECTION.

21 (B) A NOTICE OF VIOLATION:

22 (1) SHALL BE IN WRITING; AND

23 (2) SHALL INCLUDE:

24 (I) A DESCRIPTION OF THE COMMON OWNERSHIP COMMUNITY

25 SUFFICIENT FOR IDENTIFICATION;

26 (II) A DESCRIPTION OF THE VIOLATION; AND

27 (III) A REASONABLE TIME PERIOD TO CORRECT THE VIOLATION.

28 (C) THE DIRECTOR MAY ISSUE A CITATION FOR FAILURE TO COMPLY WITH A NOTICE OF

29 VIOLATION AND A CITATION SHALL CONTAIN THE INFORMATION REQUIRED BY SECTION

30 24.106(III) OF THIS CODE.

1 **SECTION 14.1105. SERVICE OF NOTICES OF VIOLATION AND CITATIONS.**

2 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A NOTICE OF VIOLATION AND CITATION
3 IS PROPERLY SERVED IF A COPY IS HAND DELIVERED OR SENT BY FIRST CLASS MAIL:

4 (1) IF THE COMMON OWNERSHIP COMMUNITY IS INCORPORATED:

5 (I) TO THE RESIDENT AGENT;

6 (II) TO THE COUNCIL OF UNIT OWNERS OF A CONDOMINIUM REGIME; OR

7 (III) TO AN OFFICER OF THE CORPORATION OR TO A MEMBER OF THE
8 BOARD OF DIRECTORS OF A COOPERATIVE HOUSING CORPORATION;
9 OR

10 (2) IF THE COMMON OWNERSHIP COMMUNITY IS NOT INCORPORATED, TO THE
11 COUNCIL OF UNIT OWNERS.

12 (B) IF SERVICE CANNOT BE OBTAINED BY ONE OF THE METHODS SET FORTH IN
13 SUBSECTION (A) OF THIS SECTION, SERVICE MAY BE OBTAINED BY:

14 (1) PUBLISHING THE NOTICE OF VIOLATION OR CITATION AT LEAST ONCE IN A
15 LOCAL NEWSPAPER OF GENERAL CIRCULATION; OR

16 (2) POSTING THE NOTICE OF VIOLATION OR CITATION IN A CONSPICUOUS PLACE
17 IN THE COMMON AREA WHERE THE VIOLATION EXISTED OR HAS OCCURRED.

18 (C) IN ADDITION TO THE SERVICE REQUIREMENTS SET FORTH IN THIS SECTION, A COPY OF
19 THE NOTICE OF VIOLATION OR CITATION SHALL BE SENT TO THE MANAGEMENT COMPANY
20 OR MAINTENANCE COMPANY FOR THE COMMON OWNERSHIP COMMUNITY.

21
22 **SECTION 14.1106. PENALTIES.**

23 (A) THE DEPARTMENT MAY INSTITUTE ANY ACTION AT LAW OR EQUITY, INCLUDING
24 INJUNCTION OR MANDAMUS, TO ENFORCE THE PROVISIONS OF THIS SUBTITLE.

25 (B) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A
26 MISDEMEANOR AND UPON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR
27 IMPRISONMENT NOT EXCEEDING 30 DAYS OR BOTH.

28 (C) ALTERNATIVELY, AND IN ADDITION TO AND CONCURRENT WITH ALL OTHER REMEDIES,
29 THE DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS MAY ENFORCE THIS SUBTITLE
30 PURSUANT TO TITLE 24, "CIVIL PENALTIES" OF THE HOWARD COUNTY CODE. A VIOLATION

1 OF THIS SUBTITLE IS A CLASS B OFFENSE. EACH DAY THAT A VIOLATION CONTINUES IS A
2 SEPARATE OFFENSE.

3

4 *Section 2. And Be It Further Enacted by the County Council of Howard County,*
5 *Maryland, that this Act shall become effective 61 days after its enactment.*