

Agenda
Work Session
November 7, 2016
7:00 pm

Executive Session (6:00 pm – 6:45 pm)

Personnel matter

Regular Meeting (7:00 pm)

1. Announcements

2. Minutes

- Oct. 12 TM, Oct. 17 WS

3. Department Reports/ Citizen Comments

4. Action Items

- FY 2017 pay plan implementation
- Telephone system

5. Discussion Items

- Ordinance 120 proposed amendments
- WMATA proposal to end late night service
- Charter amendment update: meets and bounds (MPT Kulpa-Eddy requested)
- Pepco tree removals on Edmonston Road: debriefing (CM Rasmussen requested)

6. Upcoming Town Council Schedule

- November: 7th Worksession, 9th Town Meeting, 21st Worksession
- Strategic Planning Workshop: November 15, 9:00 am – 12:30 pm
- Town Legislative Dinner: Tuesday, Nov. 29, 6:00 pm, The Common
- Town-wide cleanup: Saturday, Nov. 12, 10:00 am
- BHHC wine & cheese reception: Sunday, Nov. 13, 2:00 pm

Draft Minutes Town Meeting October 12, 2016

The meeting was called to order at 8:00 p.m. Present were Mayor Cheryl Jewitt, Mayor Pro Tem (MPT) Jodie Kulpa-Eddy, Councilmembers (CMs) Patricia Dennison, Chris Rasmussen, and Gerald Shields. Also present were Town Administrator (TA) Jessica Cowles, Chief of Police Kenneth Antolik, Officers Krouse and Ramirez, Treasurer Michelle Rodriguez, Clerk Kerstin Harper and citizens.

Mayor Jewitt led the Pledge of Allegiance.

1. Minutes

Clerk Harper read a summary of the September 14 Town meeting minutes. On a motion by CM Dennison and second by CM Shields, the minutes were approved 5 to 0.

2. Treasurer's Report

Treasurer Rodriguez gave the Treasurer's report for the month of September. In response to MPT Kulpa-Eddy, she explained that the general fund checking account for this fiscal shows a decline because the money for various reserves was moved into separate accounts.

3. Mayor's Report

Mayor Jewitt reported that she will attend the Maryland Municipal League (MML) fall conference with CM Shields to work toward her local governance certificate. All Councilmembers and senior staff participated in a strategic planning workshop at the University of Maryland on October 10. A debriefing is on the agenda for the next worksession.

Mayor Jewitt announced she requested that some changes be made to the Town meeting. Starting with the November Town meeting, TA Cowles will sit on the dais with the Town Council and report on the Administration Department. Treasurer Rodriguez will give the Treasurer's report from the podium. Department directors will be asked to give reports for their departments in person. Later, a conference phone will be installed in the chambers so that residents can call in with questions and comments. An earlier start time for the Town meeting is also being considered.

Mayor Jewitt yielded some of her time to TA Cowles to make an announcement. TA Cowles said that she learned today that WSSC has agreed to repave all streets that were dug up for the water main replacement project in their entirety at no expense to the Town. This will save the Town around \$200,000. She and Interim Public Works Director Kenny Hall repeatedly discussed the street repaving with WSSC, but until now WSSC intended to repave only that half of a street where the water mains were replaced. Construction will begin at the end of this year or early next year.

4. Department Reports

Administration: MPT Kulpa-Eddy said that street repairs beyond those to be repaved by WSSC will occupy a significant amount of time of the Town Council and staff in the near future, and will require a communications effort to keep residents well informed. The strategic planning workshop attended by Council and senior staff sought to identify a vision and long-range goals for the Town government, and will be followed up upon with a half day workshop in November. The Administration Department was working on drafting a new employee handbook that is to be adopted later in the meeting.

MPT Kulpa-Eddy continued that the general election is coming up on November 8 with polls open from 7 am to 8 pm. Voting takes place at the BHES cafeteria. The U.S. President, U.S. Senator and U.S. Representatives are on the ballot, as are State and County referenda. Among the County ballot questions, is a constitutional amendment that would change the composition of the County Council by adding 2 at-large seats for a total of 9 seats. Sitting County Councilmembers elected to represent a single district, would be eligible to run for an at-large seat, in effect extending term limits by 2 terms.

MPT Kulpa-Eddy said that the Prince George's Planning Department has released Module 3 in the ongoing rewrite of the County's 50-year old zoning ordinance. Module 3 deals with zoning processes and subdivision regulations. One aspect of Module 3 is granting developers the right to build a new development within the new zoning framework without having to get approval from the municipality, excepting an initial neighborhood meeting. Municipalities have expressed concern that their role in the development approval process is not clear.

Module 2 defines design standards for each zone. It has a section on Neighborhood Compatibility Standards to ensure that a transition area is maintained between a residential neighborhood and any commercial zone. Berwyn Heights will closely examine whether those standards, ranging from building heights and setbacks to exterior lighting, are adequate for Berwyn Heights residents.

Module 1 defines the permitted uses in each zone, which largely overlap with current zones and uses. One new use that will be allowed by right is the addition of a secondary or accessory dwelling on an existing property to accommodate an in-law suite. Any residents wishing to comment on Module 3 or other aspects of the draft zoning ordinance may send them to TA Cowles, so that they can be added to a letter in which the Town will lay out its position.

Lastly, WMATA will hold a public hearing on October 20, 12:00– 9:00 p.m. at its downtown headquarters regarding restricted operating hours for the Metro system to make needed repairs to its infrastructure.

Code Compliance: CM Rasmussen said that Pepco's contractor Asplundh is in Town pruning and removing trees in accordance with a removal plan approved by the Town. He thanked TA Cowles and the Public Works Department for working with Pepco, SavATree and the Councilmembers to produce an acceptable tree removal plan. Thanks to their efforts, tree removals were reduced from about 80 to about 60 mature trees. He also thanked the Green Team for composing a letter that was published in the Bulletin to notify residents that they can deny tree Pepco removals on their property. He estimates that another couple of dozen trees were saved as a result. He regards this as an object lesson in working together to achieve a result all parties can accept.

Next, the Code Compliance Department will focus on *Ordinance 120 – Rental Housing*. The Ordinance needs to be revised to bring it into compliance with the most recent federal and state regulations. Code Supervisor Glass and TA Cowles have been working on a draft that the Council plans to discuss at the next worksession.

Parks and Recreation, Education and Civic Affairs: CM Shields reported that he contacted the chairs of every Town organization to introduce himself and learn about their concerns. He also had a citizen request that Councilmembers speak clearly into their microphones because they difficult to hear.

Public Health and Safety: Chief Antolik announced that the police department received a \$2,000 grant towards the purchase of body cameras. He then gave the police activities report. There were 13 Part I offenses, 11 of which were thefts from cars. The police are investigating a suspect. The 5-year average for September is 8. Year-to-date, Part I offenses total 48, as opposed to the 5-year average of 49.6. The police issued 183 state and municipal citations and 88 speed camera tickets, 8 on Pontiac Street.

Officer Ramirez announced that the Police will again be participating in Trunk or Treat, a safe alternative to Trick-or-Treating for younger children. Residents are encouraged to participate and bring a decorated car. The Police and NW/EP will again have all hands on deck for patrolling the streets on Halloween night. Trick-or-treat hours are 6 – 9 pm. Homeowners who do not want to participate should turn their lights off. Residents are asked to drive carefully. No warnings will be given for traffic violations. Officer Ramirez concluded with a list of safety tips for trick-or-treaters.

Public Works: CM Dennison reported that the Public Works Department has hired Tracy Jones as a part-time administrative assistant. In the next weeks, the DPW crew will perform landscaping work around the Town Center while continuing regular trash collection and maintenance work.

5. Committee Reports

Education Advisory Committee: No report.

Green Team: Diana Agonoy, Cunningham Drive, reported that the Green Team hosted their 3rd annual community garden party in September. She then presented a certificate of appreciation to Mayor Jewitt, for the Town's continued support of the community garden. Public Works helps with all types of maintenance chores. The Green Team is working on its *Sustainable Maryland Certified* re-certification due in June 2017. The next meeting is on October 20 at 7:00 p.m.

Historical Committee: Town Clerk and BHHC Chair Harper reported that the Committee held elections at its last meeting. She was re-elected chair, Debby Steele-Snyder Vice Chair, and Richard Ahrens Secretary. Several members attended the opening reception of the Anacostia Trails Heritage Center in Hyattsville last week, Mayor Jewitt and many other elected officials were present. The BHHC will hold its fall reception on November 13, 2:00 p.m. There will be a showing of a highlights reel of oral histories and a display of photo albums. Attendees will be asked to contribute information about the organizations, events and people shown in the albums, as well as bring their own photos of earlier times that can be scanned at the event. In response to

MPT Kulpa-Eddy, Ms. Harper said that Berwyn Heights and other big donors to the Heritage Center will be honored with a plaque.

Neighborhood Watch/Emergency Preparedness: NW/EP Co-chair Mike Attick reported that the NW/EP is seeking new volunteers and new trainees for the Town's CERT team. It is the goal to train as many residents as possible to be prepared for an emergency. The next CERT training class will be held on November 4 – 5, 8 a.m. – 2:00 p.m. To enroll, residents should contact Mr. Attick at mikeattick@verizon.net. The next meeting will be held on November 3.

Recreation Council: Diana Agonoy, Cunningham Drive, reported for the Recreation Council. She said the Recreation Council also needs new volunteers to help with organizing events. For Trunk-or-Treat, Recreation Council members will decorate, serve refreshments and award prizes for best decorated cars and best costumes. On November 12, 10:00 a.m., the Recreation Council and the Green Team will hold a Town-wide cleanup. Meeting point is the Town Center. Participants will be provided instructions and equipment and served a free lunch.

6. Unfinished Business

There was none.

7. New Business

Resolution 03-2016 – Adoption of Employee Handbook: TA Cowles said that a new employee handbook was drafted over the last couple of months with the assistance of McGrath Consultants and extensive input from senior staff. The Council has also offered comments over the last week, and all issues have been resolved, except the appeals process for disciplinary action.

MPT Kulpa-Eddy explained her concerns with the disciplinary process outlined on page 48 of the employee handbook. Here it is stated that, although both the Town and the employees can terminate employment at will, the Town may use progressive discipline to correct unsatisfactory behavior in the workplace, which ranges from verbal warnings for minor issues to suspension and ultimately termination for severe and repeated offenses, at the discretion of the Town Administrator.

MPT Kulpa-Eddy said, when the Council adopted *Ordinance 121 – Executive Powers & Duties*, it intended to delegate day-to-day management of the departments to the Town Administrator and the directors but retain the Council as the Chief Executive Officers (CEO) with ultimate authority for hiring and firing. She would therefore propose adding a provision that allows any employee to appeal a serious disciplinary action, such as suspension without pay or termination, to the Town Council, while leaving minor infractions for the Town Administrator and directors to resolve.

CM Rasmussen said that he disagrees in principle with MPT Kulpa-Eddy's proposal. He thinks establishing a secondary appeal that allows employees disciplined by the Town Administrator to appeal that decision to the Town Council may put the Town Council at odds with the Town Administrator by second guessing or overturning her decision. Instead, he would suggest that, in cases where an employee is appealing a serious disciplinary action, the Town Administrator advise and consult with the Town Council in advance of a disciplinary action. He further believes that Ordinance 121 sets the Town Administrator up as the Chief Administrative Officer (CAO) to manage day-to-day operation, which includes most staffing decisions.

Mayor Jewitt said she agrees with CM Rasmussen to leave the language in the handbook as is. Employees reporting to department directors, should be able to appeal the decision to the Town Administrator, but that that decision should be final. The Town Administrator would remain free to consult with the Town Council or the Town Attorney regarding a difficult decision.

MPT Kulpa-Eddy said that Section 10 N of Ordinance 121 gives all employees, regardless of rank, the right to appeal disciplinary actions or other matters to the Town Council. If this Town Council disagrees with the policy adopted by a previous Town Council, it should amend the Ordinance. Otherwise, the Town would open itself up to law suits. Having participated in the writing of Ordinance 121 and in disciplinary appeals, she is certain that this is what the previous Council intended and what employees took it mean.

After further discussion, the Council agreed to adopt the language of Ordinance 121 into the employee handbook, reading in part: "...When an employee is appealing a department director's disciplinary action, the decision of the Town Administrator may be appealed to the Town Council. When an employee is appealing the Town Administrator's disciplinary action, the decision of the Town Council is final." CM Rasmussen moved the amendment. CM ? seconded. The motion passed 5 to 0.

Clerk Harper read Resolution 03-2016 adopting the employee handbook. CM Dennison moved the Resolution. MPT Kulpa-Eddy seconded. The motion passed 5 to 0.

8. Citizens Discussion

Mike Attick, 62nd Avenue, asked how much money the Town has received so far to compensate it for the impacts of the Greenbelt Station development. TA Cowles said the Town has received around \$400,000 of \$1,000,000, some of which was used for sidewalks construction. The money is disbursed when new permits for the development are pulled.

Mr. Attick asked whether the employees will be able to review the employee handbook before it is published. TA Cowles said they have seen been given copies and will have a chance to discuss it during an upcoming training session, where changes in the job descriptions and performance evaluations will also be discussed. Mr. Attick said he thinks the Town Council should always have the final say in any matter, whether it be employees, money, or equipment because Councilmembers are the guardians of the Town. CM Shields asked whether Mr. Attick supports the changes to the handbook made tonight. Mr. Attick said he did. He further noted that the street sweeper came a week later than announced in the Bulletin.

Eddy Daffron, Seminole Street, said that there are some places in Town where street lights should be added.

The meeting was adjourned at 9:30 p.m.

Kerstin Harper, Town Clerk



Town of Berwyn Heights

5700 Berwyn Road
Berwyn Heights, MD 20740
Tel. (301) 474-5000
Fax (301) 474-5002

Draft Minutes Worksession October 17, 2016

Executive Session (6:00 p.m. – 6: p.m.)

Present were Mayor Cheryl Jewitt, Mayor Pro Tem (MPT) Jodie Kulpa-Eddy, Councilmember (CMs) Patricia Dennison, Chris Rasmussen, and Gerald Shields. On a motion by CM Rasmussen and second by CM Dennison, the Council went into executive session to discuss the Town Administrator's performance evaluation and Councilmembers roles and expectations. CM Rasmussen moved and CM Dennison seconded to end the executive session.

Regular Meeting

The meeting was called to order at 7:05 pm. Present were Mayor Cheryl Jewitt, Mayor Pro Tem (MPT) Jodie Kulpa-Eddy, Councilmembers (CMs) Patricia Dennison, Chris Rasmussen and Gerald Shields. Also present were Town Administrator (TA) Jessica Cowles, Clerk Kerstin Harper, and citizens.

1. Announcements

Town offices will be closed October 31, 2:00-4:00 p.m. for a staff meeting.

2. Minutes

On a motion by CM Dennison and second by CM Shields, the September 19 worksession minutes were approved 5 to 0. On a motion by MPT Kulpa-Eddy and second by CM Dennison, the October 3 worksession minutes were adopted 5 to 0.

3. Department Reports

Mayor Jewitt thanked the Police, Public Works and Volunteer Fire Department for their participation in Trunk-or-treat. MPT Kulpa-Eddy announced the upcoming Four Cities meeting in Greenbelt, early voting starting on October 27, and Election Day taking place on Tuesday, November 8. CM Rasmussen announced that the beginning of the in-depth review of Ordinance 120 – Rental Housing will be postponed to the next worksession. He, Code Supervisor Glass and TA Cowles will meet this week to discuss the proposed changes. He, TA Cowles and Code Supervisor Glass also checked on a fence that had been called in as a non-conforming use. While the fence is unusual, having been erected on top of deck that is 2 feet above the ground, it is in compliance with County zoning law. The Code Department plans to follow up on the matter with the County because it essentially circumvents the 6' height limitation on fences.

CM Shields reported that he attended the MML fall conference where he participated in an orientation for new Councilmembers and learned about the requirements for becoming an MML banner city. He

also spoke with the heads of various Town organizations. The Berwyn Heights Playgroup currently has 8 member families, which includes a number of families from outside of the Town. The Recreation Council hosted a successful ice cream social attended by over 100 guests. The Recreation Council continues to seek volunteers to help organize such events in the future.

Citizen Comments: Mayor Jewitt received a complaint about party noise coming from the Town Center. Apparently, the doors to the elevator foyer door were left open. The police stopped by to check on the party.

4. Action Items

PGC zoning rewrite, Berwyn Heights letter of comment: MPT Kulpa-Eddy said that she attempted to draft a letter summarizing Berwyn Heights' comments on Modules 1- 3 of a revised Prince George's County zoning ordinance. However, she concluded there is not enough information to know how the proposed zoning changes will impact Berwyn Heights and hence to make pertinent comments. She has therefore requested clarification on various new zoning provisions and for a meeting with Park & Planning staff engaged in the rewrite to answer questions from the Council and residents.

For example, in Module 1, which sets forth the new zoning categories and land uses, information is lacking about how an area transitions from the old to the new zones. A map showing the proposed new zones and their uses is therefore requested. Also requested is information about what happens when 1) a business located in Town, such as the scrap yard, no longer conforms to the uses proposed for the new zone; 2) how new *neighborhood compatibility standards* would be implemented; and 3) how a *neighborhood commercial zone* might be applied to Berwyn Heights. The letter also expresses concerns about the lack of influence municipalities would seem have on proposed new developments in their jurisdictions, and joins Greenbelt in proposing Beltway Plaza as a test project for the new zoning ordinance.

Mayor Jewitt asked if this type of letter is better sent jointly with the Four Cities Coalition. MPT Kulpa-Eddy said that both, the Four Cities and Berwyn Heights should send letters of comment. Berwyn Heights may want to raise some concerns that are specific to Berwyn Heights. TA Cowles noted that Director Cox reviewed the zoning modules and had similar concerns than MPT Kulpa-Eddy. CM Rasmussen said he had a couple of minor grammatical corrections. He very much appreciates MPT Kulpa-Eddy's efforts to track the zoning rewrite and determine what it means for Berwyn Heights. No other corrections to the letter were offered by the Council.

MPT Kulpa-Eddy moved to send the letter to the Park & Planning rewrite team, including the proposed grammatical corrections. CM Dennison seconded. The motion passed 5 to 0. TA Cowles will format letter for official correspondence and share it with the Four Cities as the basis for discussing a Four Cities response.

Position classification pay plan: TA Cowles said, with the adoption of the employee handbook, the Council has completed phase 1 of human resources reforms drafted with the assistance of McGrath Consultants. Phase 2 proposes to implement a new pay plan for FY 2017 based on McGrath's compensation study of comparable jobs in the region. The new pay plan comprises pay grades A – Q and establishes a minimum-maximum range as well as a position point for each pay grade. Newly hired employees would normally start at the minimum pay, then move to the position point and maximum pay based on performance and length of service. The position point serves as a guidepost for evaluators as to how much an employee should be paid after a few years of satisfactory performance.

Phase 3 of the personnel reforms proposes a 3% Cost of Living Adjustment (COLA) for all employees, retroactive to July 1, 2016. The annualized cost of the 3% COLA is \$31,000, of which \$4,300 go to social security and pension benefits. The cost of the COLA in the Public Safety Taxing District budget is approximately \$2,000, with \$270 going to social security and pension benefits. The COLA can be sustained in FY 2018 by moving some capital expenditures from the operational to the capital budget, and tapping into a \$50,000 reserve of Town contributions to 401k plans that remained unused after the Town joined the Maryland State Retirement System.

MPT Kulpa-Eddy expressed concerns about being able to sustain the pay increases beyond FY 2018. CM Rasmussen noted that an additional \$35,000 in funds set aside in a Health Reimbursement Account would also be available because the Town switched to a new health insurance system. In short, the Town has \$83,000 in extra funds for the COLA, as well as for bringing all employees up to the minimum pay of the new pay plan proposed in phase 4.

TA Cowles said that the Town already appropriates between \$29,000 and \$32,00 each year for salary increases. This is a recurring expense and, this year, would fund the COLA. An un-budgeted expense of \$13,000 is proposed to bring those employees, who remain below the minimum salary range of the new pay plan, to the minimum by January 1, 2017. She recommends doing this for equity reasons. If it is not done, new hires would be paid at a higher rate than some current employees.

After some further discussion about the Town's ability to afford the increases in the long run, CM Dennison moved and CM Rasmussen seconded to approve the new pay plan. The motion passed 5 to 0. CM Rasmussen moved, and CM Dennison seconded to approve a 3% COLA retroactive to July 1, 2016. The motion passed 4 to 1, with CM Shields opposed. The Council postponed a decision on spending \$13,000 to bring all employees up to the minimum salary range until TA Cowles can provide more detailed projections of the annualized cost of this measure.

Four Cities agenda: The following items were proposed for the Four Cities agenda: restoration of Highway User Revenues (HUR); 2) Improve communications between utilities; 3) Zoning rewrite letter of comment.

5. Discussion Items

Legislative dinner agenda: Based on previous legislative dinners, Berwyn Heights will give an update on the State of the Town and include an overview of the strategic planning exercise. Other items approved for discussion included: 1) SHA Greenbelt Road improvements proposed in the Greenbelt Station Sector Plan; 2) status of stormwater management engineering study; 3) urban tree legislation; and 4) possibly Airbnbs.

Charter amendment on boundaries: MPT Kulpa-Eddy said that the Town in 2005 annexed several properties along Branchville Road, which is not yet reflected in the Charter description of the Town's boundaries. She has been pushing to get this done before a decision on the FBI headquarters is made. TA Cowles said that the annexations are fully legal having been approved by the Town Council and the State of Maryland in 2005. Changing the Charter description is more of a procedural issue. She will meet with the land use attorney and engineer, who helped the Town with the annexations, to go over the requirements for redefining the boundary.

Ordinance 120 – Rental Housing: CM Rasmussen said that the review of a revised Ordinance 120 was postponed to the next worksession so that he, Code Supervisor Glass and TA Cowles have more time to discuss the proposed changes.

Strategic planning workshop debriefing: TA Cowles said that the University of Maryland consultants who conducted the strategic planning workshop provided a summary of the results, including a consolidated a draft vision and mission statement and list of strategic issues for discussion at a follow-up workshop that is yet to be scheduled.

CM Rasmussen said he thought that employees should not have participated in the workshop, and probably contributed to employee safety being identified as the top strategic issue. In his opinion, this is a narrow concern and not of the same order as other strategic issues, such as the revitalization of the Route 193 corridor and improving relations with the business district. However, he finds the summary document provided by the consultants useful as the basis for completing a strategic plan.

Mayor Jewitt said, while security cameras and employee safety may not be strategic issues, a larger universe of safety-related concerns was identified that merits that designation. Among those issues are building safety, street lighting, policing strategies, sidewalks, traffic safety, emergency response and more. A second set of concerns centered on infrastructure - that is roads, utilities, buildings, and grounds - which may eventually be addressed with a capital improvement plan.

MPT Kulpa-Eddy said that the list of issues and concerns from which participants were asked to select strategic goals were too numerous to compare and probably should have been narrowed down before voted on. She also asked that employees be allowed to participate in the follow-up workshop because they will be largely responsible for implementing the strategic plan. CM Rasmussen responded that employees might be consulted before or after a strategic planning session to bring their expertise and knowledge of day-to-day operations to bear on the Council's vision. Overall, he thought their concerns tend to be more parochial and focused on their role within the government rather than the wellbeing of the community.

The Council briefly discussed the consolidated vision and mission statements. There was agreement that the vision statement is somewhat generic and should emphasize Berwyn Heights unique features, such as community spirit and park-like setting. The mission statement was deemed to be wordy but acceptable.

Trunk or Treat safety protocol: Mayor Jewitt said that she and CM Dennison attended the Trunk or Treat Halloween celebration held in the BHES/ Community Center parking lot. It was very well attended and the marshmallow roasting over an open fire was a highlight. However, the fire pit lacks safety precautions. While the Volunteer Fire Department was present, there were no water buckets or fire blankets nearby. Small children in costumes sometimes got too close to the flames and adults needed to be present to supervise the activity at all times. It was agreed that TA Cowles reach out to the M-NCPPC community center staff, who are hosting the bon fire, and ask them to help make the event safer.

6. Town Council Schedule

The Council reviewed the calendar. No changes were made.

The meeting was adjourned at 9:22 p.m.

MEMORANDUM

DATE: October 31, 2016
TO: Mayor and Town Council
FROM: Jessica Cowles, Town Administrator
SUBJECT: **Implementation of FY 2017 Pay Plan**

The following phases lay out a process for implementing the FY 2017 Pay Plan as a result of the Town's human resources work with consultant Dr. Victoria McGrath.

Phase 1: Employee Handbook: adopted on October 12.

Phase 2: FY 2017 Pay Plan: adopted on October 17.

Phase 3: October 17 adoption of a 3% Cost of Living Adjustment (COLA) for employees retroactive to the start of the fiscal year (July 1, 2016) or the start date for those employees beginning Town service after July 1, 2016. The COLA is funded through the \$31,000 appropriation in the Salary Pool line item in the FY 2017 budget.

Phase 4: With the Council's approval of the 3% COLA, there remains a handful of Town employees that are not at the minimum pay rate in the FY 2017 Pay Plan. As a recap from Dr. McGrath's presentation to the Council, the position point is the actual market rate for the positions as determined through McGrath's Classification and Compensation Study. The minimum reflects a starting point for implementing the FY 17 Pay Plan, but it does not reflect the market rate for the positions.

The primary positions not at the minimum pay range are Public Works Maintenance employees and part-time Code Compliance Officers. These positions are often the first point of contact for Town residents, involve work in inclement weather, and often require the skilled use of the Town's most expensive equipment and machinery.

The cost of approving Phase 4, if made effective on January 1, 2017, would be \$8,000. The annualized amount would be \$16,000. There is \$35,000 available in the Health Reimbursement Fund (HRA) no longer needed with the recent medical insurance benefit changes, and \$50,000 available from the Town's 401(k) match that former Town employees forfeited when they did not vest in the retirement plan. I recommend using \$8,000 from the HRA fund for implementing Phase 4 on January 1, 2017.

Memorandum

Town Clerk

To: Town Council, Town Administrator
From: Kerstin Harper
Date: November 4, 2016

Re: **METRO Late Night Service Proposal**

WMATA board is considering ending late night service on the Metro system. Public comment was invited by October 25, 2016. Prince George's County representatives signed the attached letter for submission by October 25. The letter was also circulated to other elected officials and civic leaders.

From:

Prince George's County Council Members:

Deni Taveras

Prince George's County Municipal Leaders:

Tracy Hadden Loh, Mount Rainier City Council

Dear Hon. Malcolm Augustine and WMATA Board Colleagues:

A proposal to permanently end late-night Metrorail service throughout the system has recently been brought before the WMATA Board. We, like our colleagues in Montgomery County and other jurisdictions, understand the overmastering importance of maintenance and its relationship to safety and we support WMATA leadership in implementing the SafeTrack program to address the maintenance backlog.

We are aware that WMATA staff and the Federal Transit Administration have identified lack of access to the tracks as one of the bottlenecks contributing to the accumulation of a maintenance backlog. However, no proposal put before the public has explained why permanently closing *every* line of the Metrorail system during the pre-SafeTrack late-night hours is necessary on a continuing basis. With this move, Metrorail would have the most limited hours of any large rail transit system in the US. The information made available to the public so far about Metrorail's plans to improve maintenance procedures do not justify this.

The economic future of our region depends on achieving a jobs-housing balance through transit-oriented development, including in mixed urban-suburban jurisdictions like Prince George's County. A transit system that supports live-work-play hours, not just white-collar work hours, is an essential foundation and a social justice issue. Our county's plans and billions of investments in West Hyattsville, Prince George's Plaza, College Park, Suitland, and Largo—already committed and in place—will be jeopardized if WMATA moves forward with this proposal.

We ask that the WMATA board provide a more transparent study of the equity and ridership impacts of this proposed change as well as consider alternatives to improve maintenance before making a decision. The complete historical trend of late-night ridership on Metrorail, not just the most recent snapshot, must be a part of this analysis.

If the Board does move forward with reduced late night service, the proposed policy changes should be accompanied by plans to augment regional late-night mobility with "Night Owl" bus service so that communities can understand and have a more appropriate array of mobility options.

Sincerely,

Prince George's County elected leaders.

MEMORANDUM

DATE: November 3, 2016
TO: Mayor and Town Council
FROM: Jessica Cowles, Town Administrator
SUBJECT: **Revisions to Ordinance 120 and Related Documents**

Ordinance 120 was last revised in 2005 and it is time to update it to reflect changing standards such as those related to lead paint and fire safety. Definitions and those provisions related to violation notice service and posting that the Council made to Ordinance 107 have been incorporated into Ordinance 120 for consistency. In addition to these areas, there are policy issues worthy of the Council's considerations, specifically:

- Whether to adopt the Prince George's County Housing Code.
 - The County Housing Code is the County's property maintenance standard for both rental and non-rental property. The County Housing Code also includes provisions related to landlord-tenant relations. New Carrollton, Mt. Rainier, and Riverdale Park all adopt the County Housing Code for rental and non-rental property.
 - The 2005 version of Ordinance 120 attempted to create a Housing Code for rental property in Berwyn Heights; however, the standards have not been updated in 10 years and those standards in Ordinance 120 have fallen behind those in place in the surrounding communities for both rental and non-rental property.
 - The benefit to adopting the County Housing Code for rental property means that changes to protect public health, safety, and welfare will be automatically incorporated for rental properties without the Town needing to update Ordinance 120. In its current form, Ordinance 120 should have been updated 3-5 times in the last 10 years.
 - An area of consideration is that Town Ordinance 107 on Clean Lot is the Town's property maintenance code for both rental and non-rental property. Should there be conflicts between the Housing Code and Ordinance 107 for rental property, Ordinance 107 would prevail. The County Housing Code would not apply to non-rental property.
 - The Town may lose some autonomy by adopting the County Housing Code but would also no longer need to keep a separate set of Town standards requiring updates to Ordinance 120 as national and State standards change.
- Whether to delete references to the County Building, Electrical, Mechanical, and Plumbing Codes.
 - Ordinance 104 already adopts the County Building Code for both rental and non-rental property so referencing the County Building Code in Ordinance 120 is not necessary. The Town has a building permit requirement separate and in addition to the County's building permit.
 - References to the Electrical, Mechanical, and Plumbing Codes are not needed in Ordinance 120 because these are strictly County matters for both permitting and inspections. If the Town's rental housing inspector noticed an electrical, mechanical, or plumbing violation, it would be reported to the County for inspection and resolution.

- Whether a property rented to the property owner's family member(s) should require a rental license and whether a property owner-occupied rental property should require a rental license.
 - The purpose of the rental licensing program is to ensure the health, safety, and welfare of individuals and families living in rental housing. Ordinance 120 does not currently require a rental license for property owner-occupied rental property or those renting from a family member which means an annual inspection is not conducted to determine the safety of the rental unit.
 - The rental license fee paid to the Town is intended to defray the cost of the rental licensing program and public safety calls for service at rental properties. Without a rental license and the associated rental license fee paid to the Town, the rest of the Town taxpayers subsidize any calls for public safety services associated with that rental property.
- Whether three or more households within 500 feet of a rental property should continue to have the opportunity to petition the Council for a hearing on violations at the rental property.
 - There may be past history to indicate how the 2005 Council reached consensus on this issue.

Changes to the Rental License Application and related documents are also proposed in order to simplify the process as to what Code Compliance actually requires, such as:

- No longer requiring a Housing Disclosure Form and Tenants Rights and Responsibilities since these areas are in the realm of landlord-tenant relations and not Town-landlord relations. State law also governs the subject of landlord-tenant relations.
- No longer requiring a floor plan since the rental inspector inspects each room and does not need a floor plan to do so.

ORDINANCE 120 – RENTAL HOUSING

Section I. Purpose and Authority

- A. Purpose – It is the intent of the Town Council of Berwyn Heights to maintain the single family residential integrity of the Town by monitoring Rental Units to ensure compliance with ~~the R-55 PRINCE GEORGE’S County Zoning requirements as defined in Article 27 of the Prince George’s County Code~~ and to ensure compliance with all safety, health and housing requirements of the Town of Berwyn Heights, Prince George’s County and the State of Maryland. This Ordinance shall be applied equally and justly to ensure the public health, safety and welfare of citizens of Berwyn Heights.
- B. Authority – The authority is provided for in Sections 311 and 401 of the Berwyn Heights Town Charter.

Section II. Definitions

In this Ordinance, the following words have the meanings indicated. Where terms are not defined, they shall have their ordinarily accepted meanings such as the context may imply. Words used in the present tense include the future; words used in the masculine gender include feminine and neuter, the singular includes the plural and the plural the singular.

- A. ~~Agent – Any person/company authorized to act for the owner.~~ ACCESSORY STRUCTURE - A BUILDING OR STRUCTURE, RETAINING WALL, WALL OR FENCE THAT IS INCIDENTAL TO THE MAIN BUILDING LOCATED ON THE PROPERTY.
- B. Basement – Any portion of the building located wholly or partially underground having any portion or all of its clear floor-to-ceiling height below the average grade of the adjoining ground.
- C. Bathroom – A room separate from habitable rooms, which affords privacy to a person in said room, with a toilet with cold running water, a bathtub or shower with hot and cold running water, and a lavatory or basin with hot and cold running water.
- D. Building Code – The basic PRINCE GEORGE’S COUNTY building code, latest edition, and ~~current cumulative supplement officially adopted by Prince George’s County~~ for the regulation of construction, alteration, addition, installation, repair, removal, demolition, use, location, occupancy and maintenance of premises, buildings and structures.
- E. Central Heating – The heating system permanently installed and adjusted so as to provide the distribution of heat to all habitable rooms, bathrooms, KITCHENS, and ~~water closets~~ ~~compartments~~ from a source outside of these rooms.
- F. Code Enforcement COMPLIANCE Official – A person or persons appointed or designated by the Town ADMINISTRATOR ~~Council~~ to enforce the Rental Housing Ordinance or a portion thereof.

Commented [JC1]: Prince George’s County has adopted NFPA, International Residential Code and the Maryland Building Performance Standards.
I recommending deleting the Building Code reference because ORD 104 already adopts the County Building Code.

- G. Condemn – To declare a structure or part thereof, premises or equipment, unsafe, UNINHABITABLE, or unfit for use or occupation.
- H. ~~Crashing—A custom, practice or pattern of permitting an individual, individuals or persons to sleep in areas of the dwelling, dwelling unit or rooming unit not designated and approved by the Code Enforcement Official as areas for sleeping purposes; areas not considered for sleeping purposes such as dining room, family room, hallways, or living room; or permitting the number of persons to sleep in an approved, designated sleeping areas that exceed the standards set forth in Section VI. A of this Ordinance.~~
- I. Designee – A person or persons appointed or designated by the Town ADMINISTRATOR Council to enforce the Rental Housing Ordinance or a portion thereof.
- J. ~~Domestic Partner – A RELATIONSHIP BETWEEN TWO INDIVIDUALS WHO ARE NOT MARRIED, ARE NOT IN A CIVIL UNION OR DOMESTIC PARTNERSHIP WITH ANOTHER INDIVIDUAL, AND WHO SHARE A PRIMARY PLACE OF RESIDENCE AND ARE FINANCIALLY INTERDEPENDENT. An individual living with another as the functional equivalent of a spouse where the partners may share living expenses, chores, eat meals together in a close relationship with social, economic and psychological commitments to each other. Domestic partners may be required to show proof of domestic partner relationship.~~
- K. Dormitory –A building or space in a building in which group sleeping accommodations are provided for more than five (5) persons who are not members of the same family in one room or a series of closely associated rooms under joint occupancy and single management, with or without meals, without individual cooking facilities, ~~but including access to and use of a bathroom.~~
- L. Dwelling – Any building that is wholly or partly used or intended to be used for living, sleeping, cooking or eating by human habitants, ~~provided that temporary housing, as hereinafter defined, shall not be regarded as a “dwelling.”~~
- M. Dwelling Unit – Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities, including a bathroom and a kitchen, which are used or intended to be used for living, sleeping, cooking or eating.
- N. ~~Electrical Code – The basic PRINCE GEORGE’S COUNTY electrical code, latest edition, and current cumulative supplement officially adopted by Prince George’s County for the regulation of construction, alteration, addition, installation, repair, removal, demolition, use, location, occupancy and maintenance of electrical wiring of premises, buildings, structures and electrically operated or controlled appliances, devices, lights and heating, air conditioning and ventilation systems, AS MAY BE AMENDED FROM TIME TO TIME.~~
- O. Emergency –An unforeseen occurrence or condition, or a rapid deterioration of circumstances, necessitating immediate action to avert imminent danger to PUBLIC HEALTH, SAFETY, WELFARE, ~~life, liberty~~ or property.
- P. Exterior Property Areas – All areas external to a dwelling or a lot.
- Q. Extermination – The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized and legal pest elimination methods as allowed by law ~~and approved by the Code Enforcement Official.~~
- R. Family – The spouse, child, parent, grandparent, grandchild, sibling, son in-law, daughter in-

Commented [JC2]: Unenforceable provision

Commented [JC3]: This may no longer be needed as a definition

Commented [JC4]: I recommending deleting the Electrical Code reference because the Town does not issue electrical permits or conduct electrical inspections; the County only issues electrical permits and conducts electrical inspections.

law, parent in-law, niece or nephew of the owner; a minor under the age 18; or the domestic partner or legal dependent of the PROPERTY owner or a family member as defined by this Ordinance.

- S. Garbage – Human or animal feces; or the animal, mineral or vegetable waste resulting from the handling, preparing, cooking and serving of foods.
- T. Gross Floor Area – The total area of all habitable rooms in a building or structure.
- U. Habitable Room or Space – A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, ~~water closet compartments,~~ laundries, pantries, foyers or communicating corridors, closets and storage spaces, workshops and other rooms used only occasionally. Two sleeping rooms connected by a doorway cannot be used as a communicating corridor. An area or room considered to be a dining room, living room or family room shall not be considered a habitable room for sleeping purposes. The Code ~~Enforcement~~ COMPLIANCE Official shall determine if a room can be designated as a room for sleeping purposes. ~~“Crashing” is prohibited under this Ordinance.~~
- V. HOUSING CODE – THE PRINCE GEORGE’S COUNTY HOUSING CODE AS MAY BE AMENDED FROM TIME TO TIME.
- W. Household Items – Items intended for use within a dwelling but not limited to clothing, storage boxes containing household goods, appliances, ~~ELECTRONICS television sets,~~ and entertainment items or devices intended for indoor use and household cleaning materials.
- X. ~~Housing Code—See Rental Housing Code definition.~~
- Y. Infestation – The presence, within or around a dwelling, of insects, rodents, vermin or other pests.
- Z. Kitchen – A room separate from habitable rooms with a refrigerator for the temporary preservation of perishable foods, a cooking and baking facility for the purpose preparing foods, and a sink with hot and cold running water.
- AA. Maintenance – Acts of repair and other acts to prevent a decline in the condition of grounds, structures, other appurtenances and equipment such that the condition does not fall below the standards established by this Ordinance and other applicable statutes, codes and ordinances.
- BB. Meaning of certain words – Whenever the words dwelling, dwelling unit, rooming unit, sleeping room, premises or property are used in this Ordinance, they are construed as though they were followed by the words “or any part thereof.” Whenever the words Code ~~Enforcement~~ COMPLIANCE Official are used in this Ordinance, they are construed as though they were followed by the words “or designee(s) of the Town Council.
- CC. MECHANICAL CODE – THE PRINCE GEORGE’S COUNTY MECHANICAL CODE AS MAY BE AMENDED FROM TIME TO TIME.
- DD. Multiple dwelling – Any dwelling containing two or more dwelling units.
- EE. ~~Nuisance Behavior—Nuisance behavior is behavior of any individual or person or persons who are part of a party or other social gathering conducted in the Town of Berwyn Heights, which, by reason of the conduct of the person or persons, results in any one or more of the~~

Commented [JC5]: I recommend adding in the Housing Code reference. This is the County Code most closely associated with rental housing, and what New Carrollton, Riverdale Park, and Mt. Rainier have adopted. See Section VI, Standards for more details.

Commented [JC6]: I recommending not including the Mechanical Code reference because the Town does not issue mechanical permits or conduct mechanical inspections; the County only issues mechanical permits and conducts inspections.

~~following conditions or occurrences: public drinking or drunkenness; public urination or defecation; unlawful sale, furnishing, or consumption of alcoholic beverages; unlawful use of controlled substances; unlawful deposit of trash or litter on public or private property; destruction of public or private property; generation of pedestrian or vehicular traffic, which obstructs the free flow of vehicular traffic or interferes with the ability to provide emergency services; excessive, unnecessary or unusual loud noise, which disturbs the repose of the neighborhood; public disturbances, brawls, fights, quarrels or any other activity resulting in conditions that annoy, injure or endanger the safety, health, comfort or repose of the neighboring residents; or results in any obscene conduct, or results in any indecent or inappropriate exhibition or exposure.~~

PP

Commented [JC7]: See definition NN. CC likely not needed.
Revocation and denial of rental license

FF. Occupant – Any person, over one (1) year of age, including the PROPERTY owner, PROPERTY ~~operator~~ MANAGER and domestic service employees, living, sleeping, cooking or eating in, or having actual possession of, space within a dwelling, dwelling unit, OR MULTIPLE DWELLING UNIT ~~rooming unit, rental unit, sleeping room, premises, or any part thereof.~~

GG. Ordinance – For the purposes of this Ordinance, the term “Ordinance” means ORDINANCE 120, The Rental Housing Ordinance AND ALL RULES AND REGULATIONS CONTAINED HEREIN OR PROMULGATED PURSUANT TO AUTHORITY HEREUNDER. ~~All rules and regulations contained herein or promulgated pursuant to authority hereunder as defined in Subsection QQ of this Section.~~

HH. Person – Any individual, natural person, legal entity, joint stock company, partnership, voluntary association, society, club, firm, company, corporation, business trust, organization, PROPERTY owner, PROPERTY occupant, or any other group acting as a unit, principal or agent, or the manager, lessor, lessee, agent, servant, partner, member, administrator, trustee, receiver, or other representative appointed according to law.

II. Plumbing – The practice, materials and fixtures used in the installation, maintenance, extension and alteration of any piping, fixtures, appliances and appurtenances within the scope of the PRINCE GEORGE’S COUNTY plumbing code, including but not limited to, all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, water heating facilities, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplies or fixtures, together with all connections to water, sewer and gas lines.

JJ. Plumbing Code – ~~The basic PRINCE GEORGE’S COUNTY plumbing code, latest edition, and current cumulative supplement officially adopted by Prince George’s County for the regulation of the practice, materials and fixtures used in the installation, maintenance, extension and alteration of any piping, fixtures, appliances and appurtenances within the scope of the plumbing code including but not limited to all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, water heating facilities, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplies or fixtures, together with all connections to water, sewer and gas lines, AS MAY BE AMENDED FROM TIME TO TIME.~~

Commented [JC8]: I recommending deleting the Plumbing Code reference because the Town does not issue plumbing permits or conduct plumbing inspections; the County only issues plumbing permits and conducts inspections.

KK. Plumbing Fixture – A receptacle or device which is either permanently or temporarily connected to water distribution system of the premises and demands a water supply therefrom; or discharges used water, liquid borne waste materials or sewage either directly or indirectly to the drainage system of the premises, or which requires both a water supply connection and a discharge to the drainage system of the premises.

LL. Premises – A lot, plot or parcel of land including the building or structures thereon.

MM. ~~PROPERTY Operator-MANAGER~~ – Any person who has charge, care or control of a building or dwelling or part thereof in which a dwelling, dwelling unit, OR MULTIPLE DWELLING UNIT ~~rooming unit, or sleeping room~~ is let. IF A PROPERTY OWNER AUTHORIZES AN AGENT FOR THE PROPERTY, THE AUTHORIZED AGENT IS CONSIDERED THE PROPERTY MANAGER.

NN. PROPERTY Owner – Any person who has complete dominion over a particular property and who is the one in whom legal or equitable title rests; when applied to a building or land, PROPERTY owner means any part owner, joint owner, owner of a community or partnership interest, life tenant, tenant in common, tenant by the entirety, or joint tenant, of the whole or part of such building or land.

OO. PROPERTY Owner Occupant – ~~An~~ PROPERTY owner occupant is any owner of a residential unit that has established legal residence at that residence unit and uses that residential unit as their principal place of abode.

PP. Public Nuisance – Situation, condition or action whereby a rental unit tenant or PROPERTY owner creates an environment that is unsafe or threatens the PUBLIC health, SAFETY, OR and welfare of the surrounding area or disturbs the public peace.

QQ. Renovation – A building and its facilities made to conform to CURRENT ~~present~~ day minimum standards of sanitation, fire and life safety, and building, electrical, plumbing, and heating, air conditioning and ventilation codes.

RR. ~~Rental Housing PROGRAM Code or Rental Housing Ordinance~~ – All rules and regulations contained herein or promulgated pursuant to authority hereunder.

SS. Rental Unit – Any rented or leased room, or group of rooms forming a single habitable space or unit, dwelling, dwelling unit, OR MULTIPLE DWELLING UNIT, ~~rooming unit, or sleeping room~~ that is required to have a rental license under Section IV Rental Property Licensing and Renewal of this Ordinance.

TT. ~~Rooming House~~ – Any dwelling, or part of any dwelling, containing one or more rooming units, in which space is let by the owner or operator to one or more persons intended to be used for living and sleeping purposes including access to and use of a bathroom.

Commented [JC9]: I think we can get rid of references to a rooming house and consider them as dwelling units.

UU. ~~Rooming Unit~~ – Any room or group of rooms forming a single habitable unit that is used or intended to be used for living and sleeping purposes, but not for cooking or eating purposes, including access to and use of a bathroom and access to and use of a kitchen sink.

Commented [JC10]: Same comment as rooming house.

VV. Rubbish – All combustible and noncombustible waste materials, except garbage; and the term shall include but not limited to rags, paper, cartons, boxes, packing material, rubber, appliances or furniture, motor vehicle parts, building and construction waste, yard and lawn clippings, dead trees and branches, the residue from burning of wood, coal, coke and other combustible materials and all other waste materials which: (1) create or tend to create a danger to the public health, safety, welfare or property, to the extent and in the manner that lot, tract, or parcel of land is, or may become, infested or inhabited by rodents, vermin or wild animals; or (2) may reasonably cause disease; or (3) adversely affects and impairs the economic welfare or status of adjacent property or the neighborhood; or (4) may reasonably constitute a present or potential fire hazard. ALL NON-PUTRESCIBLE COMBUSTIBLE OR NON-COMBUSTIBLE SOLID WASTE NORMALLY GENERATED FROM RUNNING A

HOUSEHOLD.

Commented [JC11]: This is now consistent with ORD 107

WW. Structure – A COMBINATION OF ANY MATERIALS, WHETHER FIXED OR PORTABLE, FORMING A CONSTRUCTION, INCLUDING BUILDINGS. ~~A principal building used as the residence and any and all ancillary buildings or structures on the premises regardless of purpose or use of the structure.~~

XX. ~~Sleeping Room – A room or enclosed floor space with adequate light, heat and ventilation intended for sleeping, excluding bathroom, water closet compartments, laundries, pantries, foyers, or communicating corridors, living rooms, workshops or porches, enclosed or otherwise, but including access to and use of a bathroom and access to and use of a kitchen sink.~~

Commented [JC12]: Recommend removing this along with rooming house.

YY. Supplied – Means paid for, furnished, or provided by or under the control of, the PROPERTY owner or PROPERTY ~~operator~~ MANAGER.

ZZ. Temporary Housing – Any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than thirty (30) consecutive days.

AAA. Tenant – An occupant other than an PROPERTY owner and the PROPERTY owner’s family.

BBB. Town Administrator – The person appointed by the Town Council to monitor the enforcement of all ordinances and regulations of the Town.

CCC. Ventilation – The process of supplying and removing air by natural or mechanical means to or from any space.
1. Mechanical – Ventilation by power driven devices.
2. Natural – Ventilation by opening to outer air through windows, skylights, doors, louvers or stacks without wind driven devices.

DDD. ~~Workmanlike – Whenever the words "workmanlike state of maintenance and repair" are used in this Ordinance, they shall mean that such maintenance and repair shall be made in a reasonable, skillful manner and in accordance with industry standards so as to secure the results intended by this Ordinance.~~

EEE. Yard – An open space surrounding a structure.

Section III. Scope

Every portion of a building, dwelling, premise or structure used or intended to be used for residential rental purposes, ~~as defined in Section II~~ shall comply with the provisions of this Rental Housing Ordinance as set forth herein, ~~irrespective~~ REGARDLESS of when such building shall have been constructed, altered, renovated or repaired.

Section IV. Rental Property Licensing and Renewal

A. RENTAL LICENSE REQUIRED – A RENTAL LICENSE IS REQUIRED FOR ALL RENTAL DWELLINGS, DWELLING UNITS, AND MULTIPLE DWELLING UNITS, REGARDLESS OF THE DURATION DURING THE YEAR FOR WHICH THE PROPERTY IS RENTED. THE PROPERTY OWNER OF EVERY RENTED DWELLING, DWELLING

UNIT, AND MULTIPLE DWELLING UNIT IS REQUIRED TO OBTAIN AND MAINTAIN A RENTAL LICENSE. ~~NO RENTAL LICENSE IS REQUIRED WHEN ONE OF THE PROPERTY OWNERS RESIDES AT THE PROPERTY ADDRESS AT THE TIME OF RENTAL. It shall be unlawful for any person to rent or lease, whether expressed or implied, or cause to be rented or leased, whether expressed or implied, any of the following three classes of rental units within the Town of Berwyn Heights without first obtaining a license to do so as hereinafter provided.~~

Commented [JC13]: Recommend deleting in order to require an inspection to ensure health, safety, and welfare of all rental units, whether owner-occupied or not.

- ~~1. Any owner occupied dwelling, dwelling unit, rooming unit, premises or any part thereof with two (2) or more rented or leased sleeping rooms intended to be used by tenants for living, sleeping, cooking or eating.~~
- ~~2. Any non owner occupied dwelling, dwelling unit, rooming unit, premises or any part thereof intended to be used by tenants for living, sleeping, cooking or eating.~~
- ~~3. Any non owner occupied dwelling, dwelling unit, rooming unit, premises or any part thereof that is occupied by the owner's family plus one (1) or more rented or leased sleeping rooms intended to be used by a tenant or tenants for living, sleeping, cooking or eating.~~

B. ~~Exception and Registration—Any non owner occupied dwelling, dwelling unit, rooming unit, premises or any part thereof that is occupied exclusively by the owner's family is not required to be licensed under this Ordinance so long as it is registered with the Town.~~

Commented [JC14]: Recommend deleting in order to require an inspection to ensure health, safety, and welfare. If this provision is kept, a specification to immediate family is recommended.

C. ~~License Application – The legal PROPERTY owner OR PROPERTY MANAGER of record or an authorized agent shall SUBMIT TO THE TOWN A COMPLETED RENTAL LICENSE APPLICATION NOT LATER THAN FIFTEEN (15) BUSINESS DAYS PRIOR TO THE EFFECTIVE DATE OF ANY LEASE. THE PROPERTY OWNER OR PROPERTY MANAGER SHALL SUBMIT WITH THE APPLICATION THE APPROPRIATE FEE FOR THE RENTAL LICENSE AS SET BY RESOLUTION OF THE TOWN COUNCIL. make written application to the Town for a rental license upon such form or forms as the Town shall from time to time designate. For any property, or part thereof, proposed to be used as rental property, such application shall be made at least thirty (30) days prior to the effective date of any lease, whether expressed or implied. Said Rental License Application form shall include the owner's address of principal place of abode and home and work telephone numbers for service of any notices required under this Ordinance. Said Rental License Application form shall be accompanied with a floor plan of the interior of the entire premises showing the measurements and use of each room or space including basements, bathrooms, closets, foyers and communicating corridors, laundries, pantries, storage spaces, water closet compartments, workshops and other rooms only used occasionally. Areas to be used for sleeping purposes must be clearly marked on the floor plan. Such Rental License Application form shall be submitted together with a non refundable rental license fee to the Code Enforcement Official. The amount of such fee is to be established by resolution of the Town Council.~~

D. ~~ALL RENTAL PROPERTIES BUILT BEFORE 1978 SHALL OBTAIN A LEAD PAINT CERTIFICATE FROM THE STATE OF MARYLAND, AND SUBMIT SAID CERTIFICATE WITH THE RENTAL APPLICATION. THE TOWN WILL NOT ISSUE A RENTAL LICENSE FOR A RENTAL BUILT BEFORE 1978 WITHOUT THE PROPERTY OWNER OR PROPERTY MANAGER PROVIDING A PASSING LEAD PAINT CERTIFICATE. RENTAL PROPERTIES BUILT AFTER 1977 ARE EXEMPT FROM STATE REGISTRATION REQUIREMENTS.~~

E. ~~Housing Disclosure Form—The legal owner of record or an authorized agent shall file with the Town a Housing Disclosure Form as provided by the Town. The form shall provide the name and phone number of each tenant and the year, make, model and license plate number~~

~~for each of tenant's vehicle(s). This form shall establish that the legal owner of record or an authorized agent understands and consents to the conditions of this Ordinance, including but not limited to the inspection of rental units and exterior property and the enforcement authority. This form shall be signed by the legal owner of record or an authorized agent and filed upon request of the Code Enforcement Official or at the time of license application, renewal application and within 30 days of any change in the lease, the tenants, or the tenants' vehicle(s). Failure to file this form, provide all required information, or maintain current information with the Town shall constitute a violation of this Ordinance.~~

- F. ~~Tenant's Rights and Responsibilities Disclosure Form – The legal owner of record or authorized agent shall file with the Town a Tenant's Rights and Responsibility Disclosure Form, as provided by the Town, for each tenant. The form shall set forth the tenant's basic rights and responsibilities under the Ordinance. A separate form shall be signed and dated by each tenant and filed with the Town upon request of the Code Enforcement Official or at the time of license application, renewal application, and no later than 30 days after each change in tenant. Failure to file this form shall constitute a violation of this Ordinance.~~
- G. ~~Issuance of Rental License – Prior to the issuance or renewal of a rental license, the legal PROPERTY owner OR PROPERTY MANAGER of record or an authorized agent must satisfy the requirements of this ORDINANCE section, including filing with the Town a Rental Application form, the Housing Disclosure Form, and the Tenant's Rights and Responsibilities Disclosure Form. Failure to provide address of owner's principal place of abode and home and work telephone numbers; or provide a floor plan of the interior of the premise acceptable to the Code Enforcement Official; or provide the Housing Disclosure Form with each tenant's name and the year, make, model and license plate number of each of tenant (s) vehicle; or provide a Tenant's Rights and Responsibilities Disclosure Form for each tenant shall constitute a violation of this Ordinance. FAILURE TO SATISFY THE REQUIREMENTS OF THIS ORDINANCE SO SHALL BE sufficient reason for denial or revocation of the rental license.~~

~~The Code Enforcement COMPLIANCE Official shall indicate on the Rental License Application and the Rental License the maximum number of tenants permitted. It shall be a violation of this Ordinance to rent or lease to more persons than permitted on the Rental License.~~

- H. ~~Inspections – All rental HOUSING properties shall be subject to periodic inspection to determine conformance with this Rental Housing Ordinance and shall be inspected at least once each year prior to the issuance or renewal of a rental license. THE PROPERTY OWNER OR PROPERTY MANAGER WILL BE GIVEN FIFTEEN (15) BUSINESS DAYS TO CORRECT ITEMS NOTED AS FAILING On THE CODE COMPLIANCE OFFICIALS' REPORT. Failure to CORRECT ITEMS WITHIN THE ALLOWED TIME, FAILURE TO allow entry for such inspection, or to require any tenant to not allow entry for such inspection shall constitute sufficient reasons for the denial or revocation of the rental license. Inspection requirements will be detailed on a consent form signed at the time of license application.~~
- I. ~~Revocation or Denial of License – THE TOWN ADMINISTRATOR MAY REVOKE OR DENY A license may be revoked or denied by the Mayor and Council or its designee(s) if the owner, after FIVE (5) BUSINESS DAYS' ten (10) days' notice from the Town, fails to eliminate or to initiate good faith efforts to eliminate violations of the Rental Housing Ordinance. Any premises or occupant thereof THE TOWN ADMINISTRATOR DEEMS deemed by the Mayor and Council or its designee(s) to be a public nuisance shall be cause for denial or revocation of the rental license. Revocation or denial of a license shall be in addition to, and not in substitution for, such other penalties as may be provided for violations elsewhere in this Ordinance.~~
- J. ~~License Renewal – A RENTAL License shall run from the first (1st) day of the month of issue.~~

RENTAL Licenses issued hereunder shall expire one (1) year from the date of issuance and shall be renewable annually at the fees set by RESOLUTION OF the Town Council. AN Application for A RENTAL LICENSE renewals shall be made at least thirty (30) days prior to the expiration date. ~~Any license renewal fee, not paid on time, shall be subject to a fifty percent (50%) penalty per month, or any portion thereof, beyond the due date.~~

Commented [JC15]: Include in fee resolution if desired.

- K. Display of Licenses – A RENTAL Licenses ~~issued under this Ordinance~~ shall be produced on the demand of a tenant or prospective tenant and shall be available at reasonable times for examination by the Code Enforcement COMPLIANCE Official of the Town.
- L. Change of Address – The PROPERTY owner OR PROPERTY MANAGER shall promptly notify the Town of any change of address ~~of principal place of abode and home and work~~ telephone numbers. Failure to provide or file this information shall constitute a violation of this Ordinance.
- M. Transfer of Rental License – A rental license is not transferable. The new PROPERTY owner OR PROPERTY MANAGER, ~~within 30 days after the closing, must complete a Rental License Application, file a Housing Disclosure Form and a Tenant's Rights and Responsibility Disclosure Form, and pay the Rental License fee in effect at the time of transfer of ownership.~~ Failure to SHALL apply for a NEW Rental License WITHIN FIVE (5) BUSINESS DAYS OF CLOSING ON THE PROPERTY. FAILURE TO OBTAIN A RENTAL LICENSE shall constitute a violation of this Ordinance.
- N. The PROPERTY owner OR PROPERTY MANAGER shall at all times, regardless of the terms and conditions of any contractual arrangement between the PROPERTY owner OR PROPERTY MANAGER and the tenant or occupant, whether expressed or implied, be totally responsible for compliance with the provisions of this Rental Housing Ordinance, other applicable ordinances, applicable Prince George's County codes or ordinances or statutes of the State of Maryland.

Section V. Authority to Inspect Rental Units

- A. RENTAL INSPECTIONS ARE CONDUCTED ANNUALLY TO ENSURE COMPLIANCE WITH THIS ORDINANCE. ~~Generally—~~ The Code COMPLIANCE Enforcement Official is hereby authorized to enforce the provisions of this Ordinance ~~and is directed to make inspections to determine the condition of rental units and premises located within the Town of Berwyn Heights, Maryland, in order that the Code Enforcement Official may perform the duty of TO safe-guarding~~ PROTECT THE PUBLIC the health, safety and welfare of the occupants of a rental unit, premises or part thereof and the general public. ~~For the purpose of making such inspections, The Code Enforcement COMPLIANCE Official is hereby authorized, upon presentation of proper credentials, to enter, examine and survey at all reasonable times all premises, or any part thereof. The PROPERTY owner OR PROPERTY MANAGER or occupant of every rental unit, or the person in charge thereof, shall give the Code Enforcement COMPLIANCE Official free access to THE rental unit and its premises at all reasonable times for the purpose of such inspections, examination and survey. Every occupant of any such rental unit shall give the owner thereof, his agent or employee, access to any part of rental unit or its premises, at all reasonable times, for the purpose of making repairs or alterations as are necessary to effect compliance with the provisions of this Ordinance or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this Ordinance.~~
- B. Entry – If any PROPERTY owner, PROPERTY MANAGER, OR occupant or other person in charge of a RENTAL PROPERTY, prevents, refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to any part of the structure or premises where inspection authorized by this Ordinance, ~~structure~~ subject to the provisions of this Rental Housing

Commented [JC16]: This is a landlord/tenant issue where the Town should not be involved.

Ordinance, THE RENTAL LICENSE MAY BE REVOKED AND ANY APPLICABLE FINES SET By RESOLUTION OF THE COUNCIL MAY BE ASSESSED ~~prevents, refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to any part of the structure or premises where inspection authorized by this Ordinance is sought, the Code Enforcement Official may seek in a court of competent jurisdiction an order that the owner, occupant or other person in charge cease and desist with such interference.~~

- C. The Code Enforcement COMPLIANCE Official is hereby authorized to enter upon the property of all rental units within the Town of Berwyn Heights to examine, inspect and survey the exterior of all structures and the grounds in order to enforce the provisions of this Ordinance, other applicable TOWN ordinances, RULES, OR REGULATIONS, applicable STATE OF MARYLAND AND Prince George's County ordinances CODES, or ~~NEPA FIRE CODE codes, and/or State of Maryland statutes to perform the duty of safe-guarding~~ PROTECTING the PUBLIC health, safety, and welfare of the occupants of a rental dwelling, dwelling unit, MULTIPLE DWELLING UNIT, ~~rooming unit, rental unit,~~ premise or any part thereof and the general public.

Section VI. Occupancy Requirements STANDARDS

No person shall rent or lease to another for occupancy any rental unit, which does not comply with the following requirements:

A. Living Space

1. Minimum Ceiling Heights – Habitable rooms shall have a clear ceiling height of not less THAN ~~then~~ seven and one-third (7 1/3) feet, except that in attics or top half stories the ceiling height shall not be less than seven (7) feet for not less THAN ~~then~~ one-third (1/3) of the area when used for sleeping, study or similar activity. In calculating floor area of such rooms, only those portions of the floor area of the rooms having a clear ceiling height of five (5) feet or more may be included.
2. Required Space in A Rental Unit – Every rental unit shall contain a minimum gross floor area of not less than one hundred fifty (150) square feet for the first occupant, and one hundred (100) square feet for each additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.
3. Every room occupied for sleeping purposes by one (1) occupant shall have a minimum gross floor area of at least seventy (70) square feet. Every room occupied for sleeping purposes by more THAN ~~then~~ one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant thereof.
4. Each rental unit shall provide clothes closet space measuring at least six (6) square feet, with a height of at least five (5) feet, for each room used for sleeping. In addition, one other clothes closet of like size shall be provided elsewhere in the dwelling.
5. Occupancy of a dwelling, dwelling unit, OR MULTIPLE DWELLING UNIT, ~~rooming unit or sleeping room~~ below grade – No dwelling unit or MULTIPLE DWELLING UNIT ~~rooming unit or sleeping room~~ partially below grade shall be used for living purposes unless:
 - a. Floors and walls are watertight; and
 - b. Total window area, EGRESS WINDOWS, total operable area, and ceiling height are in accordance with this Ordinance.

6. No separate structure, ~~i.e.,~~ FOR EXAMPLE, A garage, shed or other outbuilding shall be used for occupancy as a dwelling, dwelling unit or MULTIPLE DWELLING UNIT ~~rooming unit.~~

B. Maintenance of Exterior Property Area

1. All exterior property areas shall be maintained in a clean, safe and sanitary condition IN FULL COMPLIANCE WITH ORDINANCE 107. ~~free from any accumulation of litter, refuse, rubbish, (or) garbage, or animal or human feces or waste. TRASH, LITTER AND DEBRIS ARE TO BE REMOVED AND THE PROPERTY MUST NOT BE UNSIGHTLY OR HAVING A BLIGHTING EFFECT ON NEARBY PROPERTIES.~~
2. All premises shall be graded and maintained so as to prevent the accumulation of stagnant water. WATER IN POOLS, HOT TUBS, FISH PONDS OR OTHER ITEMS IS NOT ALLOWED TO BECOME STAGNANT OR SERVE AS A BREEDING GROUND FOR INSECTS OR ANIMALS. ~~thereon or within the building or structure located thereon.~~
3. ~~All exterior property areas shall be properly maintained and no weeds, briars and grass shall grow taller than allowed in the Town Clean Lot Ordinance 107, as amended. (other than garden and yard plantings properly maintained by the owner) shall be allowed to accumulate or grow on any private property.~~
4. ~~The storage of wood and other materials not proscribed by this Ordinance shall be accomplished in a manner designed to avoid rodents, termites and other insect infestation. Wood shall be stored at least six (6) inches above the ground.~~
5. ~~All exterior property areas shall be kept free from infestation by rodents, vermin, insects, and other pests. Where rodents, vermin, insects and other pests are found, they shall be promptly exterminated by the owner by acceptable processes which will not be injurious to the health of humans or other animals. After extermination, proper precautions shall be taken by the owner and occupant to prevent re-infestation.~~
6. ~~Exterior property areas shall not be utilized for any period of time for the open storage of garbage, rubbish or refuse, construction materials or equipment, bathroom or kitchen fixtures, glass, furniture, appliances, automotive parts, lawn and garden maintenance equipment or similar items or materials, irrespective of age or condition. Exterior property areas shall be maintained and kept free and clear of excessive accumulation of weeds, garbage, litter and/or rubbish and kept free and clear of abandoned, dismantled, junked or wrecked motor vehicles or vehicles without currently valid registration license plates in accordance with the provisions of Clean Lot Ordinance 107, as amended. Owner of record is subject to the abatement and fines and penalties provisions of said Ordinance.~~
7. ~~Exterior steps and walkways shall be maintained free of unsafe obstructions or hazardous conditions.~~
8. ~~Every occupant of a structure or part thereof shall store and dispose of all refuse and rubbish in a clean and sanitary manner by placing it in an appropriate refuse/rubbish containers and place at the curb on appropriate day(s) for collection and disposal, as prescribed in Refuse Collection Ordinance 117, as amended.~~
9. ~~Every occupant of a structure or part thereof shall store and dispose of garbage or animal feces or other organic waste in a clean and sanitary manner by placing it in appropriate~~

~~garbage disposal facilities or garbage storage containers and place at the curb on appropriate day(s) for collection and disposal, as prescribed under Refuse Collection Ordinance 117, as amended.~~

- ~~10. It shall be the responsibility of any property owner, lessor, renter, lessee, or other occupant, who shall possess animals on the same premises, to keep said animals in a reasonably sanitary condition and the interior and exterior property areas of the premises free of animal feces and waste.~~
11. Code Enforcement Official shall require the installation of rodent/vermin proof walls. The rodent/vermin proof walls shall be installed in accordance with the building code.
- ~~12. All trees, and shrubbery located on exterior property areas shall be maintained in such a way so as not to pose a danger or obstruction to adjoining property, persons walking on designated walking areas or obstruct sight at street intersections or along streets.~~
13. All fences ACCESSORY STRUCTURES MUST COMPLY WITH ORDINANCE 107, AND IN ADDITION BE MAINTAINED IN GOOD REPAIR, STRUCTURALLY SAFE AND SOUND, AND FREE FROM GRAFFITI. ~~shall be maintained in a workmanlike state of maintenance and repair including but not limited to painting, staining and/or replacement. All fences shall be constructed, fabricated, erected and located on site in accordance with Prince George's County building code and zoning ordinance, after securing the necessary Prince George's County approvals.~~

C. **ADOPTION OF PRINCE GEORGE'S COUNTY HOUSING CODE, NFPA FIRE CODE, AND PRINCE GEORGE'S COUNTY FIRE SAFETY LAW**

1. THE CURRENT PRINCE GEORGE'S COUNTY HOUSING CODE AS MAY BE AMENDED FROM TIME TO TIME IS HEREBY INCORPORATED BY REFERENCE IN THIS ORDINANCE TO THE EXTENT IT IS NOT INCONSISTENT HERewith. WHEN A CONFLICT EXISTS BETWEEN THE COUNTY CODE AND A TOWN ORDINANCE, THE TOWN ORDINANCE SHALL PREVAIL. REFERENCES IN THE PRINCE GEORGE'S COUNTY CODES TO AUTHORIZED COUNTY REPRESENTATIVES SHALL BE INTERPRETED TO INCLUDE THE APPLICABLE TOWN OFFICIALS.
2. THE NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) FIRE CODE AND THE FIRE SAFETY LAW OF PRINCE GEORGE'S COUNTY, MARYLAND, AS MAY BE AMENDED FROM TIME TO TIME, IS HEREBY INCORPORATED BY REFERENCE IN THIS ORDINANCE TO THE EXTENT IT IS NOT INCONSISTENT HERewith. THIS SECTION ALSO ADOPTS BY REFERENCE CHAPTER 24 OF THE NFPA 101 LIFE SAFETY CODE, AS MAY BE AMENDED FROM TIME TO TIME. REFERENCES IN THE NFPA LIFE SAFETY CODE TO THE FIRE CHIEF OR AUTHORIZED REPRESENTATIVES SHALL BE INTERPRETED TO INCLUDE THE APPLICABLE TOWN OFFICIALS.

D. **Maintenance of Exterior Structure**

1. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the PUBLIC health, safety or welfare of the occupants and so as to protect the occupants from adverse effects of the environment.

Commented [JC17]: Option #1, adoption of County Housing Code. The County Codes adopt the International Codes, after making some local adjustments. New Carrollton, Mt. Rainier, and Riverdale Park all adopt the County Housing Code. There are likely conflicts between the Housing Code and Ordinance 107 on property maintenance so the exception clause has been added to the text.

Ord. 104 already adopts the County Building Code and the Town issues building permits. The Town does not issue permits for electrical, mechanical, and plumbing work or conduct inspections so adoption of the County Electrical, Mechanical, and Plumbing Codes is not necessary.

The Town would lose some autonomy in adopting the County Housing Code but would also no longer need to keep a separate set of Town standards that will require updating by Ordinance each year as national standards change.

With Option #1, the bulk of the text in the rest of this section would be deleted since this information is covered in the County Housing Code.

Commented [JC18]: Option #2, Town creates/updates its own housing code covering electrical, mechanical, and plumbing work. The Town would maintain authority but would be responsible for updating these standards generally every year to reflect changing standards. I made some corrections to the text in capitals should the Council decide on Option #2.

2. All supporting ~~structural members of all~~ structures shall be kept ~~structurally sound, free of deterioration and maintained~~ IN A MANNER capable of safely bearing the THEIR dead and live loads ~~imposed upon them.~~
3. Every foundation, exterior wall, roof and all other exterior surfaces of all structures on the premises shall be maintained IN A STRUCTURALLY SOUND AND SANITARY MANNER WITH NO DEFECTS ~~in a workmanlike state of maintenance and repair and shall be kept in such condition as to exclude rodents and other pests.~~
4. All foundation walls of all structures on the premises shall be maintained so as to carry the safe design and operating ~~dead and live loads, and shall be maintained~~ free from open cracks, DEFECTS, OR and breaks, ~~so as not to be detrimental to public safety and welfare.~~
5. Every exterior wall of every structure on the premises shall be free of holes, breaks, loose or rotting boards or timbers, and any conditions which might admit ~~rain~~ WATER or dampness to the interior portions of the walls or to the occupied spaces of the building. All exterior surface materials, ~~including wood, composition, or metal siding,~~ shall be maintained weatherproofed and shall be properly surface coated ~~when required~~ to prevent deterioration.
6. The roofs of all structures on the premises shall be structurally sound, tight and not have defects which might admit WATER ~~rain~~. Roof(s) shall be adequate to prevent rainwater from causing dampness or deterioration in the walls or interior portion of the building. Roof water shall not be discharged in a manner that creates a nuisance to owners or occupants of adjacent premises or that creates a public nuisance.
7. GUTTERING SYSTEMS AND DOWNSPOUTS MUST BE IN GOOD CONDITION, PROPERLY CONNECTED, SECURED TO THE BUILDING, AND FREE OF PLANT GROWTH OR ANY OBSTRUCTION.
8. All ~~cornices, entablatures, belt courses, corbels, terra cotta trim, wall facings and decorative features~~ shall be maintained in good repair with proper anchorage and in a safe condition.
9. All canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar overhang extensions shall be maintained in good repair and be properly anchored so as to be kept in a safe and sound condition. They shall be protected from the elements and against decay and rust by the periodic application of a weather-coating material such as paint or other protective treatment.
10. All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe, sound and in good repair. All exposed surfaces ~~of metal or wood~~ shall be protected from the elements and against decay or rust by periodic application of a weather-coating material such as paint or similar surface treatment.
11. Every stair, porch, fire escape, balcony and all appurtenances attached thereto shall be so constructed as to be safe to use and capable of supporting the anticipated loads and shall be maintained in sound condition and in good repair. Every stair, porch and fire escape shall be maintained free of hazardous conditions such as snow, ice, mud and other debris. Every flight of stairs, which is more than three (3) steps or risers high, shall have a handrail on at least one side of the stair and every open portion of a stair, fire escape, porch, landing or balcony which is more THAN ~~then~~ ten (10) inches above the grade below shall have guard rails. Every handrail and guard rail shall be firmly fastened and capable of bearing ~~normally imposed~~ STANDARD loads and shall be maintained in good condition.

12. Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction so as to exclude WATER, INSECTS, AND ANIMALS ~~rain and rodents~~ as completely as possible and to substantially exclude THE ELEMENTS ~~wind~~ from entering the dwelling or structure.
13. Every window and exterior door ARE TO BE MAINTAINED IN GOOD CONDITION, FIT REASONABLY TIGHT WITHIN THE FRAME, WITH PROPER CLOSING AND LOCKING MECHANISMS. ~~shall be fitted reasonably in its frame and be weather tight. Weather stripping shall be used to exclude wind or rain from entering the dwelling or structure and shall be kept in sound condition and good repair.~~
14. Every required window MUST HAVE FITTED WINDOW SCREENS AND sash shall be ~~fully supplied with approved glazing materials, which are~~ without open cracks and holes.
15. Every window, other than a fixed window, shall be capable of being easily AND FULLY opened and CLOSED, AND REMAIN LOCKED IN EITHER AN OPEN OR CLOSED POSITION ~~held in position by window hardware.~~
16. ~~During the period from April 1 to December 1, e~~Every door and window or outside opening ~~used for ventilation purposes shall be supplied with approved tight fitting screens of not less than sixteen (16) mesh per inch material, in good working condition. Every hinged screen door shall have a self-closing device in good working order. Screen doors shall not be required for out swinging doors or other types of openings which make screening impractical, provided other approved means are employed.~~
17. ~~Locking devices. EXTERIOR DOORS OR~~ Any swinging entrance doorS shall be provided with a deadbolt locking device having a minimum throw of not less than 5/8 of an inch and with the deadbolt capable of being activated by key from outside and by turn-knob from the inside so as to provide reasonable security against unauthorized entry. ~~Door locks and the matter of installation shall be subject to the specific approval of the Code Enforcement Official. The exterior door, door hinge, door lock, and door latch for each unit shall be maintained in functional condition. All door locks shall be in good working order at all times. and keys for same provided to occupants and tenants.~~
18. ~~Visual detection device. Unless a visual detection device is currently provided, all exterior front doors shall be equipped with a visual detection device (magnifying peephole) which will provide a 180 degree viewing angle so as to allow the occupant of a dwelling unit to inspect the entrance area outside the door while the door is closed. This inspection device may be windows made of transparent material or a magnifying peephole.~~
19. Sliding doors and windows. All patio and balcony sliding entrance doors, and all windows capable of being opened accessible from a balcony or two stories or less above the grade, shall be equipped with a device which locks and secures the door or window within its frame so as to provide reasonable security against unauthorized entry by opening or removal of the door or windows from its frame. Devices such as, but not limited to security bars and jimmy plates, shall be deemed acceptable. ~~The type of device and manner of installation shall be subject to the approval of the Code Enforcement Official.~~
20. All balconies, canopies, cornices and soffits, decks, doors and door frames, exterior walls, fire escapes, foundation walls, metal awnings, patios, porches, sliding doors and windows, stairways, standpipes, and windows and window frames, and all appurtenances attached thereto, of all structures on the premises shall be protected from the elements against decay

or rust by periodic application of a weather-coating material such as paint, sealant, or similar surface treatment.

E. Internal Structure

1. The interior of a structure and its equipment shall be maintained in good repair, structurally sound, unobstructed, and in a sanitary condition so as not to pose a threat to the PUBLIC health, safety or welfare of the occupants or visitors, and to protect the occupants from the environment.
2. The supporting structural members of every building shall be maintained structurally sound, not allowing any evidence of deterioration which would render them incapable of carrying the imposed loads.
3. Floors, walls (including windows and doors), ceilings and other interior surfaces shall be maintained in good, clean, sanitary and structurally sound condition, free of holes, cracks, loose plaster or wall paper and flaking or scaling paint and shall be substantially insect and rodent proof. Paint applied to the interior surfaces shall be lead-free.
4. Every toilet, bathroom and kitchen floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition and repaired or replaced at the direction of the Code Enforcement Official.
5. Every building, basement and crawl space shall be maintained reasonably free from dampness to prevent conditions conducive to decay or deterioration of the structure.
6. The interior of every structure shall be maintained in a clean and sanitary condition free from any accumulation of rubbish AND refuse or garbage. ~~Rubbish, garbage and refuse shall be properly kept inside temporary storage facilities as required by this Ordinance.~~
7. ~~Garbage, rubbish or~~ AND refuse shall not be allowed to accumulate or be stored in public halls or stairways.
8. Insect and rodent harborage. All structures shall be kept free from insect and rodent infestation. Where insects or rodents are found, they shall be promptly exterminated by approved processes, which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.
9. Every door available as an exit shall be capable of being opened easily from the inside.
10. All interior stairs, railings and other exit facilities of every structure shall be maintained in sound condition and good repair. Every inside stair shall be so constructed and maintained as to be safe to use and capable of supporting the anticipated loads.
11. Every flight of stairs, which is more than three (3) steps or risers high, shall have a handrail on at least one side of the stair and every open portion of a stair, landing or balcony which is more than thirty (30) inches above the floor or grade below shall have guard rails. Every handrail and guard rail shall be firmly fastened and capable of bearing normally imposed loads and shall be maintained in good condition.
12. All ceilings, closet walls and ceilings, doors and door frames, kitchen and bathroom cabinets, walls, windows and window frames, sash and sills shall be in good condition and in good repair and shall be repaired in a ~~workmanlike~~ SATISFACTORY manner ~~and painted~~

~~at the direction of the Code Enforcement Official.~~ All surfaces are to be free of cracks, holes, hook-like devices, loose plaster and flaking and scaling paint at THE time of painting.

13. All carpets AND rugs shall be in good condition and in good repair and shall be repaired, ~~and/or removed and replaced~~, and cleaned at the direction of the Code ~~Enforcement~~ COMPLIANCE Official.
14. All bathroom or kitchen ~~tiled or linoleum covered~~ floors shall be in good condition and in good repair and shall be repaired ~~and/or removed and replaced~~ at the direction of the Code ~~Enforcement~~ COMPLIANCE Official.

F. Parking Spaces and Facilities

1. ALL RENTAL PROPERTIES SHALL COMPLY WITH ORDINANCE 107.—~~Every owner of a rental unit shall provide one (1) off street parking space. Every owner of a dwelling with four (4) or more leased or rented sleeping rooms shall provide two (2) off street parking spaces.~~
2. ~~Any vehicle with four or more wheels or a self-propelled vehicle with three or more wheels entering any off street parking space must do so via a dropped curb and a driveway entrance. Any vehicle otherwise traversing town property between the street and abutting private property to gain access to an off street parking area may be cited for said violation and subject to the same penalties as prescribed for an infraction.~~
3. ~~Grassy or yard areas shall not be used for the parking of motor vehicles.~~
4. ~~Non-owner occupied premises shall not be used, for any period of time, for the storage of motor vehicles, boats, trailers, furniture, appliances, or similar items or materials, irrespective of age or condition by any person other than the occupants of the premises.~~

G. Plumbing Facilities and Fixtures

1. Plumbing facilities.
 - a. The owner of the structure shall provide and maintain such plumbing facilities and fixtures in compliance with this ORDINANCE ~~section~~.
 - b. Every rental unit shall have direct access to a room separate from habitable room, which affords privacy and a toilet supplied with cold running water. A lavatory shall be placed in the same room as the toilet or located in another room, in close proximity to the door leading directly into the room in which said toilet is located. The lavatory shall be supplied with hot and cold running water.
 - c. Every rental unit shall include plumbing facilities which are in proper operating condition, can be used in privacy, and are adequate for personal cleanliness and the disposal of human waste.
 - d. Every rental unit shall contain or have access to a room which affords privacy to a person in said room and which is equipped with a bathtub or shower supplied with hot and cold running water.
 - e. Every dwelling unit shall contain and every rooming unit shall have direct access to a kitchen sink apart from the lavatory required under sub-paragraph a. and such sink shall

be supplied with hot and cold running water.

- f. Toilet rooms and bathrooms shall not be used as a passageway to a hall or other space. A toilet room or bathroom in a dwelling unit shall be accessible from any sleeping room without passing through another sleeping room.

2. Plumbing fixtures

- a. All plumbing fixtures shall be maintained in a safe and usable condition. All plumbing fixtures shall be of approved nonabsorbent material.
- b. Water supply lines, plumbing fixtures, vents and drains shall be properly installed, connected and maintained in working order and shall be kept free from obstructions, leaks and defects and capable of performing the function for which they are designed. All repairs and installations shall be made in accordance with the provisions of the Washington Suburban Sanitary Commission.
- c. All plumbing facilities shall be maintained in a clean and sanitary condition free of mold and mildew by the occupant so as not to breed insects and rodents or produce dangerous or offensive gases or odors.
- d. ~~Plumbing fixtures shall be installed to permit easy access for cleaning both the fixture and the area about it.~~

3. Water system

- a. Every sink, lavatory, bathtub and shower, drinking fountain, toilet or other facility shall be properly connected to the public water system. All sinks, lavatories, bathtubs and showers shall be supplied with hot and cold running water.
- b. The water supply shall be maintained free from contamination and all water inlets for plumbing fixtures shall be located above the overflow rim of the fixture. ~~Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets shall be connected to an approved atmospheric type vacuum breaker or an approved permanently attached hose connection vacuum breaker.~~
- c. The water supply system shall be installed and maintained to provide at all times a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable them to function satisfactory.
- d. Where hot water is provided, water-heating facilities shall be installed in an approved manner, properly maintained and properly connected with hot water lines to the fixtures required to be supplied with hot water. Water heating facilities shall be capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub, shower and lavatory facility or other similar units, at a temperature not less THAN ~~then~~ 110 degrees Fahrenheit.

4. Sewage system

- a. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other facility shall be properly connected to the public sewer system.
- b. Every plumbing stack, waste and sewer line shall be so installed and maintained as to function properly and shall be kept free from obstructions, leaks and defects to prevent

structural deterioration or health hazards. All repairs and installations shall be made in accordance with the provisions of the applicable local building code and Washington Suburban Sanitary Commission.

H. Fire Safety Requirements

1. Means of Egress

- a. A safe, continuous and unobstructed means of egress shall be provided for each dwelling unit ~~and rooming unit~~ from the interior of the premises to the exterior at a street, yard, court or passageway leading to a public open area at grade.
- b. Every rental unit shall have access directly to the outside or to an exit access corridor that leads directly to the outside.
- c. All doors in the required means of egress shall be readily openable from the inner side. Exits from rental units shall not lead through other such units, or through toilet rooms or bathrooms.
- d. All required and all existing fire escapes shall be maintained in working condition and structurally sound.
- e. Any exit signs shall be maintained illuminated and visible.
- f. Every sleeping room located in a basement shall have at least one openable EGRESS window or exterior door approved for emergency egress or rescue.

2. Accumulations and storage

- a. ~~Waste, refuse,~~ Rubbish, GARBAGE, or other materials shall not be allowed to accumulate in stairways, passageways, doors, windows, fire escapes or other means of egress.
- b. Highly flammable or explosive matter, such as paints, volatile oils and cleaning fluids or combustible refuse, such as waste paper, boxes and bags, shall not be accumulated or stored on residential premises except in reasonable quantities consistent with normal usage.
- c. A rental unit shall not be located within a structure containing an establishment handling, dispensing or storing flammable liquids with a flash point of 100 degrees Fahrenheit or lower, except as provided for in the applicable law.

3. Fire resistance ratings

- a. Floors, walls, ceilings and other elements and components required to develop fire resistance rating (BOCA code) shall be maintained so that the respective fire resistance rating of the enclosure, separation, or construction is preserved.

4. Fire protection systems

- a. All fire protection systems and equipment shall be maintained in proper operating condition at all times.

- b. Fire alarms and detecting systems shall be installed and maintained and must be suitable for their respective purposes in all rental premises.
- c. All rental units shall be provided with a minimum of one approved single station smoke detector AND CARBON MONOXIDE DETECTOR for each floor of the premises. A SMOKE DETECTOR MUST BE INSTALLED INSIDE ~~if there is a sleeping area ROOMS~~ located on any such floor, ~~the detector shall be placed in the vicinity.~~ The detectors shall be installed in accordance with the manufacturer's requirements. When actuated, the smoke detector shall provide an alarm suitable to warn the occupants within each rental unit.
- d. It is the owner's responsibility to PROVIDE AND maintain 10-YEAR smoke detectors in good working order, ~~such as replacing batteries.~~
- e. Fire suppression systems in units so equipped shall be maintained in good condition, free from mechanical injury. Sprinkler heads shall be maintained clean, free of corrosion and paint, and not bent or damaged.
- f. ~~Hose stations in units so equipped shall be identified and accessible. The hose shall be in proper position, ready for operation, dry and free of deterioration.~~
- g. OWNERS MUST PROVIDE ONE ~~AM~~ portable fire extinguishers AND in units so equipped IT shall be visible and accessible, and maintained in an efficient and safe operating condition.

5. ~~Fire doors~~

- a. ~~All required fire resistance rated doors or smoke barriers shall be maintained in good working order including all hardware necessary for the proper operation thereof. The use of door stops, wedges and other unapproved hold open devices is prohibited.~~

I. Light and Ventilation Requirements

1. Light

- a. All spaces or rooms shall be provided sufficient light so as not to endanger health, and safety, AND WELFARE. Every habitable room shall have at least one window facing directly to the outdoors or to a court except in a kitchen when artificial light may be provided in accordance with applicable law. A window shall be deemed not to face directly outdoors or onto a court whenever it is obstructed by a structure that extends to the ceiling level and is less than three feet from the window. The minimum total window area measured between stops shall be 8% of the floor area of such room.
- b. Every common hall and stairway in every building, ~~other than the one and two family dwellings,~~ shall be adequately lighted at all times with an illumination of at least a 60-watt standard incandescent light bulb or equivalent for each 200 square feet of floor area, provided that the spacing between lights shall not be greater than 30 feet. ~~Every exit stairway shall be illuminated with a minimum light level of one foot candle at as measured at the floor, landings and treads.~~
- c. All other spaces shall be provided with natural or artificial light of sufficient intensity and so distributed as to permit the maintenance of sanitary conditions, and the safe use of the space and the appliances, equipment and fixtures.

2. Ventilation

- a. All spaces or rooms shall be provided sufficient natural or mechanical ventilation so as not to endanger health, and safety, AND WELFARE. Where mechanical ventilation is provided in lieu of the natural ventilation, such mechanical ventilating system shall be maintained in operation during the occupancy of any structure or portion thereof. When part of the air provided by a mechanical ventilation system is re-circulated, the portion or volume of air re-circulated shall not be re-circulated to a different residential space or occupancy of dissimilar use from which it is withdrawn. All habitable rooms shall have at least one easily openable window. ~~The total openable window area in every room shall be equal to at least 45% of the minimum window area required in Section VI.H.1).~~
- b. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms, except that a window shall not be required in bathrooms or water closet compartments equipped with an approved mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or water closet compartment must be exhausted to the exterior and may not be re-circulated to any space, including the space from which it is withdrawn.

3. ~~Alternative devices~~

- a. ~~In place of the means for natural light and ventilation herein prescribed, alternative arrangement of windows, louvers, or other methods and devices that will provide the equivalent minimum performance requirements shall be permitted if complying with the applicable law.~~

Commented [JC19]: Recommend deleting – unclear of the original intent.

J. Mechanical and Electrical

1. Heating and refrigeration facilities

- a. Every owner of any structure who rents, leases or lets one or more dwelling units ~~or rooming units~~ or one or more sleeping rooms ~~on terms, whether expressed or implied, to~~ SHALL furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 16 to maintain a room temperature of not less THAN ~~then~~ 65 degrees Fahrenheit. In all habitable rooms, bathrooms and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and maintain a temperature of no less THAN ~~then~~ 60 degrees Fahrenheit during other hours. When, ~~however,~~ the external temperature falls below 0 degrees Fahrenheit and the heating system operates at its full capacity, a minimum room temperature of 60 degrees Fahrenheit shall be maintained at all times. The temperature shall be measured at a point 3 feet above the floor and 3 feet from exterior walls.
- b. Every residential dwelling or dwelling unit shall contain at least one cooking and baking facility for the purpose of preparing food and at least one (1) refrigeration unit adequate for the temporary preservation of perishable foods. Such refrigeration unit shall be capable of maintaining an average temperature of below 45 degrees Fahrenheit. Hot plates, toaster ovens, microwave ovens and other portable heating devices do not constitute a cooking and baking facility for purposes of this section.
- c. All cooking and heating equipment, components and accessories in every heating, cooking and water heating device shall be maintained free from leaks and obstructions, and kept functioning properly so as to be free from fire, health and accident hazards. All installations and repairs shall be made in accordance with the provisions of the local applicable building

code, or other laws or ordinances applicable thereto. Portable cooking equipment employing flame is prohibited, except for approved residential type food trays or servers which are heated by a candle or alcohol lamp.

- d. All mechanical equipment shall be properly installed and safely maintained in good working condition and be capable of performing the function for which it was designed and intended.
- e. All fuel-burning equipment shall be connected to an approved chimney, flue or vent per manufacturer's instructions.
- f. All required clearances to combustible materials shall be maintained.
- g. All safety controls for fuel-burning equipment shall be maintained in effective operation.
- h. A supply of air for complete combustion of the fuel and for ventilation of the space shall be provided the fuel-burning equipment.
- i. Devices purporting to reduce gas consumption by attaching to a gas appliance, to the gas supply line thereto, or the vent outlet or vent piping therefrom shall not be used unless labeled for such use and the installation is specifically approved.
- j. Fireplaces, and other construction and devices intended for use similar to a fireplace, shall be stable and structurally safe and connected to approved chimneys.
- k. When facilities for interior climate control (heating, cooling and/or humidity) are internal functions of structures used as dwelling units or rooming units such facilities shall be maintained and operated in a continuous manner in accordance with the designed capacity.

2. Electrical facilities.

- a. ~~Provided that there is electric service available,~~ Every premises or part thereof used for human occupancy shall be adequately and safely provided with an electrical system in compliance with the requirements of this ORDINANCE ~~section~~. The provisions of this section shall be considered absolute minimum requirements. The size of unit and the usage of appliances and equipment shall be used as a basis for determining the need for additional facilities in accordance with the electrical code adopted by the local jurisdiction.
- b. Every habitable room in a dwelling unit shall contain at least two separate and remote receptacle outlets, one of which may be a ceiling or wall type electric light fixture. Every laundry area and bathroom shall contain at least one ground fault interrupter type receptacle. Every bathroom shall contain at least two (2) receptacles and every kitchen shall have three (3) separate and remote outlets, one of which may be a ceiling or wall type electrical light fixture, receptacles within three (3) feet of any sink, tub or laundry area shall be of the ground fault interrupter type.
- c. Every public hall, interior stairway, water closet compartment, bathroom, laundry room and furnace room shall contain at least one electrical lighting fixture.
- d. All exterior receptacle outlets shall be of the ground fault interrupter type.
- e. When the electrical system requires modification to correct inadequate service, the service shall be corrected to a minimum of 100 ampere, three-wire service.

- f. All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner and in accordance with all applicable laws. All electrical equipment shall be of an approved type.
- g. Where it is found, ~~in the opinion of the Code Enforcement Official,~~ that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the Code ~~Enforcement~~ COMPLIANCE Official shall require the defects to be corrected to eliminate the hazard.

Section VII. Unfit Rental Premises

No person shall rent or lease to another for occupancy any rental unit, premises or part thereof, which does not comply with the following requirements:

- A. Dangerous Structures and Equipment – Any rental unit, premises or part thereof which shall be found unsafe, unlawful, or to have any of the following defects may be condemned as unfit for human habitation and shall be SO designated by the Code ~~Enforcement~~ COMPLIANCE Official ~~with prior approval of the Town Administrator.~~ It shall not be re-occupied without the approval of the Code ~~Enforcement~~ COMPLIANCE Official. Unsafe equipment may be condemned and placed out of service pursuant to this section.
 - 1. One which is so damaged, decayed, dilapidated, unsanitary and unsafe or vermin infested, that it creates a serious hazard to the health, ~~or~~ safety OR WELFARE of the occupants or of the public.
 - 2. One which lacks illumination, fire protection, ventilation, sanitation facilities or other essential equipment required by this ~~Rental Housing~~ Ordinance adequate to protect the health, ~~or~~ safety OR WELFARE of the occupants or the public.
 - 3. One, which because of its general condition or location, is unsanitary or otherwise dangerous to the health, ~~or~~ safety OR WELFARE of the occupants or of the public.
 - 4. One which is occupied by more persons than permitted under this Ordinance or applicable law.
 - 5. One in which the equipment is unsafe, including any boiler, heating equipment, cooking equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that it is found by the Code ~~Enforcement~~ COMPLIANCE Official to be a hazard to life, health, WELFARE, property or safety of the tenants of the premises or structure.
- B. Notice to Owner – Whenever the Code ~~Enforcement~~ COMPLIANCE Official has determined that there has been a violation of this Ordinance and, with approval of the Town Administrator, has condemned a rental unit, premises or any portion thereof as unfit for human habitation or equipment is unfit under THIS ORDINANCE Section ~~VII~~, the Code COMPLIANCE ~~Enforcement~~ Official shall give written notice to owner. Such notice to the owner shall:
 - 1. Be in writing;
 - 2. Include a description of the real estate PROPERTY sufficient for identification;

Commented [JC20]: This is now consistent with notification, service, and posting provisions in Ord 107.

3. Include a statement of the reason why ~~it~~ THE NOTICE is being issued WITH REFERENCE TO THE SECTION OF THIS ORDINANCE VIOLATED;
4. State the date occupants must vacate the rental unit, premises, or portion thereof, or equipment if the defects have not been eliminated and the order to vacate withdrawn.
5. State that the owner has the right to appeal the Code ~~Enforcement~~ COMPLIANCE Official's decision to the Town Council in accordance with the procedures set forth in Section X Right to Appeal of this Ordinance.

C. Service of Notice – Service of notice that rental unit, premises or any portion thereof or equipment is unfit and must be vacated or placed out of service shall be as follows:

1. By delivery to the PROPERTY owner OR PROPERTY MANAGER personally; or by leaving the notice at the usual place of abode of the PROPERTY owner with a person of suitable age and discretion who shall be informed of the contents thereof ~~person to be served or his agent a copy of the notice and all necessary papers;~~ or
2. ~~By certified or registered mail, return receipt requested, addressed to the PROPERTY owner OR PROPERTY MANAGER at the address provided to the Town by the PROPERTY owner or MANAGER as required by this Ordinance with postage pre paid thereon with return receipt requested, or if the said letter is returned with receipt showing non-delivery; then~~ BY APPROPRIATE MEANS OF MAIL ADDRESSED TO THE PROPERTY OWNER OR PROPERTY MANAGER AT THE ADDRESS PROVIDED TO THE TOWN BY THE PROPERTY OWNER OR AGENT WITH POSTAGE PREPAID THEREON WITH RETURN RECEIPT REQUESTED, OR IF SAID LETTER IS RETURNED WITH RECEIPT SHOWING NON-DELIVERY, THEN
3. By posting a copy of the notice in a conspicuous place on the premises ~~to be~~ affected by such notice.

D. Posting Notice – Any rental unit, premises, or portion thereof declared as unfit for human habitation shall be posted at each entrance with a notice by the Code ~~Enforcement~~ COMPLIANCE Official. It shall be unlawful for any person to enter such rental dwelling, premises or portion thereof after the date set forth in the notice to vacate except for the reason of making the required repairs or of demolishing the same. The notice shall include the following:

- ~~1. Name of town.~~
2. The section of the Ordinance under which it is issued.
3. An order that the Rental Unit shall be vacated by a stated date, and must remain vacant until the order to vacate is withdrawn.
4. The date the notice is posted.
5. A statement of the penalty for defacing or removal of the notice.
6. A statement saying "this building is unfit for human habitation and its use or occupancy has been prohibited by the Town of Berwyn Heights," and the notice shall bear the signature of the TOWN ADMINISTRATOR ~~Mayor~~.

7. A statement that the owner has the right to appeal the TOWN ADMINISTRATOR's ~~Code Enforcement Official's~~ decision to the Town Council in accordance with the procedures set forth in ~~Section X Right to Appeal of~~ this Ordinance.
- E. Service on occupant – When a condemnation order is served on an occupant other than the PROPERTY owner or PROPERTY MANAGER ~~person responsible for such compliance~~, a reasonable time to vacate the after noncompliance shall be stated. PROPERTY Owners or PROPERTY MANAGERS ~~person responsible for compliance~~ must vacate at the time set for correction of defects if there is ARE failures of TO ~~compliance~~ COMPLY.
- F. Removal of Notice – No person shall deface or remove the notice from any rental unit, premises, or portion thereof which has been declared or noted as unfit for human habitation except by authority in writing from the Code ~~Enforcement~~ COMPLIANCE Official.
- G. Vacating of Declared Buildings – Any rental unit, premises, or any portion thereof declared as unfit for human habitation and so designated and noted shall be vacated within a reasonable time as ordered by the Code ~~Enforcement~~ COMPLIANCE Official, and it shall be unlawful for any PROPERTY owner or PROPERTY ~~operator~~ MANAGER to let any person inhabit said rental unit, premises or any portion thereof which has been declared and noted by the Code ~~Enforcement~~ COMPLIANCE Official, ~~with approval of the Town Administrator~~, as unfit for human habitation after the date set forth in the notice. The Code ~~Enforcement~~ COMPLIANCE Official shall remove such notice whenever the defect or defects upon which the declaration and noted action were based have been eliminated.
- H. Sealing of unfit structure – It shall be the responsibility of the PROPERTY owner OR PROPERTY MANAGER ~~of the property~~ to remove all unsanitary or flammable material and to SECURE ALL WINDOWS AND DOORS ~~board up all windows and doors after THE dwelling has been properly determined by the Code Enforcement Official to be necessary for reasons of~~ TO PROTECT PUBLIC health, and safety, AND WELFARE. In the event that the PROPERTY owner OR PROPERTY MANAGER ~~of the property~~ fails to properly seal the structure against unlawful entry, the Town of ~~Berwyn Heights~~ shall take action to remove unsanitary or flammable waste material and to SECURE ALL WINDOWS AND DOORS ~~board up all windows and doors~~ so as to prevent entrance. The cost of said action shall be and become a lien on the property and collectible in the same manner as delinquent taxes.
- I. Further action – If, after proper notice hereunder, the PROPERTY owner OR PROPERTY MANAGER fails to correct defects which have caused the rental dwelling, rental unit, premises or any portion thereof to be unfit for human habitation, the Town Administrator may request additional action from the appropriate State ~~and/or~~ County authority.
- J. Coordination of enforcement
1. Whenever, in the opinion of the Code ~~Enforcement~~ COMPLIANCE Official initiating an inspection under this ~~Rental Housing~~ Ordinance, it is deemed necessary or desirable to have inspections by any other governmental official or agency, the Code ~~Enforcement~~ COMPLIANCE Official shall make a reasonable effort to arrange for the coordination of the inspections so as to minimize the number of visits by inspectors.
 2. The Code ~~Enforcement~~ COMPLIANCE Official shall confer with the other governmental official or agency for the purpose of eliminating conflicting orders before any are issued.
 3. The Code ~~Enforcement~~ COMPLIANCE Official may not, ~~however~~, cause the delay of the issuance of any emergency orders by a governmental official or agency which the governmental official or agency determines must be issued.

Section VIII. Enforcement Authority

- A. It shall be the duty and responsibility of the Town to enforce the provisions of this Ordinance as herein provided.
- B. The Mayor and Council may waive applicability of this Ordinance to a RENTAL PROPERTY if:
 - 1. Adequate notice in a form and manner specified by the applicable section of this Ordinance is afforded any occupant of the unit;
 - 2. The occupant is afforded an opportunity to comment on the application either in writing or in person; and
 - 3. The waiver would not threaten the health, or safety OR WELFARE of any tenant.
- C. Any code official, ~~officer~~ or OTHER TOWN employee of ~~the Town~~ who acts in good faith and without malice in the discharge of duties of enforcement of this ~~Rental Housing~~ Ordinance is relieved of all personal liability for and damage that may occur to persons or property as a result of such acts or alleged failure to act. Further, the code official or OTHER TOWN EMPLOYEE ~~designee~~ shall not be held liable for any costs in any action, suit or proceeding that may be instituted by the code official OR TOWN EMPLOYEE in the enforcement of this ~~Rental Housing~~ Ordinance. ~~In any of these actions, the official or employee shall be defended or represented by the jurisdiction's attorney at law until final termination of the proceedings.~~
- D. A person may not be displaced by enforcement of this Ordinance unless alternate housing is provided within a reasonable time not to exceed thirty (30) days unless an emergency situation exists affecting the health, safety and welfare of the occupant(s) of the property and OR OTHER TOWN RESIDENTS ~~the citizens of the Town of Berwyn Heights~~. In that case immediate evacuation may be required.

Section IX. Notice of Violations and Penalty for Violations

- A. ~~Whenever the Code Enforcement~~ COMPLIANCE Official determines that there has been or is a violation of any provision of this Ordinance or of any rule or regulation adopted pursuant thereto, the Code ~~Enforcement~~ COMPLIANCE Official shall give notice of such alleged violation to the person or persons responsible therefor, as herein after provided. Such notice shall:
 - 1. Be in writing;
 - 2. Include a description of the real ~~estate~~ PROPERTY sufficient for identification.
 - 3. Include a statement of the reason why ~~it~~ THE NOTICE is being issued WITH REFERENCE TO THE SECTION OF THIS ORDINANCE VIOLATED;
 - 4. Allow 30 days for the performance of any act it requires.
 - 5. Such notice shall:
 - a. Contain an outline of remedial action, if any, which, if taken, will effect compliance with the provisions of this Ordinance and with rules and regulations adopted pursuant thereto.

Commented [JC21]: This is now consistent with Ord 107.

- b. In cases where remedial action is appropriate, ~~In cases where remedial action is appropriate,~~ THE NOTICE SHALL contain the requirement that the violation must be fully corrected within thirty (30) days from the date of the notice and that, in the event that the PROPERTY owner OR PROPERTY MANAGER fails to do so within the thirty-day period, a second notice shall be sent advising of the imposition of a charge payable to the Town. In the event that the violation is not fully corrected within thirty (30) days after this second notice, a third notice shall be sent advising of the imposition of a further charge. Each additional fifteen (15) days thereafter that this violation exists will constitute an additional charge. For each additional prescribed period that the violation is not fully corrected, notice will be issued of the fine amount as due and payable to the Town of Berwyn Heights. Fines for failure to take remedial action shall be established by resolution of the Town Council ~~and shall not exceed the amount of Fines for failure to take remedial action shall be established by resolution of the Town Council and shall not exceed the amount of one thousand dollars (\$1,000.00).~~
- c. In all other cases, contain the amount of the fine, which shall be assessed according to a schedule established by resolution of the Town Council and ~~which~~ shall not exceed one thousand dollars (\$1,000.00). Violation under this subsection shall include, but are not limited to, missing an inspection or re-inspection; nuisance behavior; and renting or leasing without a license. The Town reserves the right to either revoke a rental license ~~and/or~~ deny renewal of a rental license for incidences of nuisance behavior in violation of this Ordinance.
- B. Failure to pay fine(s) will result in the amount of any fine(s) imposed ~~being TO BE recorded as a lien against the property and~~ collected in the same manner as delinquent TOWN taxes.
- C. Service of notice that dwelling is in violation shall be as follows:
1. By delivery to the PROPERTY owner OR PROPERTY MANAGER personally or by leaving the notice at the usual place of abode of the PROPERTY owner OR MANAGER OR with a person of suitable age and discretion who shall be informed of the intent thereof; or
 2. ~~By certified or registered mail, return receipt requested, addressed to the PROPERTY owner OR PROPERTY MANAGER at the address provided to the Town by the owner as required by this Ordinance with postage pre-paid thereon with return receipt requested, or if said letter is returned with receipt showing non-delivery, then~~ BY APPROPRIATE MEANS OF MAIL ADDRESSED TO THE PROPERTY OWNER OR AGENT AT THE ADDRESS PROVIDED TO THE TOWN BY THE PROPERTY OWNER OR AGENT WITH POSTAGE PREPAID THEREON WITH RETURN RECEIPT REQUESTED, OR IF SAID LETTER IS RETURNED WITH RECEIPT SHOWING NON-DELIVERY, THEN
 3. By posting a copy of the notice in a conspicuous place on the premises affected by such notice.
- D. The Town shall inform the ~~legal owner legal~~ PROPERTY owner OR PROPERTY MANAGER ~~of record or an authorized agent~~ of a rental unit, in writing, of all written verified complaints pertaining to the rental unit.
- E. ~~Whenever three (3) or more households within 500 ft. of a rental unit petition the Town Council that a violation of this Ordinance has occurred, the Town Council, within 30 days of receipt of petition, shall schedule a hearing. A quorum of Town Council members, Code Enforcement~~

Official, PROPERTY owners of record or their agent PROPERTY MANAGER, occupant or tenant and petitioners shall attend.

Commented [JC22]: Council discussion item.

Section X. Right to Appeal

- A. Any person affected by any notice of violation may elect to appeal to the Town Council.
1. Any person affected by any notice of violation which had 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 that such person shall within ten (10) days after service of a notice of violation, file with the Town Council a signed written notice of appeal, requesting a hearing and setting forth a brief statement of the reasons therefore. Upon receipt of such notice of appeal, Town Council shall set a time and place for such hearing and shall determine 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 vote of the members, 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 wished to contest the decision of the Town Council, he or she may notify the Town of his or her intent within 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 BE collected in the same manner as delinquent taxes.

Section XI. Responsibilities of Owners and Rental Units

Only the property owner shall be responsible for compliance with the provisions of this Ordinance except as provided herein.

Commented [JC23]: Can be deleted if County Housing Code is adopted since Landlord/Tenant responsibilities are covered.

- A. Every occupant of a structure or part thereof shall keep that part of the structure or premises thereof which that occupant occupies, controls or uses in a clean and sanitary condition. Every PROPERTY owner OR PROPERTY MANAGER of a dwelling containing a rental unit shall maintain, in a clean and sanitary condition, the shared or public areas of the dwelling and premises thereof.
- B. The occupant of a structure or part thereof shall keep the owner-supplied equipment and fixtures therein clean and sanitary, and shall be responsible for the exercise of reasonable care in their proper use and operation. The PROPERTY owner OR PROPERTY MANAGER shall maintain the equipment and fixtures in good and proper operating condition.
- C. The equipment and fixtures furnished by the occupant of a structure shall be properly installed and shall be maintained in good working condition, kept clean and sanitary, and free of defects,

leaks or obstructions.

- D. The PROPERTY owner OR PROPERTY MANAGER of any premises shall be responsible for extermination within the rental unit.
- E. The PROPERTY owner OR PROPERTY MANAGER of any premises shall be responsible for the continued rodent-proof condition of the structure.
- F. For any dwelling containing a rental unit, it shall be the responsibility of the PROPERTY owner OR PROPERTY MANAGER to supply adequate rubbish containers and garbage disposal facilities and storage containers.
- G. Every PROPERTY owner OR PROPERTY MANAGER of a rental unit shall be responsible for hanging all screens and double or storm doors and windows whenever the same are required under the provisions of this Ordinance or of any rule or regulation adopted pursuant thereto.
- H. The PROPERTY owner OR PROPERTY MANAGER shall be responsible for the maintenance, repair and/or replacement of equipment and fixtures furnished by the PROPERTY owner OR PROPERTY MANAGER. The equipment and fixtures shall be properly installed and shall be maintained in good working condition, kept clean and sanitary, and free of defects, leaks or obstructions.
- I. No PROPERTY owner or PROPERTY MANAGER ~~owner's agent~~ may prevent any tenant from talking to the Code ~~Enforcement~~ COMPLIANCE Official.
- J. The PROPERTY owner OR PROPERTY MANAGER shall provide and maintain ~~venetian~~ blinds, curtains, non-see-through fabric blinds, or some other appropriate window covering as ~~determined by the Code Enforcement Official~~ for each window that looks directly to the outside or onto a court.

Section XII. Interpretation and Waiver

- A. The ~~Mayor and~~ Town Council of ~~Berwyn Heights~~ shall decide questions of interpretation of this Ordinance.
- B. Upon written request, the ~~Mayor and~~ Town Council may waive or vary particular provisions of this Ordinance to the extent that the waiver is not inconsistent with Annotated Code of Maryland if:
 - 1. Geographic differences or unique local conditions justify the waiver.
 - 2. The waiver would not threaten the health, or safety, OR WELFARE of a tenant or THE PUBLIC ~~occupant~~.

Section XIII. Validity

- A. If any section or part of a section of this Ordinance shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance.
- B. This Ordinance shall not effect violations of any other ordinance, code or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of these ordinances, codes

or regulations in effect at the time the violations were committed.

Section XIV. Rules and Regulations

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

Revised: May 4, 1993

Revised: December 8, 2004; Effective January 13, 2005

Resolution No.
Ordinance 120 – Licensing of Rental Housing Fine Schedule

WHEREAS, the Mayor and Town Council has determined that Ordinance 120 – Licensing of Rental Housing requires a fine schedule for violations thereof; and

WHEREAS, Section 402 of the Town Charter of the Town of Berwyn Heights vests the Mayor and Town Council with authority to establish and enact such fines; and

WHEREAS, the Mayor and Town Council adopted amendments to Ordinance 120 – Licensing of Rental Housing at its Town Meeting on ____; and

NOW, THEREFORE, BE IT RESOLVED AND, IT HEREBY IS RESOLVED, that the Mayor and Town Council this ___ day of ____ does hereby adopt the following Ordinance 120 – Licensing of Rental Housing fine schedule.

BE IT FURTHER RESOLVED that the fine schedule to amended Ordinance 120 – Licensing of Rental Housing adopted at the Town Meeting on the ___ day of _____ shall become effective _____.

Licensing and Registration Violations

Ordinance 120 requires rental property owners or property managers to file a rental housing license application ~~and a floor plan of the dwelling~~. Whenever a property owner or property manager fails to file or complete the required forms, the property owner may be fined as follows:

Failure by property owner or property manager of owner occupied dwelling to apply for or renew an annual rental housing license	\$200
Failure by property owner of non-owner occupied dwelling to apply for or re-new an annual rental housing license	\$400
Failure by owner of non-owner occupied dwelling occupied by only family members to register	\$100
Failure to provide required rental license application information	\$100
Failure to file required floor plan.....	\$100
Failure to file Housing Disclosure Form.....	\$100
Failure to provide required Housing Disclosure Form information.....	\$100
Failure to file Tenant's Rights and Responsibilities Disclosure Form.....	\$100

Fines may be doubled for each additional 30 days or portion thereof that owner is in violation of Section IV of Ordinance 120

Commented [JC1]: There is no less of an administrative burden to achieving compliance based on whether the rental is owner/family occupied or not.

Crashing Violation

Whenever there is a violation of the crashing provision of Ordinance 120 as defined in Section II of Ordinance 120, the owner may be fined as follows:

For the first occurrence in any given calendar year.....	\$100.00
For the second occurrence in any given calendar year.....	\$200.00
For the third and each successive occurrence in any given calendar year.....	\$300.00

Missed Inspection and/or Re-Inspection Appointment Violation

Whenever the property owner or property manager misses a scheduled appointment for an inspection or re-inspection, the property owner may be fined as follows:

First missed appointment in any given calendar year	\$25
Second missed appointment in any given calendar year	\$50
Third and each successive missed appointment in any given calendar year	\$75

Nuisance Behavior Violation

Whenever there is a violation of the nuisance behavior provision of Ordinance 120 as defined in Section II of Ordinance 120, the owner may be fined as follows:

For the first occurrence in any given calendar year.....	\$100.00
For the second occurrence in any given calendar year.....	\$200.00
For the third and each successive occurrence in any given calendar year.....	\$300.00

Whenever any person being the occupant, tenant, or otherwise having any control to any degree of premises who either sponsors, conducts, hosts, invites, suffers, permits or continues to allow a gathering, which is or becomes a nuisance as defined in Section II of Ordinance 120, then any person being the occupant, tenant, or otherwise having any control to any degree of premises may be fined as follows:

First occurrence in any given calendar year.....	\$100.00
Second occurrence in any given calendar year.....	\$200.00
Third and each successive occurrence in any given calendar year.....	\$300.00

Town reserves the right to either revoke or deny renewal of rental housing license for violation of this provision of the Ordinance.

Public Nuisance Violation

Whenever any person being the owner, occupant, tenant, or otherwise having any control to any degree of premises who either creates, encourages, invites, suffers, permits or continues to allow a public nuisance pursuant to Ordinance 120, then any person being the owner, occupant, tenant, or otherwise having any control to any degree of premises may be fined as follows:

First occurrence in any given calendar year	\$100
Second occurrence in any given calendar year	\$200
Third and each successive occurrence in any given calendar year	\$300

Remedial Violations

In cases where remedial action by the property owner or property manager is required and appropriate, the property owner or property manager will have thirty (30) days from date of notice to correct the violation.

Failure to correct violation within 30 days of first notice	\$100
Failure to correct violation within 30 days of second notice	\$200
Each additional 15 days thereafter	\$200
Failure to contact for inspection or re-inspection within 30 days of first notice of violation	\$100
Failure to contact for an inspection or re-inspection within 30 days of second notice of violation	\$200
Each additional 15 days thereafter	\$200

Any Other Violations

In cases where action by owner is required and appropriate, the owner may be fined as follows:

Failure to correct violation within 30 days of first notice	\$100
Failure to correct violation within 30 days of second notice	\$200
Each additional 15 days thereafter	\$200
Failure to contact for inspection or re-inspection within 30 days of first notice of violation	\$100
Failure to contact for an inspection or re-inspection within 30 days of second notice of violation	\$200
Each additional 15 days thereafter	\$200

Clean Lot Ordinance 107 Violations

Fines for Clean Lot Ordinance 107 type violations at rental properties shall be levied and collected in accordance with the provisions of Ordinance 107.

Refuse Collection Ordinance 117 Violations

Fines for Refuse Collection Ordinance 117 type violations at rental properties shall be levied and collected in accordance with the provisions of Ordinance 117.

Liens

Failure to pay any fine(s) set forth in this Fine Schedule will result in the amount of any fine(s) imposed being recorded as a lien against the property and be collected in the same manner as delinquent Town taxes.

Revocation of or Denial to Renew Rental Housing License

Town reserves the right to either revoke or deny renewal of rental housing license for violation(s) of Ordinance 120.

By Order of the Mayor and Town Council

Cheryl Jewitt
Mayor, Town of Berwyn Heights

ATTEST:

Kerstin Harper, Town Clerk



Application for a Rental Housing License

\$300 License Application Fee

Owner(s) Name (not Property Manager)

Owner(s) Physical Address (if different from Rental Property address - No P.O. Boxes, Not Property Manager Address)

City, State, Zip:

Owner(s) Phone Number:

Owner(s) E-mail

Property Manager

Property Manager Phone Number

Contact Name:

Property Manager Cell Number

Address:

Property Manager E-mail

City, State, Zip:

All rental properties are subject to periodic inspection to determine compliance with the Town of Berwyn Heights' Ordinances. These inspections are a condition of the rental license pursuant to Ordinance 120. The applicant acknowledges and agrees, that, by conducting inspections of rental properties, the Town does not assume any responsibility to individual property owners or occupants to ensure or warrant the suitability or fitness of a dwelling for habitation or its compliance with any particular housing standards or regulations, nor does the Town assume any liability for any failure of the dwelling to meet such standards or regulations. The Town will provide at least ten (10) business days' notice prior to any scheduled interior inspection, unless the inspection is necessary to prevent or resolve an emergency. Failure to allow entry for such inspections or to prohibit any tenant to allow entry for such inspections shall constitute sufficient reason for the denial or revocation of the rental license.

All property owners are responsible for compliance with all applicable Town Ordinances and any expenses the Town may incur as a result of violations of any Town ordinance. Any unpaid fines or fees the property owner incurs, or the property owner's failure to assume responsibility for any ordinance violations, will be collected in the same manner as delinquent Town taxes.

Property Owner/Property Manager Signature:

Date:

Please sign and send payment of \$300 application fee by Check or Money Order to:

Town of Berwyn Heights

5700 Berwyn Road

Berwyn Heights, Maryland 20740

Attn: Code Compliance Department

Credit card payments are accepted when payment is made in person at 5700 Berwyn Rd. Credit card payments are subject to applicable service fees posted at the time of payment.