

Introduced by: The Council President
At the request of: The Administration (Environmental Control Board)

Prepared by: Department of Legislative Reference **Date:** March 5, 2018

Referred to: **JUDICIARY AND LEGISLATIVE INVESTIGATIONS** Committee

Also referred for recommendation and report to municipal agencies listed on reverse.

CITY COUNCIL 18 - 0196

A BILL ENTITLED

AN ORDINANCE concerning

Environmental Citations – Default Penalty

FOR the purpose of modifying the procedures for and maximum amounts of the default penalty imposed under an environmental citation on a person cited who neither pays the citation's prescribed prepayable fine nor requests a hearing on the violation cited or who, having requested a hearing, fails to appear at the designated hearing; correcting, clarifying, and conforming related language; and generally related to the enforcement of environmental citations.

By repealing and reordaining, with amendments
Article 1 - Mayor, City Council, and Municipal Agencies
Section 40-8
Baltimore City Code
(Edition 2000)

NO. _____

****The introduction of an Ordinance or Resolution by Councilmembers at the request of any person, firm or organization is a courtesy extended by the Councilmembers and not an indication of their position.**

Agencies

_____	Baltimore City Public School System
_____	Baltimore Development Corporation
_____	City Solicitor
_____	Comptroller's Office
_____	Department of Audits
_____	Department of Finance
_____	Department of General Services
_____	Department of Housing and Community Development
_____	Department of Human Resources
_____	Department of Planning
_____	Other: _____
_____	Other: _____
_____	Other: _____
_____	Department of Public Works
_____	Department of Real Estate
_____	Department of Recreation and Parks
_____	Department of Transportation
_____	Fire Department
_____	Health Department
_____	Mayor's Office of Employment Development
_____	Mayor's Office of Human Services
_____	Mayor's Office of Information Technology
_____	Office of the Mayor
_____	Police Department
_____	Other: _____
_____	Other: _____
_____	Other: _____
_____	Environmental Control Board
_____	Fire & Police Employees' Retirement System
_____	Labor Commissioner
_____	Parking Authority Board
_____	Planning Commission
_____	Wage Commission
_____	Other: _____
_____	Other: _____
_____	Other: _____
_____	Board of Estimates
_____	Board of Ethics
_____	Board of Municipal and Zoning Appeals
_____	Comm. for Historical and Architectural Preservation
_____	Commission on Sustainability
_____	Employees' Retirement System
_____	Other: _____
_____	Other: _____
_____	Other: _____

Boards and Commissions

CITY OF BALTIMORE
ORDINANCE **18-148**
Council Bill 18-0196

Introduced by: The Council President
At the request of: The Administration (Environmental Control Board)
Introduced and read first time: March 12, 2018
Assigned to: Judiciary and Legislative Investigations Committee
Committee Report: Favorable
Council action: Adopted
Read second time: May 14, 2018

AN ORDINANCE CONCERNING

Environmental Citations – Default Penalty

FOR the purpose of modifying the procedures for and maximum amounts of the default penalty imposed under an environmental citation on a person cited who neither pays the citation's prescribed prepayable fine nor requests a hearing on the violation cited or who, having requested a hearing, fails to appear at the designated hearing; correcting, clarifying, and conforming related language; and generally related to the enforcement of environmental citations.

BY repealing and reordaining, with amendments
Article 1 - Mayor, City Council, and Municipal Agencies
Section 40-8
Baltimore City Code
(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 1. Mayor, City Council, and Municipal Agencies

Subtitle 40. Environmental Control Board

§ 40-8. Default by person cited.

(a) *Failure to respond constitutes admission of liability.*

Any person cited under an environmental citation is conclusively considered to have admitted liability for the violation cited and responsibility for abating the violation if, within the time allowed by the rules of the Board, the person:

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

Council Bill 18-0196

1 (1) neither pays the prescribed prepayable fine nor requests a hearing on the violation;
2 or

3 (2) having requested a hearing, fails to appear on a designated hearing date.

4 (b) *Board order; default penalty.*

5 Under either of the circumstances described in subsection (a) of this section, the Board
6 may:

7 (1) render a default decision and order against the person cited; and

8 (2) impose [a] AN AGGREGATE civil penalty that[, based on relevant standards to be
9 set by Board regulation (e.g., nature and severity of underlying violation, history
10 of past violations, mitigating or aggravating circumstances),] IS EQUAL TO:

11 [(i) no less than the amount of the prepayable fine specified for the
12 violation in question; and]

13 [(ii) no more than the lesser of:

14 (A) \$1,000; or

15 (B) 3 times the prepayable fine specified for the
16 violation in question.]

17 (I) THE AMOUNT OF THE PREPAYABLE FINE PRESCRIBED FOR THE VIOLATION;
18 PLUS

19 (II) AN ADDITIONAL, DEFAULT PENALTY EQUAL TO THE LESSER OF:

20 (A) 50% OF THE PRESCRIBED PREPAYABLE FINE FOR EVERY 30 DAYS
21 THAT, AFTER NOTICE OF DEFAULT IS MAILED UNDER SUBSECTION
22 (C) OF THIS SECTION, THE CITATION REMAINS UNSATISFIED;

23 (B) 2 TIMES THE PRESCRIBED PREPAYABLE FINE; OR

24 (C) \$1,000.

25 (c) *Notice of default order.*

26 Before an order based on a default becomes final, the Board must notify the respondent,
27 by first-class mail, of:

28 (1) the default decision and order;

29 (2) the amount of all penalties imposed; and

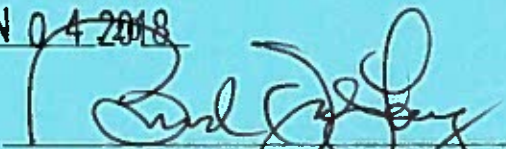
Council Bill 18-0196

1 (3) the right of the respondent, within 30 days of the notice, to avoid a final judgment
2 and collection proceedings by requesting a stay of default for good cause shown
3 and a [hearing] DETERMINATION on the request.

4 SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance
5 are not law and may not be considered to have been enacted as a part of this or any prior
6 Ordinance.

7 SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day
8 after the date it is enacted.

Certified as duly passed this _____ day of JUN 04 2018



President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,
this _____ day of JUN 04 2018

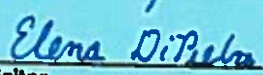


Chief Clerk

Approved this 20 day of June, 2018



Mayor, Baltimore City

Approved For Form and Legal Sufficiency
This 19th Day of June 2018


Chief Solicitor



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**BALTIMORE CITY COUNCIL
JUDICIARY AND LEGISLATIVE INVESTIGATIONS COMMITTEE
VOTING RECORD**

BILL#: CC-18-0196 DATE: 5/8/18

BILL TITLE: Environmental Citations - Default Penalty


MOTION BY: Clarke SECONDED BY: Pinkett

- FAVORABLE FAVORABLE WITH AMENDMENTS
 UNFAVORABLE WITHOUT RECOMMENDATION

NAME	YEAS	NAYS	ABSENT	ABSTAIN
Costello, E., Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Clarke, M., Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bullock, J.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pinkett, L.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reisinger, E.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott, B.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stokes, R.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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TOTALS	<u>7</u>	<u>-</u>	<u>-</u>	<u>-</u>

CHAIRPERSON: [Signature]
 COMMITTEE STAFF: Matthew L. Peters, Initials: MP

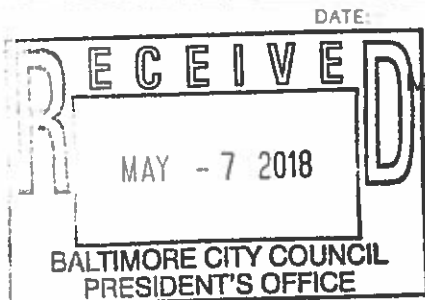
KLAC

FROM	NAME & TITLE	Robert Cenname, Chief	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Bureau of the Budget and Management Research Room 432. City Hall (410) 396-4941		
	SUBJECT	City Council Bill 18-0196 – Environmental Citations – Default Penalty		

TO

The Honorable President and
Members of the City Council
Room 400, City Hall

Attention: Ms. Natawna Austin



DATE: May 3, 2018

We are herein reporting on CCB 18-0196, the purpose of which is to modify the procedures and language regarding the default penalty imposed under an environmental citation.

Background

Article 1 Section 40-7 of the Baltimore City Code grants the Environmental Control Board (ECB) the responsibility of developing and defining environmental citations, which can range from housing code enforcement issues to public safety violations. According to the Environmental Control Board Digest of Laws, Rules, and Regulations (Edition 2015), the ECB is comprised of 13 members including the Health Commissioner, the Housing Commissioner, Police Commissioner, Fire Chief, and Director of Public Works, as well as 7 members of the general public appointed by the Mayor.

Separately, Code Enforcement Officers, Baltimore City Police Officers, and other authorized City employees are responsible for issuing citations to residents who violate ECB provisions. The intention of these citations is to improve cleanliness, safety, and quality of life for all residents.

Under the current City Code, an individual who has been cited must first correct the violation, and then either pay the original fine amount or request a hearing within 30 days. Failure to pay within 30 days constitutes admission of liability and triggers an additional default penalty of 3 times the original fine or \$1,000, whichever is lower. Before the default penalty becomes final, the Board must notify the individual and give him or her another 30 days to request a stay of default for good cause shown and a hearing on this request. Failure to pay within this 60 day timeframe or failure to attend the scheduled hearing is considered an admission of guilt, and the default penalty is applied.

In Fiscal 2017, 46,079 citations were issued by authorized City personnel. Of the citations issued, 26,639 were paid and 8,255 ECB hearings were requested. Approximately 42% of citations issued were either not paid, went to tax sale, or were waived by the Board. Total citation revenue was \$7.5 million.

Analysis

The proposed legislation updates the City Code so that it better reflects current practice. While the present legislation imposes a default penalty that is three times the base fine amount, ECB's current practice is to issue a default penalty that is two times the fine amount, so that the total amount due triples. For example, in the current state, a citation with a \$50 base fine increases to \$150 total (\$50 base

No obj

+ \$100 default penalty) after 60 days, not \$200 total (\$50 base + \$150 default penalty). The proposed change would have no impact to revenue as it simply aligns the language to reflect existing practice.

The goal of the ECB and the citation process is to affect behavioral changes that will improve the quality of life for all residents. ECB believes this is best accomplished by engaging with individuals who receive environmental violations in order to educate them on the Board’s provisions and the necessity of enforcing them. In the current state, there is little opportunity to do this outside of the formal hearing process. The proposed legislation changes the requirement to give ECB staff the time and option to engage with individuals and make determinations without a formal hearing.

To this end, CCB 18-0196 proposes increasing the penalty amount by 50% of the base fine every 30 days, up to two times the original fine amount or \$1,000, whichever is lower. This would extend the amount of time an individual has to pay the base fine before the total amount due triples. The table below summarizes the current legislation versus the proposed changes to the default penalty structure using a \$50 base fine. The actual fine amounts vary by type of violation.

ECB DEFAULT PENALTY STRUCTURE CURRENT VS PROPOSED LEGISLATION					
Days	30	60	90	120	150
Base Fine	\$50	\$50	\$50	\$50	\$50
<u>Current Legislation</u>					
Current Default Penalty	\$0	\$100	\$100	\$100	\$100
Total Due - Current	\$50	\$150	\$150	\$150	\$150
<u>Proposed Legislation</u>					
Proposed Default Penalty	\$0	\$25	\$50	\$75	\$100
Total Due - Proposed	\$50	\$75	\$100	\$125	\$150

The overall revenue impact of gradually increasing the default penalty amount is uncertain and depends on behavioral changes of those receiving citations as well as the extent to which ECB chooses to enforce the default penalty amounts.

Of the citations paid in Fiscal 2017, for example, 8,312 or 31% were paid within 30 days and received no default penalty notice. Another 5,940 or 22% were paid within 60 days, meaning they received a default notice but paid the fine before it automatically applied. Among the remaining 12,387 or 47% of citations paid that had default penalties applied, ECB estimates that at least 60% had the penalty waived after contacting the ECB, meaning that only the base fine applied. Overall, ECB estimates that fewer than 19% of citations paid after 90 days actually had the default penalty applied.

If the ECB continues waiving the same number of penalties, revenue could decrease by a marginal amount for the 19% of citations that potentially have slightly lower default penalty amounts. Conversely, if the ECB chooses to waive fewer default penalties now that the penalty amount has been reduced, revenue would increase by a marginal amount. Finance does not anticipate a significant impact to revenue in either case.

The overall impact on the quality of life for residents under the proposed bill also depends on how well ECB engages with citation recipients. Under the proposed structure, ECB believes that the smaller

penalties and increased time could lead to more violations being corrected rather than ignored; however, ECB will not be sending out additional notices and has not yet developed a formal outreach plan. ECB should consider developing an operational plan and communications strategy to more efficiently leverage the additional time and reduce the number of citations that are ignored.

Conclusion

City Council Bill 18-0196 reduces the penalty and extends the amount of time an individual is given to pay an environmental citation, which could potentially impact annual revenue by a marginal amount. The proposed bill assumes that these accommodations will allow ECB to educate violators and change behavior over time. Finance recommends developing an approach to track and measure the impact of an intervention strategy to ensure these changes are producing the desired outcome. Beyond this recommendation, the Department of Finance has no objection to City Council Bill 18-0196.

cc: Henry Raymond
Kyron Banks

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



DEPARTMENT OF LAW

ANDRE M. DAVIS, City Solicitor
101 City Hall
Baltimore, Maryland 21202

May 3, 2018

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 18-0196 – Environmental Citations – Default Penalty

Dear President and City Council Members:

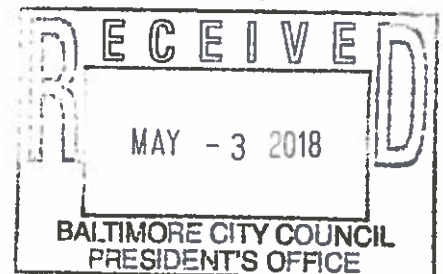
The Law Department has reviewed City Council Bill 18-0196 for form and legal sufficiency. The bill would modify the procedures for and maximum amounts of the default penalty imposed under an environmental citation on a person cited who neither pays the citation's prescribed prepayable fine nor requests a hearing on the violation cited or who, having requested a hearing, fails appear at the designated hearing.

Article II, Section 48 of the City Charter gives authority to impose civil penalties for code violations up to \$1000. Modifying the procedure for imposing those penalties is within the authority of City Council. The bill also modifies the procedure for requesting a stay of the default by replacing the current hearing on the request (which does not address the underlying issues of the citation) with a "determination" on the request made by the Executive Director which allows for a full hearing and relief of default penalties if good cause is shown. Since there is no right to a hearing at this point in the procedure, this modification does not violate due process. The respondent at this point is in default and has waived the original right to a hearing. *Bringe v. Collins*, 274 Md. 338, 349 (1975) (the right to a hearing may be waived or forfeited for failure to contest in the time allotted).


The Law Department approves the bill for form and legal sufficiency.

Very truly yours,

Ashlea H. Brown
Assistant Solicitor



cc: Andre M. Davis, City Solicitor
Karen Stokes, Director, Mayor's Office of Government Relations
Kyron Banks, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor, General Counsel Division
Victor Tervalo, Chief Solicitor
Ashlea Brown, Assistant Solicitor
Avery Aisenstark

FROM	NAME & TITLE	Rebecca Woods, Esq., Executive Director <i>[Signature]</i>	CITY OF BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Environmental Control Board 1 N. Charles Street, Suite 1300		
	SUBJECT	City Council Bill # 18-0196 Environmental Citations – Default Penalty		

DATE:

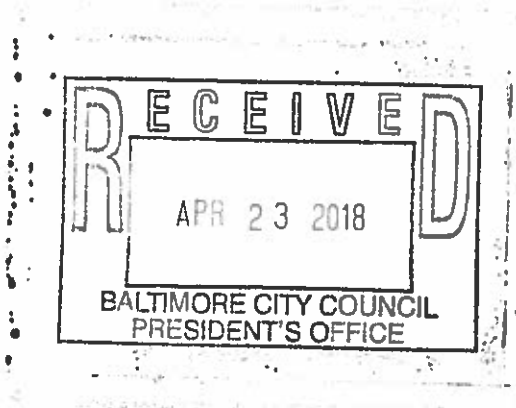
TO The Honorable President and Members of the Baltimore City Council April 23, 2018

The Baltimore City Environmental Control Board (ECB) proposed Council Bill #18-0196, Environmental Citations – Default Penalty, and is in complete support of it. The purpose of the bill is to modify the procedures for default penalties imposed under environmental citations to allow those cited more time before the maximum default penalty amount is imposed, and also reducing that maximum default amount.

- The ECB wants to amend the language in the current legislation to change the maximum default amount from “3 times the prescribed prepayable fine amount” to “2 times the prescribed prepayable fine amount” while still keeping the cap at no more than the lesser of the doubling or \$1,000.
- In addition, the ECB wants to remove the current language that allows for a tripling of the fine amount and replacing it with a default structure similar to parking citations where there is a monthly increase in the penalty amount for each 30 days of inaction. The ECB recommends a 50% increase every 30 days a citation remains unsatisfied with the same maximum cap of the lesser of “2 times the prescribed prepayable fine amount” or \$1,000. This would give the individual cited 5 months before reaching the maximum cap while it is currently 3 months.

The current legislation is outdated since it was created at a time when there were a few hundred citations issued per year. The reviews required by the code are simply unrealistic due to the limited resources of the ECB and City of Baltimore now that the city issues over 40,000 environmental citations a year. This bill does not impact the number of citations that will be issued by the City as that is within the domain of the issuing agencies, and the ECB does not anticipate any changes in the revenue to the City from environmental citations. The ECB completely supports this bill as it will provide those cited with more time to pay their citations before an automatic tripling occurs, and will adjust the code in a way that will realistically account for current number of citations issued.

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City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland
21202

Meeting Minutes - Final

Judiciary and Legislative Investigations

Tuesday, May 8, 2018

9:59 AM

Du Burns Council Chamber, 4th floor, City Hall

18-0196

CALL TO ORDER

INTRODUCTIONS

ATTENDANCE

Present 7 - Member Eric T. Costello, Member Mary Pat Clarke, Member Leon F. Pinkett III, Member John T. Bullock, Member Edward Reisinger, Member Brandon M. Scott, and Member Robert Stokes Sr.

ITEMS SCHEDULED FOR PUBLIC HEARING

18-0196

Environmental Citations - Default Penalty

For the purpose of modifying the procedures for and maximum amounts of the default penalty imposed under an environmental citation on a person cited who neither pays the citation's prescribed prepayable fine nor requests a hearing on the violation cited or who, having requested a hearing, fails to appear at the designated hearing; correcting, clarifying, and conforming related language; and generally related to the enforcement of environmental citations.

Sponsors: City Council President (Administration)

A motion was made by Member Clarke, seconded by Member Pinkett, III, that this Ordinance be Recommended Favorably. The motion carried by the following vote:

Yes: 7 - Member Costello, Member Clarke, Member Pinkett III, Member Bullock, Member Reisinger, Member Scott, and Member Stokes Sr.

ADJOURNMENT

THIS MEETING IS OPEN TO THE PUBLIC



HEARING NOTES

Bill: 18-0196

Environmental Citations - Default Penalty

Committee: Judiciary and Legislative Investigations

Chaired By: Councilmember Eric Costello

Hearing Date: May 8, 2018

Time: 10:00 a.m. to 10:05 a.m., and
10:50 a.m. to 10:55 a.m. (reconvened for vote)

Location: Clarence "Du" Burns Chamber

Total Attendance: ~30

Committee Members in Attendance:

Eric Costello	Mary Pat Clarke	Brandon Scott	
Leon Pinkett	Robert Stokes	John Bullock	Edward Reisinger

Bill Synopsis in the file? yes no n/a
 Attendance sheet in the file? yes no n/a
 Agency reports read? yes no n/a
 Hearing televised or audio-digitally recorded? yes no n/a
 Certification of advertising/posting notices in the file? yes no n/a
 Evidence of notification to property owners? yes no n/a
 Final vote taken at this hearing? yes no n/a
 Motioned by: **Councilmember Clarke**
 Seconded by: **Councilmember Pinkett**
 Final Vote: **Favorable**

Major Speakers

(This is not an attendance record.)

- Rebecca Woods, Environmental Control Board
- Ashlea Brown, Law Department
- Robert Cenname, Finance Department

Major Issues Discussed

1. Chairman Costello introduced the proceedings.
2. Rebecca Woods from the Environmental Control Board briefly summarized the bill and its purpose, and stated that the Board is in favor of the bill.
3. Ashlea Brown confirmed that the Law Department approves the bill for form and legal sufficiency.
4. Robert Cenname from the Finance Department stated that the Department has no objections to the bill.

Further Study

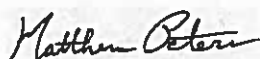
Was further study requested?

Yes No

If yes, describe. N/A

Committee Vote

E. Costello: Yea
M. Clarke: Yea
J. Bullock: Yea
L. Pinkett: Yea
E. Reisinger: Yea
B. Scott: Yea
R. Stokes: Yea



Matthew L. Peters, Committee Staff

Date: May 8, 2018

cc: Bill File
OCS Chrono File



CITY OF BALTIMORE CITY COUNCIL HEARING ATTENDANCE RECORD

Committee: Judiciary and Legislative Investigations | Chairperson: Eric Costello
 Date: May 8, 2018 | Time: 9:59 AM | Place: Clarence "Du" Burns Chambers
 Subject: Ordinance - Environmental Citations - Default Penalty | CC Bill Number: 18-0196

PLEASE PRINT

IF YOU WANT TO TESTIFY PLEASE CHECK HERE



FIRST NAME	LAST NAME	ST. #	ADDRESS/ORGANIZATION NAME	ZIP	EMAIL ADDRESS	WHAT IS YOUR POSITION ON THIS BILL?		LOBBYIST: ARE YOU REGISTERED IN THE CITY	
						FOR	AGAINST	YES	NO
John	Doe	100	North Charles Street	21202	Johndoenbmore@yahoo.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Rebecca	Woods	1340	406 N. Charles St	21201	rebecca.woods@baltnonorg.org	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ashley	Brown		LAW			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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(* NOTE: IF YOU ARE COMPENSATED OR INCUR EXPENSES IN CONNECTION WITH THIS BILL, YOU MAY BE REQUIRED BY LAW TO REGISTER WITH THE CITY ETHICS BOARD. REGISTRATION IS A SIMPLE PROCESS. FOR INFORMATION AND FORMS, CALL OR WRITE: BALTIMORE CITY BOARD OF ETHICS, C/O DEPARTMENT OF LEGISLATIVE REFERENCE, 626 CITY HALL, BALTIMORE, MD 21202. TEL: 410-396-4730; FAX: 410-396-8483.

City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland
21202

Meeting Agenda - Final

Judiciary and Legislative Investigations

Tuesday, May 8, 2018

9:59 AM

Du Burns Council Chamber, 4th floor, City Hall

18-0196

CALL TO ORDER

INTRODUCTIONS

ATTENDANCE

ITEMS SCHEDULED FOR PUBLIC HEARING

18-0196

Environmental Citations - Default Penalty

For the purpose of modifying the procedures for and maximum amounts of the default penalty imposed under an environmental citation on a person cited who neither pays the citation's prescribed prepayable fine nor requests a hearing on the violation cited or who, having requested a hearing, fails to appear at the designated hearing; correcting, clarifying, and conforming related language; and generally related to the enforcement of environmental citations.

Sponsors:

City Council President (Administration)

ADJOURNMENT

THIS MEETING IS OPEN TO THE PUBLIC



**BALTIMORE CITY COUNCIL
JUDICIARY AND LEGISLATIVE INVESTIGATIONS
COMMITTEE**

Mission Statement

On behalf of the Citizens of Baltimore City, the mission of the Judiciary and Legislative Investigations Committee is to investigate and study the continuing operations, efficiency, and functions of Baltimore City government in accordance with the laws of Baltimore City, the State of Maryland, and the United States.

As a result of its investigations and studies, the Committee will recommend and oversee reforms to improve the operations of Baltimore City's government through legislative, administrative, and/or budgetary processes.

**The Honorable Eric T. Costello
Chairman**

PUBLIC HEARING

**Tuesday, May 8, 2018
9:59 AM**

CLARENCE "DU" BURNS COUNCIL CHAMBERS

***Council Bill 18-0196
Environmental Citations - Default Penalty***

CITY COUNCIL COMMITTEES

BUDGET AND APPROPRIATIONS

Eric Costello – Chair
Leon Pinkett – Vice Chair
Bill Henry
Sharon Green Middleton
Brandon M. Scott
Isaac "Yitzy" Schleifer
Shannon Sneed
Staff: Marguerite Currin

EDUCATION AND YOUTH

Zeke Cohen – Chair
Mary Pat Clarke – Vice Chair
John Bullock
Kristerfer Burnett
Ryan Dorsey
Staff: Matthew Peters

EXECUTIVE APPOINTMENTS

Robert Stokes – Chair
Kristerfer Burnett – Vice Chair
Mary Pat Clarke
Zeke Cohen
Isaac "Yitzy" Schleifer
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Robert Stokes
Staff: Samuel Johnson
- Larry Greene (*pension only*)

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



OFFICE OF COUNCIL SERVICES

LARRY E. GREENE, Director
415 City Hall, 100 N. Holliday Street
Baltimore, Maryland 21202
410-396-7215 / Fax: 410-545-7596
email: larry.greene@baltimorecity.gov

BILL SYNOPSIS

Committee: Judiciary and Legislative Investigations

Bill 18-0196

Environmental Citations - Default Penalty

Sponsor: President Young (at the request of the Environmental Control Board)

Introduced: March 12, 2018

Purpose:

For the purpose of modifying the procedures for and maximum amounts of the default penalty imposed under an environmental citation on a person cited who neither pays the citation's prescribed prepayable fine nor requests a hearing on the violation cited or who, having requested a hearing, fails to appear at the designated hearing; correcting, clarifying, and conforming related language; and generally related to the enforcement of environmental citations.

Effective: 30th day after the date it is enacted

Hearing Date/Time/Location: May 8, 2018/9:59 a.m./Clarence "Du" Burns Chamber

Agency Report

Environmental Control Board
City Solicitor
Department of Finance

Favorable
Favorable

ANALYSIS

Current Law

Article II, Section 48 of the City Charter grants the Mayor and City Council the power to provide civil fines and penalties for violation of any City ordinance, rule, or regulation, "provided that no fine or penalty shall exceed \$1000.00..."

The Environmental Control Board ("Board") has the authority to enforce sanitation, environmental, health, safety, and other quality-of-life provisions of law listed in Article I, Section 40-14 of the Baltimore City Code, including any rules and regulations adopted under those laws. Article I, Section 40-14 also enumerates the penalties for violations of those provisions.

Article I, Section 40-8 of the Baltimore City Code provides the criteria for default, as well as the procedures for imposing and determining the amount of default penalties. When a person is cited for a violation they must either pay the citation's prescribed prepayable fine, or request a hearing on the citation from the Board. The Board may impose a default penalty on any person who (1) fails to either pay the citation's prepayable fine or request a hearing; or (2) requests a hearing but fails to appear at the hearing.

A default penalty imposed by the Board must be "based on relevant standards to be set by Board regulation (e.g., nature and severity of underlying violation, history of past violations, mitigating or aggravating circumstances)." The penalty may be no less than the amount of the prepayable fine specified for the violation. The penalty may be no more than the lesser of \$1,000, or three times the prepayable fine specified for the violation.

Before an order based on a default becomes final, the Board must notify the person by first-class mail, of: (1) the default decision and order; (2) the amount of all penalties imposed; and (3) the right of the person, within 30 days of the notice, to avoid a final judgment and collection proceedings by requesting a stay of default for good cause shown and a hearing on the request.

Background

The bill amends Article I, Section 40-8 to modify the Board's procedures for imposing and determining the amount of default penalties. Specifically, the bill removes the requirement for the Board to consider "relevant standards to be set by Board regulation (e.g., nature and severity of underlying violation, history of past violations, mitigating or aggravating circumstances)," when determining the penalty amount. The bill also removes the existing minimum and the maximum limits for default penalties. Instead, the default penalty must be set in accordance with a formula in the bill.

Under the formula in the bill, the default penalty must be equal to the amount of the prepayable fine plus an additional penalty equal to 50 percent of the prepayable fine for every 30 days, after the Board mails a notice of default, that the citation remains unsatisfied. This provision allows the default penalty to increase over time if the citation remains unsatisfied. The new formula in the bill also limits the additional penalty to the lesser of \$1,000 or two times the prepayable fine.

In some circumstances, the total penalty allowed under the bill (the prepayable fine plus the additional default penalty) could be greater than \$1,000. As the Law Department's report stated, "the City Charter gives authority to impose civil penalties for code violations up to \$1,000."

The bill also revises the requirement that the Board's notice of default inform the person of their right to avoid a final judgement by requesting a stay of default for good cause shown and a "hearing" on the request. Instead, the Board must inform the person of their right to avoid a final judgement by requesting a stay of default for good cause shown and a "determination" on the request. The Law Department's report notes that this change does not violate due process.

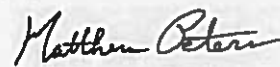
The Environmental Control Board submitted a favorable report on the bill. The Law Department approved the bill for form and legal sufficiency.

Additional Information

Fiscal Note: None

Information Source(s): Baltimore City Charter, Baltimore City Code, Environmental Control Board, Department of Law, Bill 18-0196

Analysis by:
Analysis Date:



Matthew L. Peters
May 7, 2018

Direct Inquiries to: (410) 396-1268

**CITY OF BALTIMORE
COUNCIL BILL 18-0196
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Environmental Control Board)
Introduced and read first time: March 12, 2018
Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Environmental Control Board,
Department of Finance

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Environmental Citations – Default Penalty**

3 FOR the purpose of modifying the procedures for and maximum amounts of the default penalty
4 imposed under an environmental citation on a person cited who neither pays the citation's
5 prescribed prepayable fine nor requests a hearing on the violation cited or who, having
6 requested a hearing, fails to appear at the designated hearing; correcting, clarifying, and
7 conforming related language; and generally related to the enforcement of environmental
8 citations.

9 BY repealing and reordaining, with amendments
10 Article 1 - Mayor, City Council, and Municipal Agencies
11 Section 40-8
12 Baltimore City Code
13 (Edition 2000)

14 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the**
15 **Laws of Baltimore City read as follows:**

16 **Baltimore City Code**

17 **Article 1. Mayor, City Council, and Municipal Agencies**

18 **Subtitle 40. Environmental Control Board**

19 **§ 40-8. Default by person cited.**

20 (a) *Failure to respond constitutes admission of liability.*

21 Any person cited under an environmental citation is conclusively considered to have
22 admitted liability for the violation cited and responsibility for abating the violation if,
23 within the time allowed by the rules of the Board, the person:

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 18-0196

- 1 (1) neither pays the prescribed prepayable fine nor requests a hearing on the violation;
2 or
3 (2) having requested a hearing, fails to appear on a designated hearing date.

4 (b) *Board order; default penalty.*

5 Under either of the circumstances described in subsection (a) of this section, the Board
6 may:

- 7 (1) render a default decision and order against the person cited; and
8 (2) impose [a] AN AGGREGATE civil penalty that[, based on relevant standards to be
9 set by Board regulation (e.g., nature and severity of underlying violation, history
10 of past violations, mitigating or aggravating circumstances),] is EQUAL TO:

11 [(i) no less than the amount of the prepayable fine specified for the
12 violation in question; and]

13 [(ii) no more than the lesser of:

14 (A) \$1,000; or

15 (B) 3 times the prepayable fine specified for the
16 violation in question.]

17 (I) THE AMOUNT OF THE PREPAYABLE FINE PRESCRIBED FOR THE VIOLATION;
18 PLUS

19 (II) AN ADDITIONAL, DEFAULT PENALTY EQUAL TO THE LESSER OF:

20 (A) 50% OF THE PRESCRIBED PREPAYABLE FINE FOR EVERY 30 DAYS
21 THAT, AFTER NOTICE OF DEFAULT IS MAILED UNDER SUBSECTION
22 (C) OF THIS SECTION, THE CITATION REMAINS UNSATISFIED;

23 (B) 2 TIMES THE PRESCRIBED PREPAYABLE FINE; OR

24 (C) \$1,000.

25 (c) *Notice of default order.*

26 Before an order based on a default becomes final, the Board must notify the respondent,
27 by first-class mail, of:

- 28 (1) the default decision and order;
29 (2) the amount of all penalties imposed; and

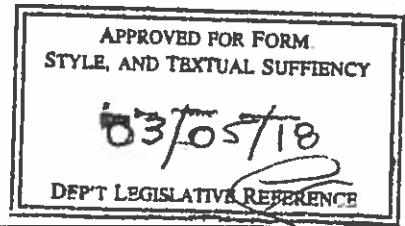
Council Bill 18-0196

1 (3) the right of the respondent, within 30 days of the notice, to avoid a final judgment
2 and collection proceedings by requesting a stay of default for good cause shown
3 and a [hearing] DETERMINATION on the request.

4 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
5 are not law and may not be considered to have been enacted as a part of this or any prior
6 Ordinance.

7 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
8 after the date it is enacted.

INTRODUCTORY*
CITY OF BALTIMORE
COUNCIL BILL _____



Introduced by: The Council President
At the request of: The Administration (Environmental Control Board)

A BILL ENTITLED

AN ORDINANCE concerning

Environmental Citations – Default Penalty

FOR the purpose of modifying the procedures for and maximum amounts of the default penalty imposed under an environmental citation on a person cited who neither pays the citation's prescribed prepayable fine nor requests a hearing on the violation cited or who, having requested a hearing, fails to appear at the designated hearing; correcting, clarifying, and conforming related language; and generally related to the enforcement of environmental citations.

BY repealing and reordaining, with amendments
Article 1 - Mayor, City Council, and Municipal Agencies
Section 40-8
Baltimore City Code
(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 1. Mayor, City Council, and Municipal Agencies

Subtitle 40. Environmental Control Board

§ 40-8. Default by person cited.

(a) *Failure to respond constitutes admission of liability.*

Any person cited under an environmental citation is conclusively considered to have admitted liability for the violation cited and responsibility for abating the violation if, within the time allowed by the rules of the Board, the person:

- (1) neither pays the prescribed prepayable fine nor requests a hearing on the violation; or

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* WARNING: THIS IS AN UNOFFICIAL, INTRODUCTORY COPY OF THE BILL.
THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER COPY.

(2) having requested a hearing, fails to appear on a designated hearing date.

(b) *Board order; default penalty.*

Under either of the circumstances described in subsection (a) of this section, the Board may:

(1) render a default decision and order against the person cited; and

(2) impose [a] AN AGGREGATE civil penalty that[, based on relevant standards to be set by Board regulation (e.g., nature and severity of underlying violation, history of past violations, mitigating or aggravating circumstances),] is EQUAL TO:

[(i) no less than the amount of the prepayable fine specified for the violation in question; and]

[(ii) no more than the lesser of:

(A) \$1,000; or

(B) 3 times the prepayable fine specified for the violation in question.]

(I) THE AMOUNT OF THE PREPAYABLE FINE PRESCRIBED FOR THE VIOLATION;
PLUS

(II) AN ADDITIONAL, DEFAULT PENALTY EQUAL TO THE LESSER OF:

(A) 50% OF THE PRESCRIBED PREPAYABLE FINE FOR EVERY 30 DAYS
THAT, AFTER NOTICE OF DEFAULT IS MAILED UNDER SUBSECTION
(C) OF THIS SECTION, THE CITATION REMAINS UNSATISFIED;

(B) 2 TIMES THE PRESCRIBED PREPAYABLE FINE; OR

(C) \$1,000.

(c) *Notice of default order.*

Before an order based on a default becomes final, the Board must notify the respondent, by first-class mail, of:

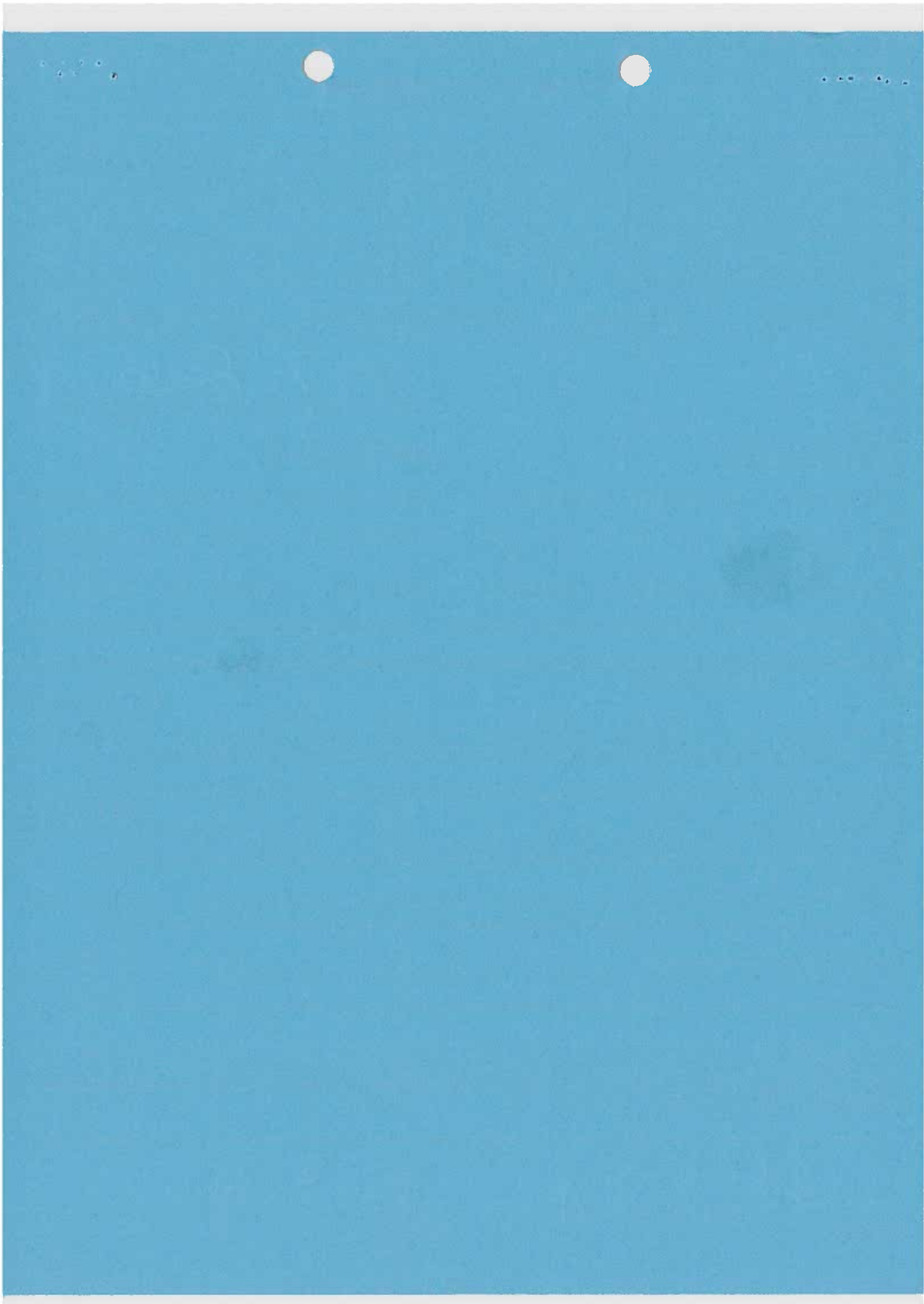
(1) the default decision and order;

(2) the amount of all penalties imposed; and

(3) the right of the respondent, within 30 days of the notice, to avoid a final judgment and collection proceedings by requesting a stay of default for good cause shown and a [hearing] DETERMINATION on the request.

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.



ACTION BY THE CITY COUNCIL

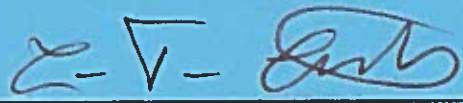
MAR 12 2018
20

FIRST READING (INTRODUCTION) _____

PUBLIC HEARING HELD ON May 8, _____ 20 18

COMMITTEE REPORT AS OF May 14, _____ 20 18

FAVORABLE _____ UNFAVORABLE _____ FAVORABLE AS AMENDED _____ WITHOUT RECOMMENDATION



Chair

COMMITTEE MEMBERS:

COMMITTEE MEMBERS:

SECOND READING: The Council's action being favorable (unfavorable), this City Council bill was (was not) ordered printed for Third Reading on:

MAY 14 2018
20

_____ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING _____ JUN 04 2018
20

_____ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

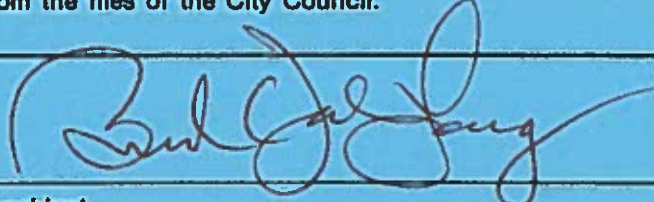
THIRD READING (ENROLLED) _____ 20 _____

_____ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

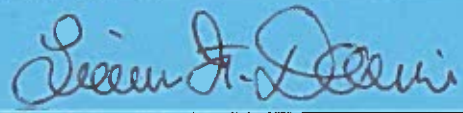
THIRD READING (RE-ENROLLED) _____ 20 _____

WITHDRAWAL _____ 20 _____

There being no objections to the request for withdrawal, it was so ordered that this City Council Ordinance be withdrawn from the files of the City Council.



President



Chief Clerk