

AMENDED ORDINANCE

**OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK AMENDING
CITY CODE CHAPTER 141 "NUISANCES", BY REPEALING AND RE-ENACTING
ARTICLE §141-1, "NUISANCES OUTLINED"; ADOPTING §141-12, "DEFINITIONS",
§141-13, "UNRULY SOCIAL GATHERING PROHIBITED, AND §141-14,
"VIOLATIONS AND PENALTIES"; BY DIVIDING CHAPTER 141 INTO TWO
ARTICLES, AND BY RESERVING VARIOUS SECTIONS IN ARTICLE I; BY
REPEALING AND RE-ENACTING CHAPTER 110 "FEES AND PENALTIES", §110-2,
"PENALTIES"; AND BY REPEALING AND RE-ENACTING CHAPTER 15 "BOARDS,
COMMISSIONS AND COMMITTEES", §15-19, "POWERS AND DUTIES", TO
CLARIFY THAT CREATING OR ALLOWING A NUISANCE IS A VIOLATION OF
THE CITY CODE, TO INCLUDE UNRULY SOCIAL GATHERINGS AS A
PROHIBITED NUISANCE, TO INSTITUTE A FINE FOR VIOLATIONS AND TO
MAKE PROVISION FOR SUSPENSION OR REVOCATION OF A CITY OCCUPANCY
PERMIT FOR REPEATED VIOLATIONS**

WHEREAS, 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 Mayor and Council determined that the residents of the City have a right to an environment that is free from nuisances that may jeopardize their health, general welfare or property and as a result adopted Chapter 141, "Nuisance"; and

WHEREAS, the Mayor and Council have determined that it is in the public interest to amend Chapter 141, "Nuisance" to clarify that creating or allowing a nuisance is a violation of the City Code, to include unruly social gatherings as a prohibited nuisance and to institute a fine for violations, to make provision for suspension or revocation of the City occupancy permit for a property due to repeated violations, and to make other clarifying and conforming changes; and

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.

CAPS

: Indicate matter added in amendment

[Brackets]

: Indicate matter deleted in amendment

WHEREAS, THE MAYOR AND COUNCIL WILL REVIEW THIS LAW IN ONE YEAR FROM THE DATE OF ITS ADOPTION TO DETERMINE THAT ITS OPERATION IS FAIR AND EFFECTIVE, AND HOLD QUARTERLY REVIEWS WITH STAKEHOLDERS.

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the City of College Park, Maryland that Chapter 141 "Nuisances", Article I, §141-1, "Nuisances outlined", be, and is hereby, repealed, re-enacted and amended to read as follows:

§ 141-1 Nuisances outlined.

Whatever is dangerous to life or health; whatever renders air, food, water or drink unwholesome or unfit for the use of people; whatever odors or exhalations are offensive or dangerous to the public health; and whatever accumulations of animal or vegetable matter, solid or liquid, are dangerous or harmful to the public health or are likely to become so are hereby declared to be nuisances within the scope and meaning of this chapter. IT IS UNLAWFUL FOR ANY PERSON TO CREATE A NUISANCE ON PUBLIC OR PRIVATE PROPERTY, AND FOR ANY PERSON TO ALLOW A NUISANCE TO EXIST ON ANY PROPERTY THAT THEY OWN, OCCUPY OR CONTROL.

Section 2. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park, Maryland, that Chapter 141, "Nuisances", Article I, §§141-10 and 141-11, be and hereby are reserved.

Section 3. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park, Maryland, that Chapter 141, "Nuisances", be and it is hereby divided into two Articles as follows: Article I, "General", encompassing §§141-1 through 141-11, and Article II, "Unruly Social Gatherings", encompassing §§141-12 through 141-14.

Section 4. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of College Park, Maryland, that Chapter 141 "Nuisances", Article II, §141-12, "Definitions" be enacted to read as follows:

§ 141-12. - DEFINITIONS. IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE MEANINGS INDICATED.

ALCOHOLIC BEVERAGE- AS DEFINED IN § 1-101 OF THE ALCOHOLIC BEVERAGES ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

ILLEGAL CONTROLLED SUBSTANCE- A DRUG OR SUBSTANCE THE POSSESSION AND USE OF WHICH IS REGULATED UNDER THE STATE CONTROLLED DANGEROUS SUBSTANCES ACT. THE TERM DOES NOT INCLUDE ANY DRUG OR SUBSTANCE FOR WHICH A PERSON HAS A VALID PRESCRIPTION ISSUED BY A LICENSED MEDICAL PRACTITIONER AUTHORIZED TO ISSUE SUCH A PRESCRIPTION OR IS OTHERWISE AUTHORIZED BY LAW.

PROPERTY OWNER - ANY PERSON WHO OWNS A PROPERTY OR HAS CHARGE, CARE OR CONTROL OF A PROPERTY AS A LEGAL OWNER

RESIDENCE OR OTHER PRIVATE PROPERTY - A RESIDENTIAL PROPERTY, INCLUDING WITHOUT LIMITATION A DETACHED, ATTACHED, OR SEMI-DETACHED SINGLE-FAMILY DWELLING, A ROW HOME, TOWNHOME, APARTMENT, CONDOMINIUM, OR OTHER DWELLING UNIT, OR A YARD OR CURTILAGE OF A RESIDENCE, A HALL, MEETING ROOM, HOTEL OR MOTEL ROOM, WHETHER OCCUPIED ON A TEMPORARY OR PERMANENT BASIS, WHETHER OCCUPIED AS A DWELLING, PARTY OR OTHER SOCIAL FUNCTION, AND WHETHER OWNED, LEASED, RENTED, OR USED WITH OR WITHOUT COMPENSATION, INCLUDING CONTIGUOUS PROPERTIES, AND ANY BUILDINGS, STRUCTURES OR OTHER IMPROVEMENTS SITUATED THEREON OR AFFIXED THERETO.

RESPONSIBLE PERSON - AN OWNER OF, OR OCCUPANT WITH A RIGHT OF POSSESSION IN, THE RESIDENCE OR OTHER PRIVATE PROPERTY ON WHICH AN UNRULY SOCIAL GATHERING IS CONDUCTED. A RESPONSIBLE PERSON FOR THE UNRULY SOCIAL GATHERING NEED NOT BE PHYSICALLY PRESENT AT SUCH GATHERING.

UNRULY SOCIAL GATHERING – A PARTY, EVENT, OR ASSEMBLAGE OF FOUR EIGHT OR MORE PERSONS AT A RESIDENCE OR OTHER PRIVATE PROPERTY WHERE:

- A. ALCOHOLIC BEVERAGES ARE BEING FURNISHED TO, CONSUMED BY, OR IN POSSESSION OF ANY UNDERAGE PERSON IN VIOLATION OF STATE LAW; OR
- B. BEHAVIOR OR CONDUCT IS OCCURRING THAT RESULTS IN A SUBSTANTIAL DISTURBANCE OF THE PEACE AND QUIET ENJOYMENT OF PRIVATE OR PUBLIC PROPERTY, WHICH MAY INCLUDE THE FOLLOWING:
 - (1) EXCESSIVE NOISE AS PROHIBITED IN CHAPTER §138-5 OF THE CITY CODE,
 - (2) EXCESSIVE TRAFFIC THAT IS SIGNIFICANTLY ABOVE AND BEYOND THE NORMAL AMOUNT OF PEDESTRIAN OR VEHICLE TRAFFIC FOR THE DAY, DATE, AND TIME OF DAY FOR THE NEIGHBORHOOD;

- (3) USE OF AN ILLEGAL CONTROLLED SUBSTANCE BY ANY PERSON AT THE GATHERING;
- (4) OBSTRUCTION OF PUBLIC STREETS OR THE PRESENCE OF UNRULY CROWDS THAT HAVE SPILLED ONTO PUBLIC STREETS;
- (5) PUBLIC DRUNKENNESS OR UNLAWFUL CONSUMPTION OF ALCOHOL OR ALCOHOLIC BEVERAGES;
- (6) ASSAULTS, BATTERIES, FIGHTS, OR OTHER DISTURBANCES OF THE PEACE;
- (7) VANDALISM OF PUBLIC OR PRIVATE PROPERTY;
- (8) PUBLIC URINATION OR DEFECATION;
- (9) LITTERING; OR
- (10) OTHER CONDUCT WHICH CONSTITUTES A THREAT TO THE PUBLIC SAFETY, QUIET ENJOYMENT OF RESIDENTIAL OR OTHER PRIVATE PROPERTY, OR THE GENERAL WELFARE.

Section 5. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of College Park, Maryland, that Chapter141 "Nuisances", Article II, §141-13, "Unruly Social Gathering Prohibited" be enacted to read as follows:

§ 141-13. UNRULY SOCIAL GATHERING PROHIBITED.

AN UNRULY SOCIAL GATHERING IS DECLARED A NUISANCE FOR PURPOSES OF THIS CHAPTER. IT IS UNLAWFUL FOR A PROPERTY OWNER OR ANY RESPONSIBLE PERSON TO CONDUCT, CAUSE, AID, ALLOW, PERMIT, OR CONDONE AN UNRULY SOCIAL GATHERING AT A RESIDENCE OR OTHER PRIVATE PROPERTY.

Section 6. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of College Park, Maryland, that Chapter141 "Nuisances", Article II, §141-14, "Violations and penalties" be enacted to read as follows:

§ 141-14. VIOLATIONS AND PENALTIES

A. A VIOLATION OF §141-13 IS SUBJECT TO A MUNICIPAL INFRACTION WITH A PENALTY AS PROVIDED IN CHAPTER 110 OF THE CODE AND IS A SEPARATE

OFFENSE FROM ANY OTHER VIOLATIONS OF LAW OR OFFENSES THAT OCCUR DURING AN UNRULY SOCIAL GATHERING.

B. A MUNICIPAL INFRACTION BASED ONLY ON EXCESSIVE NOISE WILL NOT BE ISSUED UNDER THIS SECTION IF ONE IS ISSUED UNDER §138-6 OF THE CITY CODE FOR THE SAME OCCURRENCE. EXCESSIVE NOISE WILL NOT BE CITED AS PART OF A MUNICIPAL INFRACTION ISSUED UNDER THIS SECTION UNLESS AN ACCURATE SOUND-LEVEL METER READING FOR THE SAME OCCURRENCE IS NOT FEASIBLE OR PRACTICABLE.

C. A CODE ENFORCEMENT OFFICER OR PEACE OFFICER WHO DETERMINES THAT AN UNRULY SOCIAL GATHERING EXISTS IN VIOLATION OF §141-13 MAY ISSUE A MUNICIPAL INFRACTION FOR THE VIOLATION TO ALL IDENTIFIED RESPONSIBLE PERSONS. FOR A FIRST OFFENCE WITHIN ANY 24- MONTH PERIOD, AN OWNER WILL BE ISSUED A WARNING. FOR A SECOND OR SUBSEQUENT OFFENSE IN A 24-MONTH PERIOD, THE OWNER IS SUBJECT TO A MUNICIPAL INFRACTION. FOR A THIRD OFFENSE IN A 24-MONTH PERIOD, THE OWNER IS ALSO SUBJECT TO SUSPENSION OR REVOCATION OF ANY OCCUPANCY PERMIT FOR THE RESIDENCE OR OTHER PRIVATE PROPERTY.

D. THE PUBLIC SERVICES DIRECTOR MAY SCHEDULE A SHOW-CAUSE HEARING BEFORE THE COLLEGE PARK ADVISORY PLANNING COMMISSION AS TO WHY THE CITY OCCUPANCY PERMIT FOR THE PROPERTY SHOULD NOT BE SUSPENDED FOR ONE OR MORE YEARS, OR REVOKED, FOR THREE OR MORE VIOLATIONS OF THE PROVISIONS OF THIS ARTICLE WITHIN ANY TWENTY-FOUR MONTH PERIOD.

Section 7. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of College Park, Maryland, 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. 141 Nuisances		
Article II		
§141--3	IN ANY 24- MONTH PERIOD: INITIAL VIOLATION RESPONSIBLE PERSON OWNER	\$500 WARNING
	SECOND VIOLATION RESPONSIBLE PERSON OWNER	\$1,000 \$500
	THIRD AND SUBSEQUENT VIOLATIONS RESPONSIBLE PARTY OWNER	\$1,000 [\$1,000] \$500
		AND SUSPENSION OR REVOCATION OF THE OCCUPANCY PERMIT FOR THE PROPERTY EFFECTIVE AT THE END OF THE CURRENT LEASING PERIOD
* * * *		

Section 8. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of College Park, Maryland, that Chapter 15 "Boards, Commissions and Committees", §15-19, "Powers and duties" be and is hereby repealed and reenacted with amendments to read as follows:

§ 15-19 Powers and duties.

The Advisory Planning Commission's duties are as follows:

A. - E. * * * *

F. To hear appeals and perform such other functions enumerated in § 125-4 of Chapter 125 of the College Park Code, entitled "Housing Regulations," § 87-19 of Chapter 87 of the College Park Code, entitled "Building Construction," § 157-6 of Chapter 157 of the College Park Code, entitled "Property Maintenance," §141-14 OF CHAPTER 141, ENTITLED "NUISANCES" and as otherwise directed by the Council.

Section 9. 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 24th day of September, 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 October 15th, 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.

In accordance with Title 3 of the Environment Article of the Annotated Code of Maryland, the City shall send to the Maryland Department of the Environment a copy of this Ordinance as adopted.

INTRODUCED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 10th day of September, 2019.

ADOPTED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 24th day of September, 2019.

EFFECTIVE the 15th day of October, 2019.

[Signatures follow on next page.]

ATTEST:

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

CITY OF COLLEGE PARK

Patrick L. Wojahn
Patrick L. Wojahn, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Suellen M. Ferguson | STB
Suellen M. Ferguson, City Attorney