



Town of Berwyn Heights

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ORDINANCE 101 - ANIMALS

Section 1. **Purpose and Authority** - By the authority vested in Section 402 of the Town Charter of Berwyn Heights, the Town Council establishes the following Animal Ordinance designed to protect the health, safety, and welfare of Town residents from the risks and nuisances posed by public nuisance animals and public nuisance conditions.

Section 2. **Scope** - This Ordinance places certain responsibilities on animal owners and custodians as well as on property owners or occupants. Certain activities, or the lack of performing certain activities, are deemed to be violations of this Ordinance. A process of issuing notices of violation is defined, as are the procedural steps that the Town of Berwyn Heights may use to enforce such violation notices. This Ordinance defines a schedule of fines for violations of this Ordinance and defines the avenues of appeal available to persons issued a notice of violation of this Ordinance.

Section 3. **Definitions** - As used in and for the purposes of this Ordinance, the following words and phrases shall have the meanings assigned to them herein:

- A. **Aggression or attack training** shall mean training intended to teach an animal to attack a human or animal upon command or to teach an animal to act in a threatening, aggressive manner intended to cause a person to assume that the animal has been trained to attack a human or animal on command.
- B. **Animal** shall mean every nonhuman species or animal, both domesticated and wild, including but not limited to dogs, cats, livestock, and fowl.
- C. **Animal at large** shall mean an animal not under physical restraint of a leash and off the premises of its owner or custodian, with the exception of an animal undergoing obedience training or securely confined inside a motor vehicle.
- D. **Cat** shall mean domesticated felines. The term "cat" shall not include wild or exotic felines.
- E. **Dog** shall mean any member of the domesticated canine species.
- F. **Enforcement officer** shall mean any Town of Berwyn Heights Police Officer or representative of the Town Council duly-appointed and authorized to enforce the provisions of this Ordinance.

- G. **Keeping or harboring** shall mean the act of or the permitting or sufferance by an owner or occupant of real property either of feeding or sheltering any domesticated animal on the premises of the occupant or owner thereof.
- H. **Owner or custodian** shall mean a person who keeps, has temporary or permanent custody, possesses, keeps or harbors, exercises control over, or has a property right in any animal, livestock, or fowl. The parent(s) or guardian(s) of a minor shall be deemed to be the owner of an animal owned or in the possession and control of the minor child for purposes of this Ordinance and shall be liable for all damages caused by the animal.
- I. **Pet** shall mean a domesticated animal kept for pleasure rather than utility. Pets include, but are not limited to, dogs, cats, birds, fish, reptiles, and other animals, which, by habit or training, live in association with man.
- J. **Public nuisance animal** shall mean any animal which unreasonably annoys humans, endangers the life or health of other animals or humans, or gives offense to human senses; or which substantially interferes with the rights of the citizens, other than its owner, to enjoyment of life or property. The term "public nuisance animal" shall mean and include, but is not limited to, any animal which:
1. is repeatedly found at large; or
 2. damages the property of anyone other than its owner or custodian; or
 3. molests or intimidates pedestrians or passersby; or
 4. excessively makes disturbing noises, including but not limited to, continued and repeated howling, barking, whining, or other utterances causing reasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored; or
 5. causes fouling of the air by odor and causing thereby unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored; or
 6. causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored; or
 7. attacks other domestic animals.
- K. **Public nuisance condition** shall mean an unsanitary, dangerous, or offensive condition occurring on any premises caused by the size, number or types of animals maintained, kept or harbored, or due to the inadequacy of the facilities or by reason of the manner or method of holding, confining, restraining, boarding, or training animals. A public nuisance condition shall be deemed to exist on any premises in which any animal is maintained, kept, or harbored under conditions which constitute cruelty to such animals, or where the animal maintained, kept or harbored is a public nuisance animal.
- L. **Sanitary** shall mean a condition of good order and cleanliness which minimizes the probability of transmission of disease.
- M. **Vicious animal** shall mean any animal which attacks, bites, or injures humans or domesticated animals without adequate provocation, or which, because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals. An animal which on one or more occasions caused significant injury to a human or domesticated animal may be deemed to be a vicious animal.

Section 4. **Licensing** - It shall be unlawful for any person to keep or harbor any dog or cat which is four (4) months of age or older without securing the required Prince George's County pet license. Additionally, all such dogs or cats shall be properly and currently vaccinated against rabies and shall, at all times, wear a valid county-approved rabies vaccination tag. It shall be unlawful for any person to keep or harbor five (5) or more animals larger than a guinea pig and over the age of four (4) months without first obtaining the required Prince George's County animal hobby permit. Such animal hobby permit is in addition to any required pet licenses. Any animals found to be kept or harbored in violation of the animal lobby provisions are subject to impoundment. Prince George's County and the State of Maryland may require the owners of animals other than cats or dogs to obtain licenses for these animals. It shall be unlawful for any owner or custodian of any animal to fail to obtain these required licenses.

Section 5. **Restraint** - It shall be unlawful for the owner or custodian of any animal within the municipal limits of the Town of Berwyn Heights not to confine his or her animal securely on his or her property or place of residence to not to have the animal accompanied by a responsible person and effectively restrained by a leash no longer than eight (8) feet in length to prevent such animal from running at large, molesting any person, or defiling any property. No animal running at large by accident with a person in immediate pursuit of it shall be deemed to be at large, running at large, or a stray. An animal undergoing obedience training or securely confined within a motor vehicle is deemed to be effectively restrained and will not be deemed to be at large or running at large. The owner or custodian of any animal found at large or running at large will be held liable for any damages caused by such an animal.

Section 6. **Excessive Noise** - Excessive noise by any domestic animal is prohibited. It shall be unlawful for any owner or custodian of an animal to permit such animal to disturb the quiet of any person or neighborhood. Permitting an animal to disturb the quiet of any person or neighborhood, or failure to keep any animal from causing frequent or long continued noise, to the disturbance of the comfort or repose of any person or neighborhood, is declared to be a public nuisance and detrimental to the public health and welfare. Any person disturbed by an animal creating excessive noise shall first advise the owner or custodian who keeps such animal of the fact that the animal, by causing frequent or long continual noise, is disturbing the complainant and the neighborhood. The Town Council, or its duly appointed representative, may also provide such notification to the owner or custodian of an animal that creates excessive noise. No owner or custodian of an animal shall fail to abate a nuisance caused by the frequent, habitual, or long continuing noise of such animal after having been notified in accordance with this section. Such failure to abate the excessive noise of an animal shall be a violation of this Ordinance.

Section 7. **Animal Waste** - No owner or custodian of a domestic animal shall permit excrement of such animal to remain on public property at any time or to remain on private property without consent of the owner or occupant thereof. Failure of the owner or custodian of the animal to immediately remove the animal's excrement shall be a violation of this Ordinance. The owner or custodian of the animal shall be liable for any damages.

Section 8. **Cruelty** - It shall be unlawful for any person to treat any animal in a cruel manner either willfully or by neglect.

Section 9. Breeding - It shall be unlawful for any person to engage in the breeding, hospitalization, or boarding of animals on a commercial basis within the residential area of the Town of Berwyn Heights.

Section 10. Vicious Animal - It shall be unlawful for any person to keep or harbor a vicious animal within the municipal limits of the Town of Berwyn Heights. It shall also be unlawful for any owner or occupant of a premises to allow a vicious animal to be kept or harbored on their property.

Section 11. Animal Fighting - It shall be unlawful to incite animals to fight. It shall also be unlawful for any property owner or occupant to allow others to incite animals to fight on their property.

Section 12. Aggression or Attack Trained Animals - It shall be unlawful for any person other than the military or government law enforcement agencies to conduct or supervise any aggression training or any other use or maintenance of an aggression or attack trained animal within the municipal limits of the Town of Berwyn Heights. It shall also be unlawful for any owner or occupant of a premises to allow any person other than the military or government law enforcement agencies to conduct aggression or attack training or any other use or maintenance of an aggression or attack trained animal on their property.

Section 13. Enforcement - Provisions of this Ordinance may be enforced by any duly-appointed Town Enforcement Officer.

A. **Notice of Violation** - Whenever an Enforcement Officer determines that the requirements of this Ordinance have been violated or receives sworn statements from two or more property owners or residents that the requirements of this Ordinance have been violated, the Code Enforcement Officer may issue a written violation notice to the animal owner or custodian and/or the property owner or occupant responsible for the violation of this Ordinance. Such notice shall be personally delivered to the animal owner or custodian and/or property owner or occupant.

If such a violation notice cannot be delivered in person, the Enforcement Officer will mail the violation notice to the animal owner or custodian and/or property owner or occupant via United States Postal Service certified mail. A violation notice for a property owner will be mailed to the owner or other responsible person at the last known address or the address shown on the real property tax records of the Town of Berwyn Heights. Such notice, when so addressed and deposited with Postal Service with proper postage prepaid, shall be deemed complete and sufficient.

In the event that the notice is returned by the postal authorities as undelivered, the Enforcement Officer shall cause a copy of the notice to be physically posted in a conspicuous place in or on the property or residence of the accused person(s).

B. **Contents of Notice** - The notice shall be on a form adopted by the Town of Berwyn Heights and shall include, as a minimum:

1. the date of issuance of the notice;
2. the name and address of the person charged;
3. the Ordinance and Section number of the Town of Berwyn Heights' Ordinance that has been violated;
4. the nature of the violation;
5. the place where and the time that the violation occurred;

6. the amount of the monetary fine to be assessed for non-compliance;
7. the manner, location, and time in which the fine may be paid;
8. a notice that each day of continued violation thereafter shall be deemed a separate violation, subject to additional notice;
9. the name, business address, and telephone number of the Enforcement Officer cognizant of the case;
10. a notice of the person's right to stand trial for the violation;
11. a notice of the person's right to appeal the violation notice to the Town Council;
12. and a notice that failure to fully pay any fine assessed under the provisions of this Ordinance shall result in a lien on the involved property and shall be collectible as Town of Berwyn Heights taxes.

C. Fines - The following fines are established for violations of this Ordinance:

1. For any violation of Sections 4 through 9 inclusive, a fine of \$25 for the first offense, \$50 for the second offense occurring within twelve (12) months of the first offense, and \$100 for subsequent offenses occurring within twelve (12) months of the first offense will be imposed.
2. For any violation of Sections 10 or 11, a fine of \$100 for the first offense, \$200 for the second offense occurring within twenty-four (24) months of the first offense, and \$400 for subsequent offenses occurring within twenty-four (24) months of the first offense will be imposed.
3. For any violation of Section 12, a fine of \$400 for each and every offense will be imposed.

D. Election to Stand Trial - A person receiving notice of violation may elect to stand trial for the offense by notifying the Town in writing of the person's election to stand trial. The notice of election to stand trial shall be given at least five (5) days prior to the date of payment as set forth in the notice of violation. Upon receipt of the notice of election to stand trial, the Town shall forward to the violation. Upon receipt of the notice of election to stand trial, the Town shall forward to the District Court having venue, a copy of the notice from the person who received the notice of violation indicating that person's election to stand trial. Upon receipt of the notice of violation, the District Court will schedule the case for trial and notify the defendant of the trial date.

E. Election to Appeal to Town Council - Notwithstanding the provision of paragraph 14D, Election to Stand Trial, any person receiving a notice of violation may elect to appeal to the Town Council.

1. Any person receiving a notice of violation issue in connection with the enforcement of any provision of this Ordinance may request and shall be granted 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.
2. Upon receipt of such notice appeal, the Town Council shall set a time and place for such a hearing and shall give the person appealing notice thereof. The Town Council shall determine appeals as promptly as possible.
3. After such hearing the Town Council may, by a majority vote of members present, affirm, amend, modify, or withdraw the notice of violation that has been appealed. Any person who shall fail, refuse, or neglect to comply with the

decision of the Town Council shall be guilty of violating the provisions of this Ordinance.

4. The decision of the Town Council shall in all cases be final, except that any appellant may then elect to stand trial before the District Court, provided that the election to stand trial is made within ten (10) days after the Town Council renders their decision. In this case, the appellant must notify the Town in writing of their election to stand trial. Upon receipt of the notice of election, the District Court will schedule the case for trial and notify the defendant of the trial date. The decision of the Town Council in any case on appeal to the District Court shall be stayed pending a decision by the Court.

F. Failure to Pay Fine or File Notice of Election to Stand Trial or File Notice of Election to Appeal to Town Council - A person receiving a notice of violation of this Ordinance is required to take one of the following actions:

1. Pay the fine indicated in the notice of violation by the date set forth in the notice;
2. File a written notice to the Town at least five (5) days before the date of fine payment as set forth in the notice of violation of that person's election to stand trial;
3. File a written notice to the Town within ten (10) days after service of the notice of violation of that person's election to appeal to the Town Council. If any person receiving notice of violation of this Ordinance fails to comply with Sections 13F (2), or 13F (3), the Town of Berwyn Heights may request adjudication of the case through the District Court. The District Court will schedule the case for trial and summon the defendant to appear. Failure to comply with Sections 13F (1), 13F (3) does not relieve any person of the requirement to obey all the provisions of this Ordinance. Continued or additional violations will result in additional notices of violation.

G. Results of Trial before the District Court - If the District Court adjudicates the person charged as being in violation of this Ordinance, the amount of any fine imposed will be recorded as a lien against the property and collectible as Town taxes.

H. Impoundment of Animals and Willful Prevention or Obstruction of Impoundment of Animals - The Town shall have the authority to impound or order the impoundment of animals under the following circumstances:

1. Any animal not securely confined on the owner's or custodian's premises or observed running at large off the owner's or custodian's premises, subject to the provisions of Section 5, may be caught and impounded.
2. Any animal found to be kept, harbored, or maintained in violation of any provision of Section 8, 10, or 11 of this Ordinance more than one (1) time in twenty-four (24) month period may be impounded.
3. Any animal found to be kept, harbored or maintained in violation of any provision of Sections 4, 6, 7, or 9 of this Ordinance more than four (4) times in a twenty-four (24) month period may be impounded.
4. Any animal found to be kept, harbored, or maintained in violation of any provision of Section 12 of this Ordinance may be impounded.

I. Any person that willfully prevents or obstructs the impoundment of an animal ordered impounded by the Town under provisions of this Ordinance shall be in violation of this Ordinance. Such person shall be issued a notice of violation, subject to the notification

requirements and rights of appeal outlined in Section 13, and a fine of \$400 will be imposed.

The Town may, at its discretion and in agreement with Prince George's County, operate or contract the operation of an animal holding facility which may hold any impounded animals locally for up to three (3) days before being turned over to the Prince George's County Animal Control Facility. Conditions for the release for such animals to their owner or custodian or disposition thereof shall be prescribed by the appropriate animal control facility.

Conditions for the release of animals may include the required application for pet license if the animal does not have a current Prince George's County pet license, the administration of a proper rabies vaccination if the animal does not have a current rabies vaccination, payment of animal recovery and boarding fees established by the animal control facility or facilities, and the payment of all fines due the Town of Berwyn Heights and Prince George's County.

Section 14. **Severability** - If any section of part of a 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.

Adopted: 9/10/1980
Effective: 9/30/1980
Amended: