

COUNCIL OF THE DISTRICT OF COLUMBIA

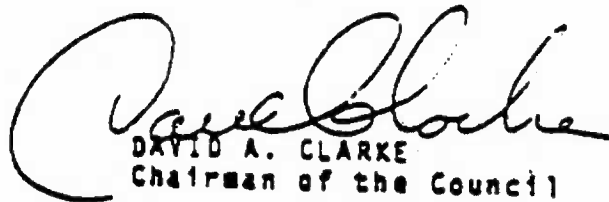
NOTICE

D.C. LAW 6-100

"Litter Control Administration Act of 1985".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 6-297 on first and second readings, December 17, 1985, and January 14, 1986, respectively. Following the signature of the Mayor on January 28, 1986, this legislation was assigned Act No. 6-128, published in the February 7, 1986, edition of the D.C. Register, (Vol. 33 page 781) and transmitted to Congress on February 3, 1986 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 6-100, effective March 25, 1986.

  
DAVID A. CLARKE  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

February 3,4,5,6,7,18,19,20,21,24,25,26,27,28

March 3,4,5,6,7,10,11,12,13,14,17,18,19,20,21,24

EFFECTIVE DATE MAR 25 1986

Codification  
New Chapter  
of title 6

AN ACT

D.C. ACT 6 - 128

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JAN 28 1985

To provide for administrative adjudication and civil enforcement of local laws within the Department of Public Works of the District of Columbia and to amend the District of Columbia Health Regulations, the Solid Waste Collection Containers to be Used, and title 24 of the District of Columbia Municipal Regulations for these purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "Litter Control Administration Act of 1985".

Sec. 2. The purpose of this act is to provide civil sanctions and to eliminate criminal liability for violating a variety of local laws and rules, to provide for civil enforcement of these violations, and to establish an expeditious administrative adjudicative system.

New,  
D.C. Code  
sec. 6-29  
(1986 sup

Sec. 3. (a)(1) The Mayor of the District of Columbia ("Mayor"), through the Department of Public Works, shall enforce sections 601, 603(a), (b), (c), (e), (f), and (g), 604(d) and (h), and 612 of chapter 3 in title 8 of the District of Columbia Health Regulations, enacted June 29,

New,  
D.C. Code  
sec. 6-29  
(1986 sup

1971 (Reg. 71-21; 21 DCMR 700.1 et seq.), sections 3, 4, 5, and 6 of Solid Waste Collection: Containers to be Used, effective February 21, 1973 (19 DCR 497; 21 DCMR 708), and a number of rules recorded in sections 900.7, 900.8, 1000, 1005, 1008, 1009, 2000, 2001, 2002, and 2010 of 24 DCMR, and, with the adjudicative system provided in sections 5, 6, and 9 of this act, the Department of Public Works shall hear contested cases arising from violations of the regulations listed in this section.

(2) Violations of the regulations listed in paragraph (1) of this subsection shall be subject to the civil administrative system and the civil sanctions provided in this act.

(b) The adjudication system shall comply with the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1203; D.C. Code, sec. 1-1501 et seq.).

(c) The first sentence of section 7 of the Solid Waste Collection: Containers to be Used, effective February 21, 1973 (19 DCR 497; 21 DCMR 700.6), is amended to read as follows:

D.C.M.R.

"Any person who fails to comply with any provisions of this directive shall be subject to the civil sanctions provided in the Litter Control Administration Act of 1985."

(d) The first sentence of section 612 in chapter 3 of title 8 in the District of Columbia Health Regulations, enacted June 29, 1971 (Reg. 71-21; 21 DCMR 700.6), is amended to read as follows:

D.C.M.R.

"Any person who fails to comply with sections 601, 603(a), (b), (c), (e), (f), and (g), 604(d) and (h), and 612 of this Part shall be subject to civil sanctions provided in the Litter Control Administration Act of 1985. Any person who fails to comply with the rest of this Part shall be punished by a fine not to exceed \$300 or imprisonment not to exceed ten days, or both."

(e) Title 24 of the District of Columbia Municipal Regulations is amended as follows:

D.C.M.R.

(1) Section 900.10 is amended to read as follows:

"Any person violating sections 900.7 and 900.8 shall be subject to civil sanctions provided in the Litter Control Administration Act of 1985."

(2) Section 2010.4 is amended to read as follows:

"Any person violating the provisions of this section shall be subject to civil sanctions provided in the Litter Control Administration Act of 1985."

Sec. 4. (a) For the purposes of this act, the term "nuisance" means a condition or circumstance violative of the provisions listed in section 3(a).

New,  
D.C. Cod  
sec. 6-2  
(1986 su

(b) The Mayor may, consistent with constitutional safeguards, enter a nonresidential premises and inspect and investigate an allegation about a nuisance. The Mayor may act upon the Mayor's own information or observation or upon the information or the observation of another person.

(c)(1) If the Mayor finds on the premises a nuisance actionable under this act, then, after the inspection and the investigation, the Mayor shall serve a notice of

violation to the person alleged to have created the nuisance.

(2) The notice of violation may be served on the owner, the owner's authorized agent, the building superintendent, the operator of equipment, or other responsible individual at the premises, or the Mayor may conspicuously post the notice or deliver it to the owner of the premises or the person creating the nuisance by certified mail..

(d) The Mayor shall prepare the notice of violation and shall include in it the following:

(1) The location, the date, and the time that the actionable nuisance took place or that the Mayor investigated it;

(2) The name and the address of the person charged with the nuisance;

(3) The law or regulations violated;

(4) The amount of the fine assessed;

(5) The necessary requirements for abating the nuisance;

(6) The person's right to request a hearing on the alleged nuisance and the procedure for making the request;

(7) The manner, the location, and the time for paying the fine or for arranging a hearing;

(8) A statement that the person's failure to answer the notice of violation within 15 calendar days after the notice has been issued may result in additional

penalties; and

(9) Reinspection information to include the date, the time, and the condition that property should be in at the time of reinspection.

(e) The Department of Public Works shall keep a copy of the notice of violation and shall attach to it a certificate attesting to the manner that the Mayor issued the notice.

Sec. 5. (a) In response to a notice of violation, a person issued a notice may do 1 of the following:

- (1) Admit the violation;
- (2) Admit the violation, but with an explanation;

or

(3) Deny the violation.

(b) Except as provided in subsection (c) of this section, no response other than those listed in subsection (a) of this section shall be regarded as an answer.

(c) A person who appears at an administrative hearing pursuant to section 6 and refuses to respond by admitting, by admitting with explanation, or by denying the violation shall be regarded as having denied the violation according to subsection (a)(3) of this section.

(d) A person admitting the violation shall pay the civil fine in person or by mail and shall certify on the back of the notice that the nuisance has been abated. If upon reinspection it is revealed that the nuisance still exists, the Mayor may impose the sanction provided in section 3(d).

New,  
D.C. Cod  
sec. 6-3  
(1986 su:

(e) A person admitting the violation with explanation or a person denying the violation shall schedule a hearing within 15 calendar days after the date the Mayor issued the notice.

(f) If a person to whom a notice of violation has been issued fails to respond to the notice within 15 calendar days after the date the notice was issued, then the person shall be liable for a penalty equal to the civil fine plus the costs of abating the nuisance or of preventing the violation from recurring as provided in section 8 (c)(2) and (d).

Sec. 6. (a) A hearing for judging a violation actionable under this act shall be held before a hearing examiner referred to in section 9, and the hearing shall be conducted according to title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1203; D.C. Code, sec. 1-1501 et seq.).

Rev.  
D.C. Code,  
sec. 6-290  
(1986 supp

(b)(1) After due consideration of the evidence and arguments made at the hearing, the hearing examiner shall determine whether the violation has been established by a preponderance of evidence.

(2) Where a determination is made that a violation is not established, an order dismissing the charge shall be entered.

(3) Where a determination is made that the violation has been established, an appropriate order shall be entered in the records of the hearing.

(c) In the case of a person who is found liable for a

violation, the hearing examiner may order the respondent to do any or all of the following:

(1) To abate the nuisance;

(2) To pay the civil fine established or stated in section 8(b) and (c); or

(3) If the person consents, to perform a specified number of hours of volunteer community service as provided for in section 8(e) and in rules required by section 11.

(d) An order rendered pursuant to a determination that a violation has been established, or pursuant to the receipt of a response admitting the violation, shall be a civil order.

(e) A person who has responded to a notice of violation and fails, without good cause, to appear at the scheduled hearing shall be liable for a penalty equal to twice the amount of the civil fine plus any costs of abating or preventing the violation consistent with provisions of section 8.

(f) If a person to whom a notice of violation has been issued fails to appear at a hearing, then the hearing examiner may proceed with the hearing and render a final disposition of the case.

(g) Civil fines collected pursuant to this act shall be used to offset the cost of implementing this act. Excess monies shall be paid into the General Fund of the District of Columbia established according to section 9(a) of the Revenue Funds Availability Act of 1975, effective January



22, 1976 (D.C. Law 1-42; D.C. Code, sec. 47-131(a)).

Sec. 7. (a) The Mayor shall reinspect a premises for which a notice of violation has been issued and for which abatement has been required.

New,  
D.C. Code,  
sec. 6-290  
(1986 supp)

(b) The reinspection shall occur within a reasonable time of the date of issuance of the notice of violation or within a reasonable time of a hearing examiner order pursuant to section 6(c), and the reinspection shall be for the purposes of assessing and verifying the abatement.

(c) If the Mayor determines that the nuisance has not been abated satisfactorily, then the Mayor shall abate the nuisance and may impose the sanction provided in section 8(d).

Sec. 8. (a) The Mayor may impose any or all sanctions stated in this section.

New,  
D.C. Code,  
sec. 6-290  
(1986 supp)

(b)(1) The Mayor shall prepare and the Council of the District of Columbia ("Council") shall approve a schedule of fines for violating rules listed in section 3, and the fines, when adopted, shall be printed in the D.C. Register and in 1 or more of the daily newspapers published in the District of Columbia ("District").

(2) The schedule shall not be enforced until 30 days after publication in the D.C. Register.

(3) The Mayor may modify this schedule of fines by rulemaking. The modification shall become effective at the end of 45 calendar days unless the Council, during the 45-day period, adopts a resolution disapproving the Mayor's modification.

(c) In addition to the civil fine permitted under subsection (b) of this section, the following penalties may be imposed:

(1) In the case of a person receiving a notice of violation who fails to answer the notice within the time specified by section 5(f), a penalty equal to the amount of the civil fine; and

(2) In the case of a person receiving a notice of violation who answers but fails without good cause to appear on the date scheduled for the hearing, a penalty equal to twice the amount of the civil fine.

(d) The Mayor may recover up to double the cost and expense incurred by the Mayor for abating the nuisance and for preventing the future recurrence of the violation.

(e) The hearing examiner may agree with the person subject to penalties under this section to allow an alternative sanction requiring the respondent to perform, on a voluntary basis, a specific number of hours of community service comparable to the severity of the violation. The assignment will be made by the hearing examiner according to rules provided for by section 11 and in conjunction with a representative of the District of Columbia Department of Public Works.

(f)(1) The District shall have a continuing lien upon any land and the improvements on the land to which fines or penalties have been imposed pursuant to this act.

(2) The lien shall have priority over all other liens except liens for District taxes and District water and

sewer charges.

(3) If any civil fines, penalties, or costs shall remain unpaid after the end of 2 years after the date of the final notice for the charges, then the subject property may be sold for the unpaid civil fines, penalties, and costs at the next tax sale in the same manner and under the same conditions as property sold for delinquent general taxes.

(4) The proceeds of the sale shall be credited to the General Fund of the District of Columbia.

Sec. 9. (a) The Mayor shall appoint a chief hearing examiner and other hearing examiners needed to implement this act, and the administration of the hearings provided for in this section and in section 6 shall be regulated by the chief hearing examiner.

New,  
D.C. Code,  
sec. 6-290  
(1986 supp

(b) The powers of hearing examiners shall include, but not be limited to, the following:

(1) To preside over hearings in contested matters arising out of the statutes and the rules referred to in section 3 and to do so in accordance with the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1203; D.C. Code, sec. 1-1501 et seq.);

(2) To require the respondent to abate the violations;

(3) To charge civil fines, penalties, and abatement costs established in sections 6(e) and 8;

(4) To agree to alternative sanctions, under section 8(e) and according to rules to be established under section 11, so that the agreed to sanctions allow the

respondent to perform voluntarily a specific number of hours of community service;

(5) To suspend or modify fines, penalties, and abatement costs;

(6) To set aside and reopen a final disposition upon application and for good cause shown; and

(7) To require the attendance of witnesses by subpoena, administer oaths, take the testimony of witnesses under oath, and dismiss, rehear, and continue cases.

(c)(1) If a person refuses to obey a hearing examiner's demand that the person testify or comply with a subpoena, the hearing examiner may request the Superior Court of the District of Columbia to compel the person to testify or to obey the subpoena.

(2) If the court consents to the hearing examiner's request and compels the person to testify or to obey the subpoena, but if the person disobeys the court, then the person shall be in contempt of court, and the court may use its equity powers to compel the obedience of the person.

Sec. 10. (a) The hearing examiner's decision may be appealed within 15 days of the issuance of the decision to the Board of Appeals and Review.

New,  
D.C. Code,  
sec. 6-29C  
(1986 supp

(b) The parties may appeal a decision of the Board of Appeals and Review within 15 days of the issuance of the decision to the District of Columbia Court of Appeals.

Sec. 11. The Mayor shall issue rules to implement this act under the provisions of title 1 of the District of

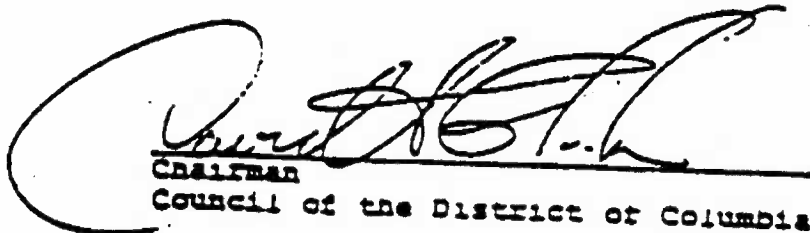
New,  
D.C. Code,  
sec. 6-29:  
(1986 supp

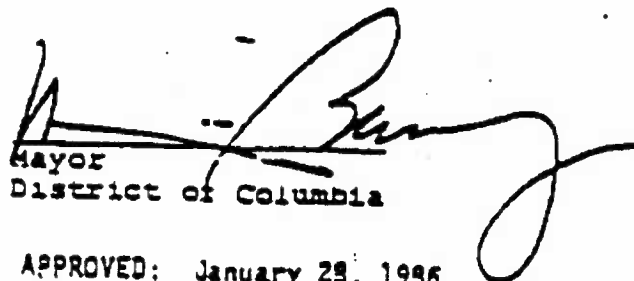
Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1203; D.C. Code, sec. 1-1501 et seq.), and the rules shall, at the least, establish a program of community service which may be used, according to an agreement under sections 6(c)(3) and 8(e), as an alternative sanction under section 8(a).

Sec. 12. (a) (a) This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)).

(b) This act shall apply to violations which occur at least 30 days after the D.C. Register publishes the schedule referred to in section 8(b).

Note,  
D.C. Code  
secs. 6-290  
to 6-2910  
(1986 supp.)

  
Chairman  
Council of the District of Columbia

  
Mayor  
District of Columbia

APPROVED: January 29, 1986



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Six - Second Session

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: 3 6-297

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 12-17-85

VOICE VOTE: By Majority

Recorded vote on request

Absent: Kane and Wilson

ROLL CALL VOTE - RESULT

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					RAY					SPAULDING				
CRAWFORD					ROLARK					WILSON				
JARVIS					SCHWARTZ					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X - Indicates Vote      A.B. - Absent      N.V. - Present, not voting

CERTIFICATION RECORD

*Russell S. ...*  
Secretary to the Council

1/17/86  
Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 1-14-86

VOICE VOTE: Unanimous

Recorded vote on request

Absent: all present

ROLL CALL VOTE - RESULT

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					RAY					SPAULDING				
CRAWFORD					ROLARK					WILSON				
JARVIS					SCHWARTZ					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X - Indicates Vote      A.B. - Absent      N.V. - Present, not voting

CERTIFICATION RECORD

*Russell S. ...*  
Secretary to the Council

1/17/86  
Date

Item on Consent Calendar

ACTION & DATE:

VOICE VOTE:

Recorded vote on request

Absent:

ROLL CALL VOTE - RESULT

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					RAY					SPAULDING				
CRAWFORD					ROLARK					WILSON				
JARVIS					SCHWARTZ					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X - Indicates Vote      A.B. - Absent      N.V. - Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date

8-4000-1002