

ENROLLED

2023 Legislative Session

Legislative Day No. 16

Legislative Bill 2023-12

Introduced: August 15, 2023

Introduced by: Wicomico County Council

AN ACT TO AMEND CHAPTER 174 OF THE WICOMICO COUNTY CODE, TITLED "NUISANCES," ARTICLE I, TITLED "NUISANCES, ABANDONED VEHICLES AND FIREARMS," SECTION 174-3, TITLED VIOLATIONS AND PENALTIES, SECTION 174-4, TITLED "SEVERABILITY"; AND ARTICLE II, TITLED "GRAFFITI," SECTION 174-13, TITLED VIOLATIONS AND PENALTIES

WHEREAS, there is a cost associated with repeatedly spending time and other resources of public officials in identifying, inspecting, investigating, seeking or causing the abatement of violations at or on property; and

WHEREAS, there is an increasing number of repeat nuisance code offenders; and

WHEREAS, it has been determined that an administrative fee should be imposed for repeat offenders of code enforcement nuisances.

SECTION I: BE IT ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF WICOMICO COUNTY, IN LEGISLATIVE SESSION, that Chapter 174, titled "Nuisances," Article I, titled "Nuisances, Abandoned Vehicles And Firearms," Section 174-3, Titled "Violations And Penalties," Section 174-4, titled "Severability"; and Article II, titled "Graffiti," Section 174-13, titled "Violations And Penalties," is here by amended to read as follows:

Chapter 174. Nuisances
Article 1. Nuisances, Abandoned Vehicles and Firearms.

* * *

§ 174-3. Violations and penalties.

- A. Any person, firm, corporation or entity on whom a notice to abate a nuisance has been served in accordance with this article and who fails, refuses or neglects to comply with any of the requirements thereof within the time specified in such notice shall be guilty of a civil infraction and shall be subject to a fine of not less than \$100 nor more than \$1,000, PROVIDED THAT A SECOND OR SUBSEQUENT VIOLATION ON THE SAME PROPERTY WITHIN TWELVE (12) MONTHS OF A PRIOR NUISANCE VIOLATION AS SET FORTH IN THIS CHAPTER 174, SHALL, IN ADDITION TO THE FINE SET OUT ABOVE, INCUR AN ADMINISTRATIVE FEE AS SET FORTH IN CHAPTER 141. THE SECOND

OR SUBSEQUENT VIOLATION SHALL INCLUDE ANY VIOLATION OF CHAPTER 174 AND NEED NOT BE A REOCCURRENCE OF THE ORIGINAL VIOLATION.

Each day that such nuisance shall be permitted to exist after the expiration of the time limit in said notice shall be deemed a separate and additional offense.

B. (Reserved)^[1]

[1]

Editor's Note: Former Subsection B, which provided for initiation of prosecution for a civil infraction by delivery of a citation, was repealed 10-24-2000 by Bill No. 2000-9. For current provisions, see Ch. 221, Violations and Penalties.

C. Assessment of lien.

1. In the event that the county is required to abate or correct the nuisance as provided herein, the cost of such abatement or correction shall be assessed to the owner(s) of the land on which the nuisance existed, as well as all subjects of the civil infraction citation. The cost of abatement or correction shall include all actual costs incurred by the county, including but not limited to the costs of all material and labor and any applicable ADMINISTRATIVE FEES AND penalties.
2. If unpaid, all said costs and applicable ADMINISTRATIVE FEES AND penalties assessed shall become a lien against the property and shall be collected in the same manner as real estate taxes by the county.
3. In addition to the filing of a tax lien, the county may institute any other legal proceedings to collect the costs incurred by the county to correct any nuisances and applicable ADMINISTRATIVE FEES AND penalties.

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§ 174-5. **Abandoned vehicles.**

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5. Any vehicle taken into custody pursuant to this section may be redeemed at any time after it is taken and prior to the sale of the vehicle by the owner of the vehicle or secured party upon reasonable proof of ownership or of the existence of a security interest and upon furnishing the county sufficient proof that the vehicle will be licensed, repaired or enclosed and by paying to the county all costs incurred, including costs of notices and publication AND ADMINISTRATIVE FEES.

F. Violation. Any person on whom a notice to abate has been served in accordance with this section and who fails, refuses or neglects to comply with any of the requirements thereof within the time specified shall be guilty of a civil infraction and shall be subject to a fine of \$100, PROVIDED THAT A SECOND OR SUBSEQUENT VIOLATION ON THE SAME PROPERTY WITHIN TWELVE (12) MONTHS OF A PRIOR NUISANCE VIOLATION AS SET FORTH IN THIS CHAPTER 174, SHALL, IN ADDITION TO THE FINE SET OUT ABOVE, INCUR AN ADMINISTRATIVE FEE AS SET FORTH IN CHAPTER 141. THE SECOND OR SUBSEQUENT VIOLATION SHALL INCLUDE ANY VIOLATION OF CHAPTER 174 AND NEED NOT BE A REOCCURRENCE OF THE ORIGINAL VIOLATION.

Each day that said person is in violation shall be deemed a separate and additional offense. The Director of the Department of Planning, Zoning and Community Development, or his designee, is hereby authorized to issue citations for civil infractions of this article.

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Article II. Graffiti

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§ 174-13. Violations and penalties.

A. Perpetrator.

(1) Criminal.

(a) Any person who violates, fails, refuses or neglects to comply with §§ 174-9 and 174-11A shall be guilty of a misdemeanor and subject to imprisonment for a term not to exceed 60 days, and/or a fine not to exceed \$1,000, PROVIDED THAT A SECOND OR SUBSEQUENT VIOLATION BY THE SAME PERSON WITHIN TWELVE (12) MONTHS OF A PRIOR VIOLATION UNDER SECTION 174-9 OR 174-11A AS SET FORTH IN THIS CHAPTER 174, SHALL, IN ADDITION TO THE FINE SET OUT ABOVE, INCUR AN ADMINISTRATIVE FEE AS SET FORTH IN CHAPTER 141. Each and every different property defaced is a separate offense. Each day that such graffiti shall be permitted to exist after the expiration of the time limit in the notice required by § 174-11 shall be deemed a separate and additional offense.

(b) In lieu of, or as part of, the penalties specified in this section, a minor or adult may be required to perform community service as described by the court.

(c) The court may order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the court. In the case of a minor, the parents or legal guardian shall be

ordered jointly and severally liable with the minor to make the restitution. If unpaid, all said restitution assessed shall become a lien against the property of the minor and/or the minor's parents' or legal guardian's property.

(d) In the case of a minor, the parents or legal guardian shall be jointly and severally liable with the minor for payment of all fines. If unpaid, all said fines assessed shall become a lien against the property of the minor and/or the minor's parents' or legal guardian's property.

(e) In the event that the County is required to abate the graffiti as provided herein against the perpetrator, the cost of such abatement shall be assessed to the perpetrator. The cost of abatement shall include all actual costs incurred by the county, including, but not limited to, the costs of all material and labor and any applicable ADMINISTRATIVE FEES AND penalties. If unpaid, all said costs and applicable ADMINISTRATIVE FEES AND penalties assessed shall become a lien against the property of the perpetrator and shall be collected in the same manner as real estate taxes by the county. In the case of a minor perpetrator, the parents or legal guardian shall be ordered jointly and severally liable with the minor to pay the costs of the abatement.

B. Property owner.

(1) Civil.

(a) Any person, firm, corporation or entity who fails, refuses or neglects to permit the county to enter their property shall be guilty of a civil infraction and shall be subject to a fine of \$100 for the first offense; \$200 for the second offense; and \$500 for each subsequent offense. Each day that such nuisance shall be permitted to exist after a refusal to permit the county entry on to their property shall be deemed a separate and additional offense.

(b) If the court renders judgment that the person is guilty of the civil infraction, the court may order the person to abate the infraction. (See § 221-71.)

(c) In the event that the county is required to abate the graffiti because of the person's failure to follow the court order under § 174-13B(1)(b), the cost of such abatement shall be assessed to the owner(s) of the land on which the graffiti existed, as well as all subjects of the civil infraction citation. The cost of abatement shall include all actual costs incurred by the county, including, but not limited to, the costs of all material and labor and any applicable penalties. If unpaid, all said costs and applicable ADMINISTRATIVE FEES AND penalties assessed shall become a lien against the violator's property and shall be collected in the same manner as real estate taxes by the county.

C. Graffiti trust fund. Any fines assessed and collected against any violator of this article shall be placed in the Graffiti Trust Fund, along with any monetary donations received from persons wishing to contribute to the fund. The County Executive shall direct the

expenditures of monies from the fund. Such expenditures shall be limited to the payment of the cost of graffiti removal and administration of this article.

SECTION II: BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND, IN LEGISLATIVE SESSION THAT this bill shall be known as Legislative Bill No. 2023-12 and shall take effect sixty (60) days after its enactment, unless a proper Petition for Referendum thereof shall be filed prior to said date; in which event, the Bill shall not take effect until the expiration of thirty (30) days following the approval of this Bill by a majority of the qualified voters of the County voting in any such referendum.

Certified correct as passed and adopted by the County Council of Wicomico County, Maryland this 5th day of September, 2023.

WICOMICO COUNTY, MARYLAND



By: John T. Cannon, President



By: Laura Hurley, Secretary

I HEREBY CERTIFY that copies of the above Bill are available to the public, the press and other news media at the time of its introduction.



By: Laura Hurley, Secretary

Explanation:

~~Strike Out~~ indicates matters deleted from existing law.

CAPITALS INDICATE MATTERS ADDED TO EXISTING LAW.

~~CAPITAL STRIKE OUT~~ indicates matter stricken from Bill by Amendment.

Underlining indicates Amendments to Bill

COUNTY COUNCIL
OF
WICOMICO COUNTY, MARYLAND

2023 Legislative Session

Legislative Day No. 16

LEGISLATIVE BILL NO. 2023-12

INTRODUCED BY: The Wicomico County Council

Legislative Bill No. 2023-12: An Act to amend Chapter 174 of the Wicomico County Code, titled "Nuisances," Article I, titled "Nuisances, abandoned vehicles and firearms," Section 174-3, titled "Violations and penalties," Section 174-4, titled "Severability"; and Article II, titled "Graffiti," Section 174-13, titled "Violations and penalties".

Introduced and read first time on August 15, 2023. Ordered posted and public hearing scheduled for September 5, 2023 at 6:00 p.m.

Laura Hurley
Laura Hurley, Council Administrator

PUBLIC HEARING: Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, the Bill was read for a second time at a public hearing held on September 5, 2023.

Laura Hurley
Laura Hurley, Council Administrator

CERTIFICATION: The undersigned hereby certifies that this Bill was Approved and Adopted by the County Council of Wicomico County, Maryland, on the 5th day of September, 2023.

Laura Hurley
Laura Hurley, Council Administrator

Presented to the County Executive for approval this 6th day of September at 11:55 a.m. (5 days §411)

Laura Hurley
Laura Hurley, Council Administrator

BY THE COUNTY EXECUTIVE:



County Executive

APPROVED
Date: 9/6/23
(21 days §411)

VETOED
Date: _____

BY THE COUNCIL:

Option One: This Bill, having been approved by the County Executive and returned to the Council, becomes law on September 6, 2023 and effective on: November 6, 2023 (60 days §311)

Option Two: This Bill, having received neither the approval nor the disapproval of the County Executive with 21 days of its presentation, stands enacted on _____ and becomes effective on _____ (60 days §311)

Option Three: This Bill, being exempt from the Executive Veto stands enacted on _____ and becomes effective on _____. (Charter Section 305)

ENROLLMENT: Legislative Bill No. 2023-12 is herewith submitted to the County Council of Wicomico County for enrollment as being the text as finally passed

Laura Hurley
Laura Hurley, Council Administrator