

ORDINANCE
OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK,
AMENDING CHAPTER 132, “LITTER AND GRAFFITI”, BY REPEALING AND RE-
ENACTING ARTICLE II, “LITTERING”, §132-8, “VIOLATIONS AND PENALTIES”,
AND §132-9, “NOTICE OF VIOLATION; COST OF REMOVAL TO BECOME
LIEN”; AND CHAPTER 110, “FEES AND PENALTIES”, BY REPEALING AND RE-
ENACTING §110-2, “PENALTIES”, TO INCREASE THE PENALTY FOR FIRST
AND SUBSEQUENT VIOLATION OF §132-3, “LITTERING”, CLARIFYING THE
CONDITIONS UNDER WHICH LITTER MAY BE REMOVED FROM PUBLIC
PROPERTY AND UPDATING CODE REFERENCES

WHEREAS, §5-202 of the Local Government Article of the Annotated Code of Maryland provides that the Mayor and Council of the City of College Park have the authority to pass such ordinances as it deems necessary to preserve peace and good order, and to protect the health, comfort and convenience of the residents of the municipality; and

WHEREAS, the City Charter, Article VII, “Powers and Duties of Mayor and Council”, §C7-9, “Refuse collection and disposal service”, authorizes the Mayor and Council to pass such ordinances as may be necessary to provide for the establishment and maintenance of a refuse collection and disposal service; and

WHEREAS, the Mayor and Council adopted Chapter 32, “Litter and Graffiti”, to protect the public health, and established penalties in Chapter 110, “Fees and Penalties” for violation of the Chapter; and

WHEREAS, the Mayor and Council determined that it is in the public interest to amend Chapters 132 and 110, in conjunction with the revision of the City’s waste and recycling collection provisions, to increase the penalties for illegal dumping, to clarify the conditions for City abatement of litter on public property and to update code references.

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| CAPS | : Indicate matter added to existing law. |
| [Brackets] | : Indicate matter deleted from law. |
| Asterisks *** | : Indicate matter remaining unchanged in existing law but not set forth in Ordinance |
| <u>CAPS</u> | : Indicate matter added in amendment |
| [Brackets] | : Indicate matter deleted in amendment |

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the City of College Park that Chapter 110 “Fees and Penalties”, §110-2, “Penalties” be and is hereby repealed and reenacted with amendments to read as follows:

§110-2 Penalties.

Unless otherwise noted herein, the violation of a City ordinance or resolution is a municipal infraction. The following fines and/or imprisonment for violations of various ordinances or resolutions are applicable in the City of College Park:

| Chapter/Section | Violation | Penalty |
|---|---|------------------------------|
| | * * * * | |
| Ch. 132 Litter and Graffiti Article II Littering §132-3 | Initial violation | { \$50 } \$1,000 |
| | Subsequent violation [in 6 months] | { \$100 } \$1,000 |
| Violation of remainder of Article II | Initial violation | \$100 |
| | Subsequent violations In 12 months | \$200 |
| | * * * * | |

Section 2. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park that Chapter 132 “Litter and Graffiti”, Article II, “Litter”, §132-8, “Violations and penalties”, be and it is hereby repealed, reenacted and amended to read as follows:

§132-8 Violations and penalties.

A. * * * *

B. Any person receiving the notice who fails to abate the violation as required in Subsection A shall be issued a municipal infraction citation under the provisions of [~~Article 23A, §3(b)(2),~~] §6-102 of the LOCAL GOVERNMENT ARTICLE, Annotated Code of Maryland, subject to a fine as set forth in Chapter 110, Fees and Penalties, provided that

Subsection C of this section does not apply. Subsequent violations of § 132-4, 132-5 or 132-6 within the twelve-month period following the issuance of the first municipal infraction shall be subject to a fine as set forth in Chapter 110, Fees and Penalties. A citation may issue immediately for any repeat violation during the period. No additional notice of violation is required prior to issuance of the municipal infraction.

C. Any person affected by any notice or order which has been issued in connection with the enforcement of § 132-4, § 132-5 or § 132-6 of this article, EXCEPT A NOTICE OF VIOLATION FOR DEPOSITING OR ALLOWING LITTER TO ACCUMULATE OR COLLECT IN ANY GUTTER, STREET OR ON OTHER PUBLIC PROPERTY OR PLACE, may request and shall be granted a hearing on the matter by the Advisory Planning Commission, provided that such person shall, within 10 days after service of a notice or order, file in the office of the Public Services Department a signed written notice of appeal requesting a hearing and setting forth a brief statement of the reasons therefor. Upon receipt of such notice of appeal, the Public Services Department shall forthwith notify the Commission and the Commission shall set a time and place for such hearing and shall give the person appealing and the Code Enforcement Officer involved notice thereof. The Commission shall determine such appeals as promptly as practicable.

D. Violations of § 132-3 shall also constitute a municipal infraction, subjecting the violator to a fine as set forth in Chapter 110, Fees and Penalties. [~~Subsequent violations within any six-month period shall carry a fine as set forth in Chapter 110, Fees and Penalties. No additional notice of violation is required prior to issuance of a municipal infraction.~~]

E. In accordance with [~~Article 27, § 468,~~] §10-110 of the CRIMINAL LAW ARTICLE, Annotated Code of Maryland, any person violating the provisions of this article may, in addition to the penalties provided for in the previous subsections of this section, be subject, in the discretion of a court of competent jurisdiction, to perform certain litter-gathering labor in the City under the supervision of the court.

F. – G. * * * *

Section 3. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park that Chapter 132 “Litter and Graffiti”, Article II, “Litter”, §132-9, “Notice of violation; cost of removal to become lien”, be and it is hereby repealed, reenacted and amended to read as follows:

§ 132-9 Notice of violation; cost of removal to become lien.

A. A violation of § 132-4, 132-5 or 132-6 shall constitute a public nuisance. In the event that § 132-4, 132-5 or 132-6 has been violated and not corrected within 24 hours of the notice required in § 132-8, in addition to any other remedy allowed by law, the City may take

action to abate the violation. EXCEPT FOR ABATEMENTS OF LITTER DEPOSITED, ACCUMULATED OR COLLECTED IN ANY GUTTER, STREET OR ON OTHER PUBLIC PROPERTY OR PLACE, [P] Prior to taking abatement action, the City shall provide the owner with at least 10 days' notice of its intention to enter onto the subject property to remove, dispose of, or eliminate the violation. Unless notified otherwise, the City will assume that the owner(s) is that person or entity listed by the Maryland State Department of Assessments and Taxation as the legal owner of the subject property. Such notice shall be served personally upon the owner or designated agent or by certified United States mail, addressed to the owner at the last known address as shown on the State Department of Assessments and Taxation real property tax records. Service by certified mail shall be deemed given upon proper mailing. The notice shall also be posted on the property.

B. In the event that the owner does not remove, dispose of, or eliminate the violation [~~within the ten-day period,~~] AS REQUIRED, the City is authorized to enter onto the property to abate the nuisance. The cost of such abatement shall be paid by the owner.

C. * * * *

D. In cases where the Public Services Director has determined that extreme danger exists or extreme unsanitary conditions exist to person or property, the warning notice shall be dispensed with, and the Public Services Director shall take whatever action [~~he/she deems~~ as] IS DEEMED appropriate.

Section 4. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park that, upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the City Clerk and shall post at City Hall, to the official City website, to the City-maintained e-mail LISTSERV, and on the City cable channel, and if time permits, in any City newsletter, the proposed ordinance or a fair summary thereof together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council.

The public hearing, hereby set for 7:30 P.M. on the 26th day of March, 2019, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard.

After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. This Ordinance shall become effective on April 16, 2019 provided that, as soon as practicable after adoption, the City Clerk shall post a fair summary of the Ordinance and notice of its adoption at City Hall, to the official City website, to the City-maintained e-mail LISTSERV, on the City cable channel, and in any City newsletter.

If any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining section, subsection, provision, sentence, clause, phrase or word included within this Ordinance, it being the intent of the City that the remainder of the Ordinance shall be and shall remain in full force and effect, valid and enforceable.

INTRODUCED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 12th day of March 2019.

ADOPTED by the Mayor and Council of the City of College Park at a regular meeting on the 26th day of March 2019.

EFFECTIVE the 16th day of April, 2019.

ATTEST:

CITY OF COLLEGE PARK

By: Janeen S. Miller
Janeen S. Miller, CMC, City Clerk

By: Patrick L. Wojahn
Patrick L. Wojahn, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Suellen M. Ferguson
Suellen M. Ferguson, City Attorney