

ORDINANCE NO. 2023- 08

WHEREAS, Section 13-401 of the Local Government Article of the Annotated Code of Maryland authorizes the County Commissioners to prevent and remove nuisances; and

WHEREAS, the County Commissioners find that a small number of businesses and residences located within the County require a disproportionate amount of police services, resulting in the devotion of police personnel to such calls and in less police service being available for other locations, and to emergencies and other routine police duties; and

WHEREAS, the County Commissioners find that some business and property owners in the County fail to adopt adequate security measures which has resulted in repeated police service calls and constitutes a nuisance compromising the health, safety and welfare of the public; and

WHEREAS, such calls rarely result in the filing of formal criminal proceedings by the property owner, thereby overburdening The Carroll County Law Enforcement Agencies while having little or no deterrent effects; and

WHEREAS, the purpose of this Ordinance is to prevent excessive calls for police service to residences and to businesses which fail to adopt adequate security measures or support criminal proceedings after making a call for police service.

DEFINITIONS:

- (1) *In general.* In this section the following words have the meanings indicated unless a different meaning is clearly intended from the context.
- (2) *Call.* "Call" means a call for Law Enforcement Agency services.
- (3) *Criminal Law Article.* "Criminal Law Article" means the Criminal Law Article of the Annotated Code of Maryland.

- (4) *Disturbance*. "Disturbance" means any of the following conduct, when engaged in by a property owner, operator, manager, resident, occupant, tenant, guest, visitor, or invitee, or an agent or employee of any of the foregoing persons.
- (i) alcoholic beverage violation, including but not limited to public consumption, as defined in Title 10, Subtitle I of the Criminal Law Article;
 - (ii) disorderly conduct, as defined in Title 10, Subtitle II of the Criminal Law Article;
 - (iii) disturbing the peace, as defined in Title 10, Subtitle II of the Criminal Law Article;
 - (iv) excessive noise, as prohibited by Chapter 93 of this Code;
 - (v) littering, as defined in Title 10 of the Criminal Law Article;
 - (vi) improperly parking a vehicle in violation of Chapter 70 of this Code;
 - (vii) a violation of Chapter 90 this Code relating to an animal;
 - (viii) possession, distribution, or manufacturing of a controlled dangerous substance, or attempt to possess, distribute, or manufacture a controlled substance, as defined in Title 5 of the Criminal Law Article;
 - (ix) a violation of Chapter 130 of this Code, relating to synthetic drugs;
 - (x) prostitution, as defined in Title 11 of the Criminal Law Article;
 - (xi) indecent exposure, as prohibited by Title 11 of the Criminal Law Article;
 - (xii) a felony violation of Title 4 or Title 7 of the Criminal Law Article; or
 - (xiii) a felony violation of Title 10, Subtitle 6 of the Criminal Law Article.
- (6) *Interested party*. "Interested party" means any known lessee or tenant of a building or affected portion of a building; any known agent of a Property Owner, lessee, or tenant; any known person holding an unrecorded contract for deed, being a mortgage or vendee in physical possession of the building; or any other person who maintains or permits a Disturbance as defined in this chapter and is known to the county.
- (7) *Law Enforcement Agency* means the Carroll County Sheriff's Office.
- (8) *Mixed Use Property*. "Mixed Use Property" means a lot used for nonresidential and residential purposes.
- (9) *Multifamily Residential Property*. "Multifamily Residential Property" means a lot used for residential purposes and consisting of ten (10) or more dwelling units.
- (10) *Nonresidential Property*. "Nonresidential Property" means a lot that is not used for residential purposes, including, but not limited to, lodging, boarding and/or rooming houses, inns, motels, hotels, and any business.
- (11) *Officer*. "Officer" means a sworn officer of a Law Enforcement Agency.
- (12) *Private Property*. "Private Property" includes any residential, mixed use, multifamily residential or nonresidential lot within the County, but does not include any lot owned by a local, state, or federal government agency.

- (13) *Property Owner.* "Property Owner" or "Owner" means a person holding legal title to a private property within the County
- (14) *Qualifying Calls.* "Qualifying Calls" mean a Call where an Officer responds to a Disturbance.
- (15) *Residential Property.* "Residential Property" means a lot used for residential purposes and including fewer than ten (10) dwelling units.

Responsibility for Qualifying Calls.

- (1) *Generally.* A Property Owner or an Interested party is responsible for the generation of Qualifying Calls relating to Disturbances on the Owner's or Interested party's property as further described in this subsection.
- (2) *Determination of Qualifying Call.* A Call is deemed to be a Qualifying Call for which a Property Owner is responsible if the call:
 - (i) is in response to a Disturbance that originated on the Owner's or Interested party's property;
 - (ii) results in the dispatch of an officer; and
 - (iii) results in a determination by the officer, based on the officer's personal knowledge or on an affidavit by a witness, that a Disturbance occurred or is occurring on the Owner's or Interested party's property.

Probationary nuisance status.

- (1) *Warning.* Subject to paragraph (6) of this subsection, after the number of qualifying calls specified in this paragraph has been made regarding a property within a calendar year, the Law Enforcement Agency may issue the Property Owner or Interested party a written notice warning that the property is approaching probationary nuisance status.

| Type of Property | Number of Qualifying Calls |
|-----------------------------|----------------------------|
| Nonresidential or Mixed Use | 5 |
| Residential | 3 |
| Multifamily Residential | 6 |

- (2) *Placement on probationary nuisance status.* Subject to paragraph (6) of this subsection, after the number of Qualifying Calls specified in this paragraph has been made regarding a property within a calendar year, the Law Enforcement Agency may place the property on probationary nuisance status.

| Type of Property | Number of Qualifying Calls |
|-----------------------------|----------------------------|
| Nonresidential or Mixed Use | 10 |
| Residential | 5 |
| Multifamily Residential | 12 |

- (3) *Multiple Calls on same day.* In calculating the number of Qualifying Calls, the Law Enforcement Agency may count separate Qualifying Calls occurring at different times on the same day.
- (4) *Multifamily Residential Properties.* In calculating the number of Qualifying Calls for a Multifamily Residential property, the Law Enforcement Agency may count any Qualifying Call made to any dwelling unit or other area on the property.
- (5) *Probationary status period.* Subject to paragraph (6) of this subsection, a property that is placed on probationary nuisance status will be removed from such status once the property has had no Qualifying Calls for a calendar year.
- (6) *Transfer of ownership.* When legal title to a property is transferred, any Qualifying Calls counted for the previous property owner prior to the property being placed on probationary nuisance status will be voided, and the Qualifying Call count will begin again for the new property owner. A property that has been placed on probationary nuisance status will be removed from probationary nuisance status when legal title to the property is transferred. Any charge assessed against a property pursuant to subsection (f) of this section is the responsibility of the person who owned the property at the time of the Qualifying Call giving rise to the charge.

Procedure.

- (1) *Notice.* After the Law Enforcement Agency determines that a property is on probationary nuisance status, the Law Enforcement Agency shall issue the Property Owner or Interested party a written notice including the following:
 - (i) a street address or legal description sufficient to identify the property, including apartment or unit number if any;
 - (ii) the date and a brief description of every Qualifying Call giving rise to the probationary nuisance status;
 - (iii) a statement that the property has been placed on probationary nuisance status due to the excessive Qualifying Calls;
 - (iv) a statement describing the charges that may be imposed against the property for Qualifying Calls occurring while the property is on probationary nuisance status.

Civil Citations.

- (1) *Amount of fines.* Once a property is placed on probationary nuisance status, the Law Enforcement Agency shall assess a civil citation against the property in accordance with the following:
 - (i) First Qualifying Call (after placement on probationary nuisance status)—\$500.
 - (ii) Second Qualifying Call (after placement on probationary nuisance status)—\$750.
 - (iii) Third or Subsequent Qualifying Call (after placement on probationary nuisance status)—\$1,000.

(2) *Notice.* For each fine assessed under this subsection, the Law Enforcement Agency shall issue a written notice to the Property Owner.

(3) *Appeal.* In accordance with subsection (i) of this section, a property Owner or an Interested party as defined in this chapter, may appeal the assessment of a charge within thirty (30) days after the date of the civil citation to the Maryland District Court.

(g) *Notice—Method of issuance.*

(1) *Scope.* This subsection applies to any notice required by this section.

(2) *Methods.* A copy of the notice must be:

(A) delivered personally to the Property Owner or Interested party; or

(B) posted in a conspicuous place on or about the property affected by the notice and sent by first class mail to the mailing address of the Property Owner on file with the Maryland Department of Assessments and Taxation.

(h) *Exemptions Under The Nuisance Usage Of Law Enforcement Services Ordinance.*

The following response examples are exempt under this article and cannot be considered as Qualified Calls or used when responding to a property under this article:

(1) A crime in progress in which the safety of person(s) are at risk.

(2) Any state or federal mandated reporting situations, which is out of the reporting person's control.

(3) Motor vehicle accidents.

(4) Domestic violence, family disputes or a person being on or near the premises in violation of a protective order.

(5) A medical emergency.

(6) Mental health incidents that require professional intervention such as:

(i) 988 services or an emergency examination request.

(ii) Working with or under the care of a mental health professional.

(7) An incident or arrest for violation of trespass or an arrest by warrant.

(8) A Property owner taking action pursuant to § 8-402.1 of the Real Property Article of the Annotated Code of Maryland.

(9) Follow-up investigations for an existing response call shall not count towards determining excessive responses for the given calendar year.

(10) A citizen reporting a Disturbance at or on a property owned by another.

NOW, THEREFORE, BE IT ENACTED September 14, 2023

ARTICLE II. SEVERABILITY.

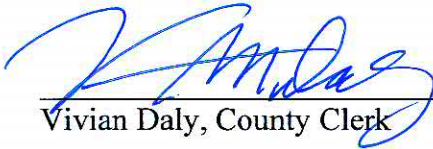
Should any provision, section, paragraph, or subparagraph of this ordinance, including any code, or text adopted herby, be declared null and void, illegal, unconstitutional, or otherwise determined to be unenforceable by a court having jurisdiction; the same shall not affect the validity, legality, or enforceability of any other provision, section, paragraph or subparagraph hereof, including any code or text adopted hereby. Each such provision, section, paragraph, or subparagraph is expressly declared to be and is deemed severable.

ARTICLE II. EFFECTIVE DATE.

This Ordinance shall become effective 9/14, 2023.

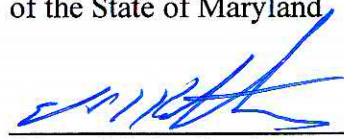
ADOPTED 9/14/23

ATTEST:

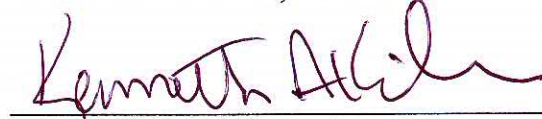


Vivian Daly, County Clerk

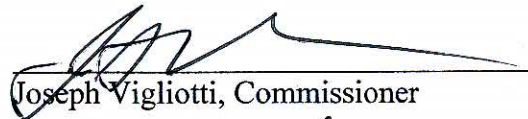
THE COUNTY COMMISSIONERS OF
CARROLL COUNTY, MARYLAND,
a body corporate and politic
of the State of Maryland



Edward C. Rothstein, President (SEAL)




Kenneth Kiler, Vice President (SEAL)



Joseph Vigliotti, Commissioner (SEAL)



Thomas Gordon III, Commissioner (SEAL)



Michael Guerin, Commissioner (SEAL)

Approved for legal sufficiency:

T.C. Burke

Timothy C. Burke, County Attorney

Notice of Public Hearing published: 8-17-23, 8-24-23

Public Hearing held: 8-31-23

Public Meeting to adopt Ordinance: 9-14-23

Notice of Adoption of Ordinance published: 9-22-23

Ordinance filed with Clerk of Court: 9-25-23

I hereby certify that the actions described above took place on the dates referred to above and that this Ordinance is effective as of the 25th day of September, 2023.

T.C. Burke

Timothy C. Burke, County Attorney

*HD
Heather
Stokes Lujan*

LR - Government
Instrument 0.00
Agency Name: CC
Commissioners
Instrument List: Other
Describe Other:
Ref:

Total: 0.00
09/25/2023 02:42
CC06-SD
#17583083 CC0502 -
Carroll
County/CC05.02.01 -
Register 01

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