



# Town of Berwyn Heights

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## ***ORDINANCE 104 - BUILDING AND INSPECTION***

### **Section 1. Purpose and Authority**

By the authority vested in the General Powers in Section 401 and the Specific Powers in Section 402 of the Town of Berwyn Heights Charter, the Town Council presents the following Building and Inspection Ordinance 104 designed to regulate construction within the Town of Berwyn Heights, make reasonable regulations with regard to buildings to be erected, constructed or modified in the Town and to regulate the placement and permitting of roll-off container type dumpsters and portable temporary storage units.

### **Section 2. Department of Code Enforcement, Construction and Transportation**

A. The administration and enforcement of the provisions of this Ordinance is assigned to the Department of Code Enforcement, Construction and Transportation.

B. The Code Enforcement Official or designated representative shall be the authorized person responsible for the enforcement of the provisions of this Ordinance including the assessing of fees, fines and penalties for violations of the provisions of the Ordinance and the costs incurred to repair damage to Town aprons, curbs, gutters, sidewalks or streets.

### **Section 3. Powers, Duties, and Functions**

The Code Enforcement Official or designated representative shall have the following powers, duties and functions:

A. Review plans and specifications required to be filed with the application for a Town building permit; advise the Councilmember in charge of the Department whether a building permit should be issued or denied and advise the Town Administrator as to the number of curb sections surrounding property.

B. In the event the Code Enforcement Official or designated representative, after due consideration, recommends to the Council that a building permit should not be issued and the reason therefore shall be stated in writing.

C. Upon issuance of a Town building permit, the Code Enforcement Official or designated representative shall inspect all construction projects and insure strict adherence to the

approved plans and specifications.

D. In the event of violation, deviation, or irregularity, the Code Enforcement Official or designated representative shall:

1. Notify and consult with the Councilmember in charge of the Department.
2. Advise the property owner and/or contractor of the infraction and specify the time by which said infraction shall be corrected;
3. Issue a stop-work order should the infraction not be corrected within the specified time;
4. Suspend the building permit upon issuance of a stop-work order;
5. Re-issue building permit and remove stop-work order when reason for stop-work order has been corrected.

E. The Code Enforcement Official, in conjunction with the Town Administrative staff, shall keep on file all applications, plans, and other pertinent building records associated with the issuance of a building permit.

F. The Code Enforcement Official or designated representative shall have the right, upon proper identification, to enter upon private property so far as is necessary for the performance of duties.

#### **Section 4. Building Code**

The Building Code of the Town of Berwyn Heights shall be the current Building Code of Prince George's County. The Building Officials and Code Administrators (BOCA) Energy Conservation Code or its successor Code, as amended from time to time, shall apply to all buildings being constructed in the Town of Berwyn Heights.

#### **Section 5. Building Permits**

A. Town of Berwyn Heights building permit shall be required whenever a Prince George's County permit is required.

B. Applications for permits shall be made in writing by the property owner or his duly authorized representatives on forms provided by the Town.

C. With each application an applicant must furnish:

1. Evidence of a valid permit issued by Prince George's County.
2. One set of plans showing architectural and structural details plus plats showing present and proposed construction.
3. Applications which do not conform to the above shall not be accepted.

D. Permits shall be valid and in force for a period not to exceed twenty-four (24) months. Once a permit has been issued, work must begin within six (6) months from the date of issuance, otherwise the permit is null and void. Work started within this six (6) month period and continuously underway extending beyond this period may proceed to completion within a reasonable time under authority of the original permit.

E. Building permits must be posted in full view on the property where work is being performed.

F. It shall be unlawful to deviate in any manner from the approved building permit unless written approval is obtained from the Code Enforcement Official or designated representative.

## **Section 6. Roll-Off Container Permits**

A Town of Berwyn Heights roll-off container permit shall be required whenever a 10, 20, 30 or cubic yard roll-off container type dumpster is placed on private commercial, industrial or residential property or in the public right-of-way or on a public street for every fifteen (15) days or portion thereof for a maximum period of sixty (60) days. Roll-off container type dumpster unit permits shall be displayed either on the front exterior of the roll-off container in a plastic liner or in the front window of a residence or front window of the premises' principal structure. Placement of a roll-off container in excess of sixty (60) days shall require an exemption and approved conditions of the Town Council.

The roll-off container unit must be sited on asphalt, concrete, gravel, or hard paved surface. The roll-off container cannot encroach on neighboring property or on Town property or on Town right-of-way, sidewalk or street without the prior approval of the Town.

Any roll-off container unit placed on a property or on Town property or Town right-of-way or Town street without the issuance of a permit shall be subject to a fine and/or late fee for every fifteen (15) days or portion thereof.

The roll-off container unit may only be used to temporarily store existing building or construction debris, other materials or waste removed from the building or premises on which the roll-off container unit is sited. The roll-off container unit may not be used as a transfer station to which building or construction debris, other materials or waste is brought from another site and deposited into the roll-off container unit sited on a property situated in the Town of Berwyn Heights.

## **Section 7. Portable Temporary Storage Unit Permits**

A Town of Berwyn Heights portable temporary storage unit permit shall be required whenever a portable temporary storage unit is placed on private commercial, industrial or residential property for every thirty (30) days or portion thereof for a maximum period of sixty (60) days. The permit holder may, due to special circumstances, apply to the Town Council for an extension of the placement of a portable temporary storage unit in excess of sixty (60) days, provided the extension request is filed with the Town Council prior to the expiration of the sixty (60) day period of the permit. The permit holder may, due to special circumstances, apply to the

Town Council for an exemption from the portable temporary storage unit placement requirements. The Town Council, when considering the request for an extension of the allowed sixty (60) day period or an exemption from the portable temporary placement requirements, may set conditions of approval and establish a special fee.

The maximum size of any portable temporary storage unit shall not exceed eight (8) feet in width, eight (8) feet in height and sixteen (16) feet in length. The maximum number of placements is two (2) per calendar year for a maximum number of sixty (60) consecutive days per placement or one-hundred twenty (120) days per calendar year. The maximum number of portable temporary storage units that can be on site is one unless an exemption and approved conditions are secured from the Town Council.

The portable temporary storage unit cannot encroach on Town property, Town right-of-way, neighboring property, sidewalk or be placed in the street. The unit must be sited on an asphalt, concrete, gravel or hard paved surface between the front property line and the rear building line of the principal structure. The site distance between the portable temporary storage unit and the side yard property line is four (4) feet or upon the approval of the Town Code Enforcement Official or designated representative. The four (4) foot side yard set back may be waived if the applicant's neighbor(s) consent to a side yard setback placement that is less than four (4) feet and the Code Enforcement Official confirms the neighbor's consent.

All portable temporary storage units shall be free of rust, peeling paint or other visible forms of deterioration.

Portable temporary storage units shall only be allowed upon the issuance of a permit. The permit shall be displayed either on the front exterior surface of the unit in a plastic liner or in the front window of the residence or front window of the premises' principal structure. The Code Enforcement Official or designated representative shall have the discretion to grant a grace period not to exceed five (5) days for a new, first time residential property owner or residential tenant.

Any portable temporary storage unit placed on a property without the issuance of a permit shall be subject to a fine and/or late fee for every fifteen (15) days or portion thereof.

## **Section 8. Schedule of Fees, Deposits and Penalties**

A. The fee for a building permit shall be set from time to time by resolution of the Town Council. A late filing fee shall be charged in addition to this fee if work is started without issuance of a valid Berwyn Heights building permit, said late fee amount being set from time to time by resolution of the Town Council.

B. A Town permit fee for every fifteen (15) days on site or portion thereof for a maximum period of sixty (60) days shall be assessed for all roll-off container type dumpster units and said fee shall be set from time to time by resolution of the Town Council. Roll-off container type dumpsters used in excess of sixty (60) days shall require an exemption and approved conditions by the Town Council.

C. A Town permit fee for every thirty (30) days on site or portion thereof for a maximum period of sixty (60) days shall be assessed for all portable temporary storage units and

said fee shall be set from time to time by resolution of the Town Council. Portable temporary storage units used in excess of sixty (60) days shall require an exemption and approved conditions of the Town Council.

D. In any case where building permits have been issued, but no work has begun within a six (6) month period, the applicant may apply for a refund. The Code Enforcement Official shall determine the validity of such requests for refunds.

E. A cash deposit, set from time to time by resolution of the Town Council, may be required for each building, roll-off container type dumpster or portable temporary storage unit permit issued and shall be subject to the following conditions: (See Roads and Public Rights of Way Ordinance, Section 1.)

1. Said deposit will be used for repair of Town property such as aprons, curbs, gutters, sidewalks or streets, which are damaged by a particular construction project or placement of a roll-off container type dumpster or portable temporary storage unit.

2. The Code Enforcement Official or designated representative will inspect and document the condition of Town property as described in Section 6 (C) 1.

3. Upon completion of construction, the applicant shall apply to the Town Office for an inspection by the Code Enforcement Official or designated representative and for any refund of deposit due.

4. Said inspection shall compare the condition of Town property prior to construction with the condition of Town property subsequent to construction and shall be documented.

5. If the deposit is refunded, the Code Enforcement Official shall note this by signature on the building application permit form.

6. If the deposit refund is denied, the Town Office shall notify the applicant within forty-five (45) days of the applicant's request for refund by certified mail of the specific damage, which has prevented the deposit from being refunded.

F. Where the cost to repair the damage exceeds the amount of the deposit, the Town shall notify the property owner by certified mail of the cost to repair such damages and the balance due the Town to cover such cost.

G. When a deposit is not required with a Town building permit, but damage to Town results from a construction project, the Town shall notify the property owner by certified mail of said damage and the cost to repair such damage.

H. In all cases, if any charges remain unpaid after ten (10) days from date of notification, said charges shall constitute a lien against the property and shall be collected in the same manner as delinquent taxes.

## **Section 9. Enforcement**

It shall be the duty and responsibility of the Town to enforce the provisions of this Ordinance as herein provided.

## **Section 10. Right of Appeal**

A. Any person or persons, firm or corporation aggrieved by a decision of the Code Enforcement Official or designated representative shall have a right of appeal to the Town Council.

1. Any person affected by any notice of violation which has been issued in connection with the enforcement of any provision of this Ordinance may request and shall be granted a hearing on the matter by the Town Council, provided such person shall within ten (10) days after service of a notice of violation, files with the Town Council 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 Town Council shall set a time and place for such hearing and shall decide appeals as promptly as practicable. The Town Council, with a quorum present, shall hear appeals.

2. After such hearing, the Town Council may, by a majority of members present, affirm, amend, modify or withdraw the notice of violation that has been appealed. Any person who shall fail, refuse or neglect to comply with the decision of the Town Council shall be guilty of violating the provisions of this Ordinance.

3. In the event a person wishes to contest the decision of the Town Council, he or she may notify the Town of his or her intent with ten (10) days after the rendering of the decision by the Town Council. In that event the Town shall issue a municipal infraction citation to the aggrieved person who may request a hearing in the District Court of Maryland pursuant to the Municipal Infraction procedure. The decision of the Town Council in such a case shall be stayed, pending a decision by the District Court. To the extent of this Section of the Ordinance, all violations of this Ordinance will be considered municipal infractions of the Town.

B. Failure to pay after adjudication or request of adjudication by the Town will result in the amount of any fine imposed being recorded as a lien against the property and collected in the same manner as delinquent Town taxes.

## **Section 11. Interpretation**

The Mayor and Town Council of Berwyn Heights shall decide questions of interpretation of this Ordinance.

## **Section 12. Rules and Regulations**

The Town Council may pass such rules and regulations from time to time as are consistent with the purpose, intent and enforcement of this Ordinance.

### **Section 13. Violation**

Violation of any provision of this Ordinance shall be subject to a fine and/or penalty, which shall be set from time to time by resolution of the Town Council. Failure to pay a fee(s), a fine(s), a late fee(s) and/or costs incurred to repair damage to Town property such as aprons, curbs, gutters, sidewalks, or streets will result in the amount of any fine(s) or late fee(s) or repair costs incurred being recorded as a lien against the property and collected in the same manner as delinquent taxes.

### **Section 14. Severability**

Should any part of this Ordinance be held invalid, the Town Council declares that it would have adopted all other provisions notwithstanding such illegality of a part and all remaining parts shall remain in effect.

Effective: 3/30/1982  
Amended: 8/10/1984  
Amended: 11/14/2007  
Effective: 12/3/2007