

**MARDELA SPRINGS, MARYLAND
MUNICIPAL INFRACTION
ORDINANCE NO. 43**

AN ORDINANCE to create a type of civil offense to be known as a “municipal infraction” and to provide penalties for such offense and mechanism for the determination of the existence of a violation and the appropriate penalty therefore and designating the officials of the Town of Mardela Springs, Maryland, who shall have the power to impose such infractions and providing procedures for persons cited as guilty of municipal infractions to stand trial.

WHEREAS, it has been determined by the Town of Mardela Springs, Maryland, that certain violations of the Zoning Code (Ordinance No. 39), the Weed and Grass Ordinance (Ordinance No. 6), Nuisance Ordinance (Ordinance No. 36) and the Unlicensed and Inoperable Vehicle Ordinance (Ordinance No.), should be handled as municipal infractions rather than solely as violation of criminal law; and WHEREAS, the Town of Mardela Springs, Maryland, is authorized to create a class of civil offenses known as Municipal Infractions and to provide penalties therefore.

SECTION 1: NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Commissioners of Mardela Springs, Maryland, that a class of Civil penalties to be known as Municipal Infractions is hereby created as hereinafter set forth, and that violations thereof shall become Municipal Infractions, and that Ordinances hereafter passed may have violations thereof become Municipal Infractions the penalties and procedures for violation thereof to be as provided in this Ordinance, which shall be known as the **MUNICIPAL INFRACTION ORDINANCE.**

SECTION 100: Applicability

Any Ordinance of the Town of Mardela Springs, Maryland, which provides penalties for its violation may be passed or amended to provide that such penalties shall be Municipal Infractions.

SECTION 200: Officials of the Town of Mardela Springs, Maryland, who shall have the power to determine the existence of Municipal Infractions and issue citations and assess fines. Any Town Manager, Zoning Official, Building, Housing Inspector, Code Enforcer or other Official who shall be designated by Resolution of the Commissioners of Mardela Springs,

Maryland, shall have the authority to determine the existence of a Municipal Infraction and to issue citations and assess fines therefore with the provision that any fines assessed which shall in total amount to more than One Thousand Dollars (\$1,000.00) shall be approved by the Town Commissioners of Mardela Springs, Maryland.

SECTION 201: Procedure

Each authorized Official shall record and deliver to the Town Clerk a "Municipal Infraction" form for each Municipal Infraction assessed by him, the form shall provide:

- (a) the name and address of the property owner and address of the rental housing unit;
- (b) the nature of the infraction which shall include a reference to the Ordinance and Section thereof which is alleged to have been violated;
- (c) the location and the time that the infraction occurred;
- (d) the amount of the infraction fine assessed;
- (e) the manner, location and the time in which the fine may be paid to the municipality;
- (f) the person's right to elect to stand trial in the District Court for the infraction;
- (g) that the person(s) shall be liable for double the original fine if he (they) fails to pay the assessed fine within fifteen (15) days of the date of notice or fails in lieu thereof to file notice of his intention to stand trial.

The original of the said form shall be sent to the person designated at his address as shown on the form by certified mail, return receipt requested, or hand delivered by the Code Enforcer. Both the Clerk and the issuing Official shall retain copies. The issuing Official shall sign the form and shall show his Official capacity.

The Town's Clerk shall receive and deposit all fines paid and shall advise the issuing Official of such payment. The Clerk shall also advise the issuing Official of non-payment of fines at the end of the time specified in the notice or his election to stand trail.

The issuing Official shall be responsible thereafter for the Assessment of double fines or handling of all procedures in the District Court on behalf of the Town of Mardela Springs, Maryland. All fines received by him shall be delivered to the Town Clerk.

SECTION 202: Amount of Fine or Penalty

A fine not to exceed Five Hundred Dollars (\$500.00) may be imposed by the issuing Official for each municipal infraction of which the person is deemed to be guilty. A repeat offender of the same violation may be assessed a fine not to exceed One Thousand Dollars (\$1,000.00). The issuing official may determine that each day during which the municipal infraction continues shall constitute a separate and distinct offense and assess a fine for each such additional infraction. Such daily infractions, however, shall not make the person a repeat offender within the meaning of this Ordinance. The issuing Official charging that each day (up to 5 days) is a separate offense shall specify in his notice the dates for which the municipal infraction is charged and the total amount of the fine assessed.

SECTION 203: Failure to Pay the Fine Assessed (first notice) or Election to Stand Trial

In the event any person receiving a citation for a municipal infraction fails to pay the fine assessed by the date of payment noted on the citation and/or fails to file a notice of his intention to stand trial in the District Court, the issuing Official shall send a Formal notice of the infraction and any increased fine to the owner's last known address by certified mail, return receipt requested, and demand payment of the amount due by a date to be named in said notice.

SECTION 204: Failure to Pay after Second Notice (or the last notice sent)

In the event the citation has not been satisfied within fifteen (15) days after the mailing of the second notice, the issuing Official shall request adjudication of the citation from the District Court of Maryland for Wicomico County and shall file with said Court a copy of the Resolution authorizing him to issue citations; the approval of these fines by the Town Commissioners of Mardela Springs, Maryland, if required; a copy of the original and second citation and all further proceedings. The issuing Official shall have a summons issued for the person named in the citation at his last known address.

SECTION 205: Procedure in the Event the Person Cited Elects to Stand Trial

In the event the person cited gives notice to the Town of his intent to stand trial, the issuing Official shall immediately file with the District Court a copy of the notice and of the original citation and shall have a summons issued to the person named in the citation at his last known address.

SECTION 206: Town Participation at Trial

The issuing Official together with such other town employees or other witnesses as he shall require shall appear at any Municipal Infraction hearing scheduled for violation of this Ordinance, and the issuing Official may issue summons for necessary witnesses.

SECTION 300: Persons Liable for Violations of Municipal Infractions

The owner(s), tenant(s) of any building structure, premises or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains any condition which constitutes a violation of the Ordinance under which a Municipal Infraction is charged may each be found guilty of a Municipal Infraction under this Ordinance and suffer the fines herein provided under each citation.

SECTION 400: Other Remedies

Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation of the Ordinance under which the Municipal Infraction was charged and such action shall not relieve the person(s) cited for a Municipal Infraction for liability of the fine or fines assessed.

SECTION 500: Miscellaneous Matters

SECTION 501: Conviction Not Criminal

Conviction of a Municipal Infraction whether by determination of the District Court or by Payment to the Town of Mardela Springs, Maryland, is not a criminal conviction for any purpose.

SECTION 502: Rights of the Accused

In any proceeding for violation of this Ordinance in the District Court, the accused shall have the same rights as at the trial of criminal cases but the Court shall reach its verdict on the preponderance of the evidence.

SECTION 503: Waiver of Fine for Municipal Infraction

The Town Commissioners of Mardela Springs, Maryland, may waive the penalty for an initial Municipal Infraction if the person charged:

- (a) requests a hearing at the next meeting of the Town Commissioners;
- (b) has paid the fine assessed within the time provided in the original citation or elected to stand trial and shows at the hearing that the citation was erroneously issued to him or that the violation has been abated prior to the date of the hearing.

SECTION II: AND BE IT FURTHER RESOLVED, ENACTED AND ORDAINED BY THE TOWN OF MARDELA SPRINGS, MARYLAND

that this Ordinance shall take effect from and after the date of its final passage. The above Ordinance was introduced and read to the Commissioners of Mardela Springs, Maryland, at a meeting held on 5/17/05 and finally passed at a meeting held on 7/19/05 having been published as required by law in the meantime.

ATTEST:

Patricia Hooper

PAT HOOPER TOWN CLERK

subscribed and sworn to before me, in my presence, this 19th day of July, 2005, a Notary Public in and for the State of Maryland.

Patricia Hooper
Notary Public

My commission expires 3-1 2009

David A. Insley
DAVID A. INSLEY

LARRY SHOCKLEY

Debra F. Bailey
DEBRA F. BAILEY

Stanford Robinson
STANFORD ROBINSON

Jeannie M. Cohee
JEANNIE COHEE

4/28/05

Revised 7/19/05