

Amending Chapter 1, General Provisions
Sponsored by: Councilmember Wells

LEGISLATIVE RESOLUTION 21-0-09

Resolution and Ordinance of the Town of University Park to amend Chapter 1 "General Provisions", by repealing and re-enacting §1-101, "Designation of Code and continuation of provisions", §1-102, "Ordinances repealed and their effect", §1-103, "Definitions", §1-104, "Construction; gender, singular, and plural", §1-105, "General Penalty" §1-105.1, "Enforcement", § 1-106, "Municipal Infractions" of the Code of Ordinances of the Town of University Park.

WHEREAS, pursuant to §5-202 of the Local Government Article, Annotated Code of Maryland, the Mayor and Common Council of the Town of University Park have the power to pass such ordinances as deemed necessary to protect the health, safety and welfare of the residents of the municipality and to prevent and remove nuisances; and

WHEREAS, Town staff and the Town Attorney have reviewed and made certain recommendations with respect to amendment of Chapter 1, "General Provisions" to, in part, update various provisions and reflect current Town practice and procedures; and

WHEREAS, the Mayor and Common Council have determined that the said recommendations are in the public interest and should be adopted.

Section 1: NOW THEREFORE be it resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 1 "General Provisions", §1-101, "Designation of Code and continuation of provisions" of the Code of the Town of University Park, be repealed, re-enacted and amended to read as follows:

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW

[Brackets] indicate matter deleted from existing law

* * Asterisks* * indicate existing law which are unchanged but not set forth in the ordinance

CAPITALS INDICATE MATTER ADDED BY AMENDMENT TO THE PROPOSED ORDINANCE

[Brackets] indicate matter deleted by amendment to the proposed ordinance

§ 1-101. Designation of Code and continuation of provisions.

~~[The ordinances embraced in this and the following chapters shall constitute and be designated as the Code of the Town of University Park. Those provisions appearing in this Code so far as they are the same as those of preceding Codes and ordinances shall be continuations of those Codes and ordinances and not as new enactments.]~~

THE ORDINANCES EMBRACED IN THIS AND THE FOLLOWING CHAPTERS SHALL, AS REVISED, CODIFIED AND CONSOLIDATED INTO CHAPTERS AND SECTIONS BY GENERAL CODE, AS SET FORTH IN THE DERIVATION TABLE INCLUDED AT THE END OF THE CODE, AND AS RENUMBERED TO CONSIST OF CHAPTERS 1 THROUGH 16, ARE HEREBY APPROVED, ADOPTED, ORDAINED AND ENACTED AS THE "CODE OF THE TOWN OF UNIVERSITY PARK" HEREAFTER REFERRED TO AS THE "CODE." THOSE PROVISIONS APPEARING IN THIS CODE SO FAR AS THEY ARE THE SAME AS THOSE OF PRECEDING CODES AND ORDINANCES SHALL BE CONTINUATIONS OF THOSE CODES AND ORDINANCES AND NOT NEW ENACTMENTS.

Section 2. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 1 “General Provisions”, §1-102, “Ordinances repealed and their effect” of the Code of the Town of University Park, be repealed, re-enacted and amended to read as follows:

§ 1-102. Ordinances repealed and their effect.

A. All ordinances not contained in this Code are hereby repealed from and after the effective date of this Code. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor shall it affect any suit, prosecution, or proceeding pending at the time of repeal for an offense committed under the ordinances repealed.

B. IN COMPILING AND PREPARING THE ORDINANCES AND CODE FOR PUBLICATION AS THE 2020 CODE OF THE TOWN OF UNIVERSITY PARK, NO CHANGES IN THE MEANING OR INTENT OF SUCH LEGISLATION HAVE BEEN MADE. CERTAIN GRAMMATICAL CHANGES AND OTHER MINOR NON-SUBSTANTIVE CHANGES WERE MADE IN ONE OR MORE OF SAID PIECES OF LEGISLATION. CHAPTERS, ARTICLES AND SECTIONS HAVE BEEN RENUMBERED INCLUDING ALL INTERNAL REFERENCES AND CROSS-REFERENCES. IT IS THE INTENTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF UNIVERSITY PARK THAT ALL SUCH CHANGES BE ADOPTED AS PART OF THE CODE AS IF THE ORDINANCES HAD BEEN PREVIOUSLY FORMALLY AMENDED TO READ AS SUCH. THE ORDINANCES AND RESOLUTIONS SPECIFIED IN THIS SUB-SECTION ARE RECOGNIZED AS

CONTINUING IN FULL FORCE AND EFFECT TO THE SAME EXTENT AS IF SET OUT AT LENGTH HEREIN.

C. THE PROVISIONS OF THIS CODE, INSOFAR AS THEY ARE SUBSTANTIVELY THE SAME AS THOSE OF ORDINANCES AND THE CODE IN FORCE IMMEDIATELY PRIOR TO THE ENACTMENT OF THIS CODE BY THIS ORDINANCE, ARE INTENDED AS A CONTINUATION OF SUCH ORDINANCES AND NOT AS NEW ENACTMENTS, AND THE EFFECTIVENESS OF SUCH PROVISIONS SHALL DATE FROM THE DATE OF ADOPTION OF THE PRIOR ORDINANCE. ALL SUCH PROVISIONS ARE HEREBY CONTINUED IN FULL FORCE AND EFFECT AND ARE HEREBY REAFFIRMED AS TO THEIR ADOPTION BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF UNIVERSITY PARK, AND IT IS THE INTENTION OF SAID MAYOR AND COMMON COUNCIL THAT EACH SUCH PROVISION CONTAINED WITHIN THE CODE IS HEREBY REAFFIRMED AS IT APPEARS IN SAID CODE.

D. NOTHING IN THIS CODE OR THE ORDINANCE ADOPTING THIS CODE SHALL BE CONSTRUED TO REPEAL OR OTHERWISE AFFECT THE VALIDITY OF ANY OF THE FOLLOWING:

(1) ANY ORDINANCE OR RESOLUTION PROMISING OR GUARANTEEING THE PAYMENT OF MONEY FOR THE TOWN OR AUTHORIZING ISSUANCE OF ANY BOND OF THE TOWN OR ANY EVIDENCE OF THE TOWN'S INDEBTEDNESS;

(2) ANY APPROPRIATION ORDINANCE OR RESOLUTION PROVIDING FOR THE LEVY OF TAXES OR AN ANNUAL BUDGET;

(3) ANY ORDINANCE OR RESOLUTION APPROVING, AUTHORIZING OR OTHERWISE RELATING TO ANY CONTRACT, AGREEMENT, LEASE, DEED OR OTHER INSTRUMENT; AND

(4) ANY ORDINANCE RELATING TO THE SALARIES OF TOWN OFFICERS OR EMPLOYEES.

E. FOR PURPOSES OF TRANSITION FROM THE CODE IN FORCE IMMEDIATELY PRIOR TO THIS CODE, ANY REFERENCE TO A CHAPTER OR SECTION NUMBER FROM THE PRIOR CODE ON OR IN ANY FORM, LICENSE, PERMIT, TICKET OR OTHER TOWN OF UNIVERSITY PARK DOCUMENT SHALL BE DEEMED TO REFER TO THE CORRESPONDING CHAPTER OR SECTION IN THIS CODE UNTIL SUCH FORM, LICENSE, PERMIT, TICKET OR OTHER TOWN DOCUMENT IS REVISED OR REPRINTED TO REFER TO THE NUMBERING IN THIS CODE.

Section 3. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 1 “General Provisions”, §1-103, “Definitions” of the Code of the Town of University Park, be repealed, re-enacted and amended to read as follows:

§ 1-103. Definitions.

In the construction of the Code, the following words and definitions shall apply:

COUNCIL - The Common Council of the Town of University Park~~;~~
~~Maryland~~]. COUNTY - Prince George's County, Maryland.

OWNER - (Applied to a building or land) Any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

PERSON - A corporation, company, firm, partnership, association, governmental agency, or society as well as a natural person.

~~[PUBLIC WAYS - Any street, alley, curb, gutter, sidewalk, or bridge in the Town.]~~

RIGHT-OF-WAY - THE ENTIRE WIDTH BETWEEN ABUTTING PROPERTY LINES INCLUDING THE CURB, GUTTER, SIDEWALK, AND BRIDGES, AND THE APPROACHES TO THEM

SIDEWALK - Any portion of a street between the curblines, or the lateral lines of a roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians.

STATE - The State of Maryland.

~~STREET - [The entire width between abutting property lines including the sidewalk or footpath unless otherwise specified, such as public avenues, boulevards, highways, roads, alleys, lanes, viaducts, and bridges, and the approaches to them]~~ ANY STREET, ROAD, LANE, ALLEY, VIADUCT OR BRIDGE AND THE APPROACHES TO THEM.

TENANT - Any person who occupies the whole or part of a building or land IN RETURN FOR RENT OR OTHER THING OF VALUE

TOWN - The Town of University Park, Maryland.

Section 4. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 1 “General Provisions”, §1-104, “Construction; gender,

singular, and plural” of the Code of the Town of University Park, be repealed, re-enacted and amended to read as follows:

§ 1-104. Construction: gender, singular, and plural.

~~[Every word in this Code importing the masculine]~~ REFERENCE TO ONE gender shall extend to and be applied to ~~[females as well as males]~~ ALL GENDERS. ~~[Every word importing the]~~ REFERENCE TO A singular number only shall extend and be applied to several persons or things as well as to one person or thing. ~~[Every word importing]~~ REFERENCE TO the plural number only shall extend and be applied to one person or thing as well as to several persons or things.

Section 5. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 1 “General Provisions”, §1-105, “General Penalty” of the Code of the Town of University Park, be repealed, re-enacted and amended to read as follows:

§ 1-105 General Penalty

Every act or omission which, by ordinance, is made a misdemeanor under this Code, unless otherwise provided, shall be punishable upon conviction before any judge of the district court or circuit court for the County within which the offense was committed. The fine shall not exceed ~~[\$100]~~ \$1000 or imprisonment for ~~[90]~~ 60days ~~[in the County jail]~~, or both, in the discretion of the court or trial magistrate.

- A. The aggrieved party shall have the right of appeal as is provided under the general laws of the State.
- B. Each day that any violation of an ordinance continues constitutes a separate offense.

Section 6. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 1 “General Provisions”, §1-105.1, “Enforcement” of the Code of the Town of University Park, be repealed, re-enacted and amended to read as follows:

§ 1-105.1. Enforcement.

The Mayor and Common Council may authorize the Town Attorney or any other QUALIFIED person to take necessary and appropriate legal action to prevent or abate violations of the Code of ordinances of the Town of University Park or nuisances, as defined by common law AND THE CODE ~~[, Section 81-15]~~ of the Town of University Park. Such action shall be in addition to any penalty imposed by the

provisions of the Code of Ordinances of the Town of University Park for such violations or nuisances.

Section 7. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that Chapter 1 “General Provisions”, §1-106, “Municipal Infractions” of the Code of the Town of University Park, be repealed, re-enacted and amended to read as follows:

§ 1-106. Municipal Infractions.

- A. UNLESS STATE LAW CLASSIFIES A VIOLATION AS A CRIMINAL OFFENSE, THE TOWN MAY PROVIDE THAT A VIOLATION OF THIS CODE IS A MUNICIPAL INFRACTION. A violation of any provisions of this Code shall be considered a municipal infraction unless declared to be [~~a felony or~~] misdemeanor by law or ordinance. A municipal infraction is a civil offense.
- B. A police officer employed by the Town of University Park OR PRINCE GEORGE’S COUNTY, deputy sheriff of the Prince George's County Sheriff's Department, or other officials authorized to act as enforcement officers, may serve a citation on any person whom they believe is committing, or has committed a municipal infraction or on the basis of an affidavit submitted to an appropriate official of the Town, citing the facts of the alleged infraction. A copy of the citation shall be retained by the enforcement office. The citation shall contain:
- (1) Name and address of the person charged;
 - (2) The nature of the infraction;
 - (3) The location and time that the infraction occurred;
 - (4) The amount of the infraction fine assessed;
 - (5) The manner, location and time in which the fine may be paid to the municipality;
 - (6) The person's right to elect to stand trial for the infraction; and
 - (7) The effect of failing to pay the assessed fine or demand a trial within the prescribed time; and
 - (8) The enforcement officer's certification.
 - (9) Attesting to the truth of the matters set forth in the citation; or
 - (10) That the citation is based on an affidavit.

- C. The citation shall be served on the defendant;
- (1) In accordance with Rule 3-121 of the Maryland Rules; or
 - (2) For real property-related violations, if proof is made by affidavit that good faith efforts to serve the defendant under Rule 3-121(a) of the Maryland Rules have not succeeded by:
 - (a) Regular mail to the defendant's last known address;
 - (b) 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.
- D. A fine not to exceed \$1,000 may be imposed for each municipal infraction. The fine is payable by the person charged in the citation to the Town within 20 calendar days of service OF the citation. Unless otherwise provided in this Code for specific violations or by the Mayor and Common Council by resolution, the fine for an initial infraction shall be [~~\$25~~] \$50.00. The fine for each repeated violation of any Code provision shall be double the fine for the initial infraction, not to exceed \$1,000.
- E. If a citation is served without a summons, a person charged in the citation for a municipal infraction 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 five days prior to the date of payment as set forth in the citation. Upon receipt of the written notice of the intent to stand trial, the Town shall forward to the District Court having venue a copy of the citation and the written notice. 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. All fines, penalties, or forfeitures collected by the District Court for violations of municipal infractions shall be remitted to the Town.
- F. If a person charged in a citation fails to pay the fine by 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. 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. The District Court shall promptly schedule the case for trial and summons the defendant to appear. If the defendant fails to respond to such summons the Town may request entry of judgment against the defendant in favor of the Town in the amount then due if proper demand for judgment on affidavit is made.
- G. 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. 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. The enforcement officer shall coordinate the selection of court dates with the appropriate District Court official. If the defendant fails to pay

the fine as provided in the summons, the Town may double the fine to an amount not to exceed \$1,000 and request the Court to enter judgment against the defendant in the amount then due if the proper demand for judgment on affidavit has been made.

H. If any person shall be found by the District Court to have committed a municipal infraction:

(1) The Town may request the District Court to order the person to pay the fine, including any doubling of the fine, not to exceed the limits under Subsection D of this subsection;

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

(3) The Town may request the court to order the person to abate the infraction or enter an order permitting the Town to abate any such infraction at the person's expense; and

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

(5) If the fine remains unpaid for 30 days following the date of its entry, the Town may enforce the judgement 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.

I. 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:

(a) mail to the defendant's last known address; or

(b) any other means that are reasonably calculated to bring the bill to the defendant's attention.

If the defendant does not pay the bill within 30 days after presentment, the Town may move the District Court to enter a judgment against the defendant for the cost of the abatement.

J. Each day that any violation of any provision of this Code continues shall be a separate offense subject to additional infraction citations.

K. The Town may designate the attorney to prosecute any municipal infraction in the same manner as the State's Attorney of ~~[any county]~~ PRINCE GEORGE'S COUNTY.

Section 8. Be it further resolved and ordained by the Mayor and Common Council of the Town of University Park that this Ordinance shall become effective twenty (20) days after enactment by the Mayor and Common Council of University Park.

Section 9. Be it further resolved that, after adoption, a complete and exact copy of this Ordinance shall be posted on the entrance door of the Town Building of University Park, Maryland, for a period of not less than ten (10) days, and a fair summary of this Ordinance shall be published at least once in a newspaper having general circulation in the community.

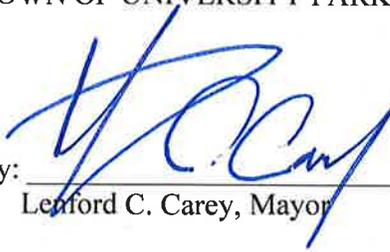
Section 10. If any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining section, subsection, provision, sentence, clause, phrase or word included within this Ordinance, it being the intent of the Town that the remainder of the Ordinance shall be and shall remain in full force and effect, valid and enforceable.

APPROVED this ^{24th}~~18th~~ day of January, 2022

ATTEST:

MAYOR AND COMMON COUNCIL
TOWN OF UNIVERSITY PARK

TC Hegeman
TC Hegeman, Town Clerk

By: 
Lenford C. Carey, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: Suellen M. Ferguson
Suellen M. Ferguson, Town Attorney

21-O-09 Signed by LC

Final Audit Report

2022-02-09

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