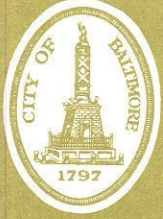


FROM

NAME & TITLE
AGENCY NAME & ADDRESS
SUBJECT

Alfred H. Foxx, Director
Department of Public Works
600 Abel Wolman Municipal Building
CITY COUNCIL BILL 09-0416

CITY of
BALTIMORE
MEMO



TO

DATE: August 4, 2011

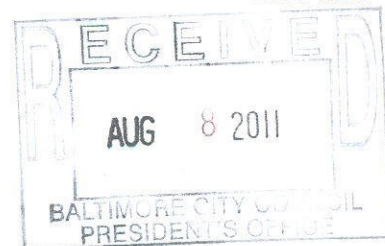
The Honorable President and Members
of the Baltimore City Council
c/o Karen Randle
Room 400 - City Hall

I am herein reporting on City Council Bill 09-0416 introduced by Council Members Spector, Middleton, Branch, Clarke, and Welch.

The purpose of the Bill is to repeal certain "override" provisions that allow an environmental citation or a civil citation to be issued without the notice otherwise required by the law establishing the violation being cited; conform related provisions; and generally relating to the use of environmental and civil citations for various offenses.

The Environmental Control Board and the prepayable environmental citations were established to address violations of the Baltimore City Code that directly impact quality of life issues, such as exterior sanitary maintenance, littering, illegal use of water, and containment of trash. The intent was to have a means for immediately citing for these violations and to seek immediate correction of the violations. While the Department of Public Works did have enforcement personnel for solid waste violations at one time, the enforcement is now provided by the Department of Housing and Community Development. These citing capabilities were crucial during the transition to the One PLUS ONE changes to the Sanitation Code, and continue to be an effective enforcement tool in keeping the City clean. Since the establishment of the environmental citations, additional violations of the Code have been added to the list. Establishing the prepayable civil citations provided an additional tool for police to address a similar list of violations.

The unintended consequences of this legislation may be the inability to immediately address violations of several sections of the Baltimore City Code that have a direct impact on the sanitary conditions of private property and the trashing of public property; in particular, violations of the Property Maintenance Code and the Health Code. The offenses for these sections of the Code were selected because of the lack of corrective response to violation notices which allowed these unsanitary conditions to persist and to affect adjacent properties and neighborhoods. Removing the "Prior notice not required" language from Article 1 §§ 40-14(d) and 41-4(b) requires defaulting to the Code language for each violation cited and adhering to any notice requirements therein.



In reviewing the violations that are of interest to Public Works, and which may be subject to an environmental citation, we found the following:

No Notice Required	Notice Required
Article 15 § 17-23 Food vendors; required receptacles and trash removal	Article 19 § 45-2 Signs on or affecting public property (may remove sign or send written notice)
Article 19 § 1-2 Advertising Circulars and prohibited placement	Article 26 Subtitle 6. Building address numbers
Article 15 Subtitle 16 Plastic Bag Reduction	International Building Code § 3302.2 Construction Waste and Debris
Article 19 § 41-2 Outdoor telephones; prohibited placement in right-of-way without Minor Privilege permit	Property Maintenance Code § 305.2 Grass and weeds; § 305.4 Pest control; § 305.7 Outdoor storage
Article 19 Subtitle 46 Campaign Signs in Residential Areas	Property Maintenance Code § 306 Exterior sanitary maintenance – trash, garbage & debris
Article 19 § 50-2 Obstructing street, etc.; and § 50-3 Merchandise projecting from building	Property Maintenance Code § 308 Occupants sanitary responsibilities for exteriors, trash disposal and nuisances
Article 23 § 2-1 Mixed refuse receptacles required; § 2-2 Handling of mixed refuse; Receptacles on collection days § 4-1 General prohibition or § 4-2 Placement for collection; HOWEVER , Property Maintenance Code requires notice and may take precedence	Health Code § 5-210 (Nuisance abatement); Commissioner <u>may</u> issue notice, HOWEVER , if nuisance falls under Property Maintenance Code, notice provisions may apply here
Article 24 Subtitle 21 Protection of water supply and facilities	Health Code Subtitle 2. Solid Waste Collection (licensing of waste haulers, ID of vehicles and containers, hours of collection); Commissioner may suspend license AFTER notice; Police may issue civil citation without notice
Health Code § 6-506 (Food service facilities) Litter and rubbish prohibited; Commissioner may suspend or revoke license after citing & giving period in which to comply	Health Code Subtitle 6. Prohibited Disposal (general prohibition for disposal, disposing of offensive materials, dumping on public and private property); seizure and forfeiture of vehicles requires forfeiture notice procedure
Health Code Subtitle 7. Littering	

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of the Baltimore City Council
August 4, 2011
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Based on these concerns, the Department of Public Works must respectfully oppose passage of City Council Bill 09-0416.



Alfred H. Foxx
Director

AHF/MMC:pat