

**Chapter 2
Civil Citations**

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Article I Definitions

§2-10: Definitions:

As used in this chapter, the following terms shall have the meaning indicated.

1. **CIVIL CITATION:** A payable civil citation issued for violations of any Town ordinance designated as a Municipal Infraction.
2. **COMMISSIONERS:** The Board of Commissioners, including the Mayor (President of the Board of Commissioners).
3. **ENFORCEMENT OFFICER:** An individual acting in his or her official capacity to enforce the ordinances of the Town, as authorized by the Commissioners.
4. **MUNICIPAL INFRACTION:** A violation of any ordinance or code provision specifically declared to be punishable as a municipal infraction and not otherwise deemed to be a criminal offense under state or county law; a municipal infraction is a civil offense.
5. **TOWN:** Town of Thurmont.

Article II
Violation of ordinances and resolutions.

§2-20: Violation of ordinances and resolutions.

The Town of Thurmont hereby adopts Maryland Annotated Code, Article 23A, §3; as amended from time to time.

§2-21: Violations of ordinances and resolutions.

(1) Violations of ordinances and resolutions

(a) Penalty. The Commissioners shall have power to provide that violations of ordinances and resolutions authorized by this article shall be punishable as misdemeanors, but no penalty shall exceed a fine of \$ 1,000 and imprisonment for 6 months. Imprisonment in default of fine and costs shall be regulated by the provisions of the Md. Code Ann., Cts & Jud. Proc. Art. §§ 7-504 and 7-505.

§2-22: Municipal infractions:

(1) The Commissioners may provide that violations of any municipal ordinance shall be a "municipal infraction" unless the violation is declared to be a felony or a misdemeanor by State law.

(2) In addition, the legislative body of a municipality may classify as a "municipal infraction": (a) a violation of any zoning or land use ordinance or regulation authorized to be adopted or enacted by that municipality; and (b) littering within the municipality as prohibited under Md. Code Ann., Crim. Law § 10-110.

(3) For purposes of this article each municipal infraction is a civil offense.

(4) Each day the violation continues shall be deemed a separate civil offense, unless some other time period is specified in the municipal infraction violated.

§2-23: Payment of civil citation.

(1) A fine not to exceed \$ 1,000 may be imposed for each municipal infraction. The fine is payable to the Town by the person charged in the citation within 20 calendar days of service of the citation.

§2-24: Authority to issue civil citations.

(1)(a) Those officials authorized by the Commissioners to act as enforcement officers may serve a citation on any person:

(i) Whom they believe is committing or has committed a municipal infraction; or

(ii) On the basis of an affidavit submitted to an appropriate official of the Town, to be named by the Town, citing the facts of the alleged infraction.

§2-25: Method of service.

(1) A citation shall be served within the State of Maryland or, when authorized by the laws of the State of Maryland, outside of this State, on the individual defendant, or at the individual defendant's dwelling house or usual place of abode with a resident of suitable age and discretion:

(a). In accordance with Maryland Rule 3-121; or

(b). For real property-related violations, if proof is made by affidavit that good faith efforts to serve the defendant under Maryland Rule 3-121(a) have not succeeded, by:

(i) By mailing to the defendant's last known address a citation and all other papers filed with it by certified mail requesting: "Restricted Delivery – show to whom, date, address of delivery." Service by certified mail under this Section is complete upon delivery; and

(ii) Posting of the citation at the property where the infraction has occurred or is occurring, and, if located within the municipality in which the infraction has occurred or is occurring, at the residence or place of business of the defendant.

§2-26: Citation contents.

(1) The citation shall contain:

(a) The enforcement officer's certification:

(i) Attesting to the truth of the matter set forth in the citation; or

(ii) That the citation is based on an affidavit;

(b) The name and address of the person charged;

(c) The nature of the infraction;

- (d) The location and time that the infraction occurred;
 - (e) The amount of the infraction fine assessed;
 - (f) The manner, location, and time in which the fine may be paid to the municipality;
 - (g) The person's right to elect to stand trial for the infraction; and
 - (h) The effect of failing to pay the assessed fine or demand a trial within the prescribed time.
- (2) The enforcement officer shall retain a copy of the citation.

§2-27: Request to stand trial.

(1) Election to stand trial.

(a) If a citation is served without a summons as provided in paragraph (3) of this subsection, the person charged in the citation may elect to stand trial for the infraction by notifying the Town in writing of the person's intent to stand trial. The written notice shall be given at least 5 days prior to the date of payment as set forth in the citation.

(b) Upon receipt of the written notice of the intent to stand trial, the Town shall forward to the District Court a copy of the citation and the written notice.

(c) Upon receipt of the citation and the written notice, the District Court shall schedule the case for trial and notify the defendant of the trial date.

(2) Assessment of liability.

(a) If a person charged in a citation fails to pay the fine by the date of payment set forth on the citation and fails to deliver to the Town the written notice of intent to stand trial, the person is liable for the assessed fine.

(b) The Town may double the fine to an amount not to exceed \$ 1,000 and request adjudication of the case through the District Court, including the filing of a demand for judgment on affidavit.

(c) The District Court shall promptly schedule the case for trial and summons the defendant to appear.

(d) The defendant's failure to respond to such summons shall result in the entry of judgment against the defendant in favor of the Town in the amount then

due if a proper demand for judgment on affidavit has been made.

(3) Summons to appear in court.

(a)(1) An enforcement officer may also serve a summons with a citation that requires the person to appear in District Court on a specified date and time.

(2) The summons shall specify that the person is not required to appear in District Court if the fine is paid as provided in the citation.

(3) The citation form may contain the summons.

(4) The enforcement officer shall coordinate the selection of court dates with the appropriate District Court officials.

(b) If the defendant fails to pay the fine as provided in the citation and fails to appear in District Court as provided in the summons:

1. The Town may double the fine to an amount not to exceed \$ 1,000;
and

2. The Court may enter judgment against the defendant in the amount then due if the proper demand for judgment on affidavit has been made.

(4) If any person shall be found by the District Court to have committed a municipal infraction:

(a)(1) The District Court shall order the person to pay the fine, including any doubling of the fine, not to exceed the limits under §2-23;

(2) The fines imposed shall constitute a judgment in favor of the Town;
and

(3) If the fine remains unpaid for 30 days following the date of its entry, the judgment shall be enforceable in the same manner and to the same extent as other civil judgments for money unless the Court has suspended or deferred the payment of the fine as provided under subparagraph (ii) of this paragraph;

(b) The District Court may suspend or defer the payment of any fine under conditions that the Court sets;

(c) The person shall be liable for the costs of the proceedings in the District Court; and

(d) The Court may order the person to abate the infraction or enter an order permitting a Town to abate any such infraction at the person's expense.

(5) Cost of abatement.

(a) If the Town abates an infraction pursuant to an order of the District Court, the Town shall present the defendant with a bill for the cost of abatement by:

1. Regular mail to the defendant's last known address; or
2. Any other means that are reasonably calculated to bring the bill to the defendant's attention.

(b) If the defendant does not pay the bill within 30 days after presentment, upon a motion of the Town, the District Court shall enter a judgment against the defendant for the cost of the abatement.

(6) All fines, penalties, or forfeitures collected by the District Court for a municipal infraction shall be remitted to the Town.

(7) If a defendant fails to pay any fine or cost imposed by the District Court without good cause, the District Court may punish the failure as contempt of court.

(8) Adjudication of a municipal infraction, as defined in §2-22, is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.

(9) In any proceeding for a municipal infraction:

(a) It shall be the burden of the Town to prove that the defendant has committed the infraction by clear and convincing evidence, and in any such proceeding, the District Court shall apply the evidentiary standards as prescribed by law or rule for the trial of civil causes;

(b) The District Court shall ensure that the defendant has received a copy of the charges against the defendant and that the defendant understands those charges;

(c) The defendant shall be entitled to cross-examine all witnesses who appear against the defendant, to produce evidence or witnesses in the defendant's own behalf, or to testify in the defendant's own behalf, if the defendant elects to do so;

(d) The defendant shall be entitled to be represented by counsel of the defendant's own selection and at the defendant's own expense; and

(e) The defendant may enter a plea of guilty or not guilty of the infraction as charged, and the verdict of the District Court shall be guilty of a municipal infraction

or not guilty of a municipal infraction, or the District Court may, before rendering judgment, place the defendant on probation.

(10) The court costs in a municipal infraction proceeding in which costs are imposed are \$ 5. A defendant may not be liable for payment to the Criminal Injuries Compensation Fund.

(11) The State's Attorney of Frederick County or the Town is authorized to prosecute a municipal infraction and is authorized to enter a nolle prosequi in such cases or to place such cases on the stet docket.

Article III Right of Entry

§2-30: Right of entry.

1. An enforcement officer, after proper identification and a reasonable opportunity for the resident to respond, may enter a structure or premises at any reasonable time, subject to constitutional restrictions, for the purpose of making inspections and performing duties related to the enforcement of the ordinances of the Town.

2. Any unreasonable restraint or hindrance offered by any owner, tenant, or agent or any other person to the right of entry in this section provided is punishable under §2-31.

§2-31: Enforcement.

1. If enforcement officer's entry is refused or is otherwise not obtained, the Town may seek an administrative search warrant permitting entry.
2. It is unlawful for any person to interfere with an enforcement officer's performance of his or her duties. Violation of this Article constitutes a municipal infraction. The penalty for each violation shall be the sum of one-thousand (\$1000.00) dollars.
 - a. Interference includes, but is not limited to: (i) engaging in verbally or physically threatening behavior directed at an enforcement officer; (ii) engaging in or causing any intentional, reckless, or negligent physical contact with an enforcement officer; or (iii) refusing, obstructing, hindering, or impeding the enforcement officer's entry onto, or inspection of, the property or premises pursuant to an administrative search warrant.
 - b. Each day of violation shall constitute a separate violation.

- c. Each enforcement officer subject to interference shall constitute a separate violation.

Article IV Tax Liens

§2-40: Collection of municipal charges.

1. If the person charged in the citation fails to make payment, pursuant to Section § 2-23 of this Chapter, and fails to request to stand trial, pursuant to Section § 2-27 of this Chapter, any valid charges, taxes or assessments issued by or on behalf of the Town, in addition to real estate taxes, shall be charged as liens upon the real property of the debtor within the municipality. Such liens shall be collected in the same manner as municipal taxes are collected.
2. A "valid charge" as provided in paragraph 1 of this subsection includes the following:
 - a. Any amounts due the Town for the cost of abating any violation of the Town Code;
 - b. Any amounts due for fines levied by any court for any violation of the Town Code; or
 - c. Any other charges against the owners of real property within the Town to the extent that such charges are identified with or related to such real property.
3. This power is supplemental to and not in limitation of any other authority the town may have under state or municipal law for the collection of such charges.
4. This Section is retroactive.

Article V Severability

§2-50: Severability.

If any portion of this Chapter is found to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or effectiveness of the remaining provisions of this Chapter or any part thereof.