



Town of Berwyn Heights

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ORDINANCE 109 - TOWN COUNCIL ELECTION & SELECTION PROCESSES

Section 1. Purpose and Authority: The purpose of this Ordinance is to set forth the rules and procedures for electing or selecting the five (5) members of the Berwyn Heights Town Council, as well as to define the roles and responsibilities of the Board of Election Supervisors, the Town Clerk and other employees charged with managing the municipal election process. The authority to hold municipal elections is contained in Article XI-E of the Constitution and the Local Government Article of the State of Maryland Annotated Code, as amended from time to time, and Chapter III and V of the Charter of the Town of Berwyn Heights. All Town election procedures shall be subject to the provisions contained in the Annotated Code of Maryland.

Section 2. Applicability:

This Ordinance applies to the process of electing and selecting the members of the Town Council of the Town of Berwyn Heights.

Section 3. Definitions:

- A. Absentee Voting: Voting in a location other than an official polling station.
- B. Ballot: The means by which a resident records his or her vote. It may be an Electronic Ballot (generated by a voting machine) or a Paper Ballot (designed by the Town Clerk or designated employee)
- C. Ballot Question: see Referendum
- D. Board of Election Supervisors: Also known as the Board of Supervisors of Elections is composed of at least five (5) members; three (3) election judges (including 1 Chief Judge) and two (2) clerks, who shall be appointed by the Town Council in February of an election year and serve for a term of two years.
- E. Domicile: the place where a person has his or her permanent principal home to which he or she returns or intends to return.
- F. Duly Authorized Agent: a person at least 18 years of age, who is not a candidate on the ballot, and is designated in writing by a qualified voter as his or her agent in picking up and delivering an absentee ballot.
- G. Election Day: The 1st Tuesday in May of every even-numbered year.
- H. Election Procedures Manual: a reference manual for Town Council elections containing detailed instructions on preparing and conducting an election as well as standard templates and relevant legal references.
- I. Prince George's County Board of Elections: the authority for conducting elections in Prince George's County.
- J. Provisional Voter: A resident not listed in the Voter Registration List, whose eligibility to vote must be established after casting a ballot.

- K. Public outreach: a systematic attempt to provide information or services to a targeted group of people, such as posting to the Town website or in a newspaper of general circulation.
- L. Referendum: a right of registered voters of the Town to approve or reject an act of the Town Council, in accordance with Section 311.2 of the Town Charter.
- M. Referendum Petition: a right of the registered voters of the Town to propose a law for adoption at a regular or special election in the form of a petition that has the signatures of twenty percent (20%) of the registered voters of the Town, in accordance with Section 311.2 of the Town Charter.
- N. Registration: See Universal Registration
- O. Special Election: an election held on a date other than a regularly scheduled election for the purpose of filling a Town Council vacancy or voting on a referendum. All special elections shall be conducted by the Board of Election Supervisors in the same manner as regular Town elections, as set forth in Section 503 of the Town Charter.
- P. Spoiled ballot: a ballot that has been declared invalid by the Board of Election Supervisors and is excluded from the vote count in accordance with criteria detailed in the election procedures manual of the Town of Berwyn heights.
- Q. Supplemental Voter Registration List: a list of voters registered to vote solely in Town elections.
- R. Town Clerk: a municipal employee charged with a set of clerical responsibilities, including management of the municipal elections process. Election preparation and management may be carried out by another designated municipal employee.
- S. Universal registration: a system of qualifying voters based on residency in the State of Maryland and its political subdivisions to vote in Federal, State, County and Municipal elections by registering only once,
- T. Voter Authorization Card (VAC): a card provided by the Prince George's County Board of Elections in conjunction with the voter registration list that must be signed before a voter may proceed to cast a vote.
- U. Voter Registration List: official voter registration list for the Town of Berwyn Heights obtained from the Prince George's County Board of Elections and maintained by the State of Maryland Board of Elections.
- V. Voting age: at least 18 years of age, per Section 501 of the Town Charter.
- W. Voting machine: a mechanical or electronic piece of equipment, including software, used to define ballots; to cast and count votes; to display and report election results; and to maintain an audit trail.
- X. Voting machine vendor: a business that sells or leases voting machines and provides the technical support to operate them.
- Y. Write-in Candidate: a resident and qualified voter of the Town of Berwyn Heights who submits all required forms to run in a Town Council election after the filing deadline has passed.
- Z. Write-in Vote: the action of a voter to write-in the name of a person who is not a declared candidate for Town Council on the ballot.

Section 4. Voter Registration

The eligibility of voters is defined in Chapter V – “Registration, Nomination, Election” of the Berwyn Heights Town Charter. U.S. citizens who are at least 18 years of age at the time of the election, have resided within the Corporate Limits of the Town of Berwyn Heights for thirty (30) days prior to a Town election, and are duly registered to vote in Prince George's County, Maryland are eligible to vote in a Town election.

Residents of the Town, who maintain a domicile in another state, may utilize a supplemental registration with the Town of Berwyn Heights to vote solely in the municipal election. Supplemental registration shall occur during normal office hours, Monday - Friday, 8:30 a.m. - 5:00 p.m. until 30 days prior to the election date and on the last Monday in March between 7:00 - 10:00 p.m.

Section 5. Appointment and Duties of Board of Election Supervisors

The Board of Election Supervisors exercises general supervision of the Town elections in accordance with Section 502 of the Berwyn Heights Town Charter. An invitation to serve on the Board is published in the Berwyn Heights Bulletin or other suitable means of public outreach in December and January prior to election day. A proposed Board is approved, and a Chief Judge appointed, by the Town Council at the first worksession in February and the Board and Chief Judge are sworn-in by the Mayor at the February Town meeting.

It shall be the duty of the Board to: become familiar with State laws, Town ordinances and the Election Procedures Manual that guide the electoral process by attending relevant training at the State, County or municipal level; review supplemental voter registration lists and absentee voter lists; prepare the polling station and supervise the election; and tally the votes and report the election results to the sitting Mayor.

Section 6. Preparing for Town Council Elections

Town Council elections take place on the first Tuesday of May of every even-numbered year.

- A. **Election Schedule:** In December prior to the Town Council election, the Town Clerk shall update the election schedule for publication in the January Bulletin or other suitable means of public outreach. The schedule shall contain important dates and deadlines related to the election.
- B. **Registration:** No less than six (6) months prior to a Town Council election, the Town Clerk shall contact the Prince George's County Board of Elections and request the development of a plan and schedule to implement universal registration, including a voter registration list and the supporting materials for the Town election, pursuant to §3-403 of the Maryland Election Law Article, as may be amended. The Town's supplemental voter registration list shall be finalized by the Town Clerk thirty (30) days prior to the election date.
- C. **Board of Election Supervisors:** The Town Clerk shall begin recruitment of members of the Board of Election Supervisors in December and January prior to the election by publicizing the position in the Berwyn Heights Town Bulletin or through other suitable means of public outreach, as needed; assemble a Board of Election Supervisors for Town Council review and swearing in, and ensure that all members of the Board of Election Supervisors receive a course of training in their duties. The training shall take place after the candidate filing and candidate withdrawal deadlines. The Town Council shall set an appropriate rate of compensation for the members of the Board of Election Supervisors, including the Chief Judge.
- D. **Town Council Candidacy:** The Town Clerk shall notice the filing deadline (i.e., the first Tuesday in March) of a Town Council election in the February and March issues of the Berwyn Heights Town Bulletin and other suitable means of public outreach, as needed; provide Petition of Candidacy and Financial Disclosure forms to residents wishing to file for Town Council candidacy; and receive and review the filed forms. The completed

Financial Disclosure form must conform with the provisions of Ordinance 110 - Ethics, subject to §15-801 of the Maryland Public Ethics Law, as may be amended. The Town Clerk shall also advise candidates on all relevant election matters, including the election schedule, Candidates' Night, campaigning and other questions that may arise.

- E. **Campaign Material:** The Town Clerk shall inform Town Council candidates of the Town's campaign rules. Starting three weeks prior to the election, campaign literature may be distributed, and campaign signs and posters may be displayed on private property, including the Town right-of-way, with the property owner's permission. Campaign signs shall:
1. Not be displayed until three (3) weeks prior to the election.
 2. Not create a public safety hazard.
 3. Be removed within two (2) days after the election.
 4. Not be attached to utility poles.
 5. Not be displayed on Town property, with the exception of Election Day only.
- F. **Write-in Candidates:** The Town Clerk shall accept Petition of Candidacy and Financial Disclosure forms that have been filed after the first Tuesday in March deadline as write-in candidacies. Write-in candidates that have submitted all completed forms and are determined to be qualified are entitled to 1) having their names published in the Town Bulletin if their forms were filed and determined to be acceptable by April 15 of an election year; 2) participate in Candidates' Night if their forms were filed and determined to be acceptable at least one (1) week prior to Candidates' Night; and 3) have their names posted inside and outside the polling station, if their forms were filed at least one (1) week prior to election day.
- G. **Candidates' Night:** The Town Clerk shall arrange for a Candidates' Night to be held in April prior to a Town election. All qualified candidates confirmed at that time may participate in this moderated public forum to introduce themselves and answer questions from residents.
- H. **Absentee Voting Application:** An eligible voter may vote by absentee ballot in a Town election for any reason, pursuant to §4-108 of the Maryland Local Government Article, as may be amended. The Town Clerk shall prepare absentee ballots and an absentee voter list to keep an accurate record of voters who request an absentee ballot. After voter registration closes (i.e., thirty (30) days prior to the election), absentee ballots and accompanying envelopes are made available to any eligible voter upon request until one (1) week prior to the election, including ballots requested in writing by a duly authorized agent. Every absentee voter shall be listed on the absentee voter list that includes name, address, date of issuance of ballot and date of receipt of voted ballot. Voted ballots shall be kept sealed in their envelopes and stored in a secure location to be opened and tallied on Election Day.
- I. **Notice of Election:** The Town Clerk shall give at least two (2) weeks' notice of every election in the Town Bulletin, a paper of general circulation, or other suitable form of public outreach, and post the Election Notice in three (3) public places in the Town.
- J. **Election Supplies:** The Town Clerk shall ensure that all necessary election supplies are at hand on Election Day, either for voting by paper ballot or by voting machine.

Section 7 Election Day

The preparation for and the conduct of an Election Day are described in detail in the Election Procedures Manual. The polls are open between 7:00 a.m. and 7:00 p.m.

A. **Preparing the Polling Station:** The Town Clerk shall meet the members of the Board of Election Supervisors before polls open at 7:00 a.m. on Election Day to prepare the polling station. Preparation of the polling station includes:

1. Posting sample ballots and instructions outside and inside the polling station for public view. The sample ballot shall show names of declared candidates and questions, if any. The names of write-in candidates may be posted inside and outside the polling station, but not within the voting booth.
2. Demarcating a fifty (50') foot perimeter around the polling station as a "no electioneering" zone. No campaigning by candidates or their supporters will be allowed within this area. Candidates for election may cross this line only to cast their own vote.
3. Setting up a voter "check-in" station, including readying of the voter registration list and Voter Authorization Cards.
4. Completing set up of voting booths. If voting machines are used, the Chief Judge, with assistance from the voting machine vendor, shall verify that they are ready for use and counters set to zero. If paper ballots are used, members of the Board of Election Supervisors shall ensure that each booth has a pen for marking the ballot.
5. Setting up ballot boxes if paper ballots are used. Ballot boxes must be empty and unlocked for use. The Town Clerk shall keep the ballot box key in secure storage until the polls close.

B. **Polling Station Open:** The Chief Judge supervises the polling station and may assign members of the Board of Election Supervisors to their particular stations. Upon opening of the polls, all members of the Board of Election Supervisors shall take their assigned stations. At least two members of the Board of Election Supervisors shall staff the voter check-in/ registration tables. One member of the Board of Election Supervisors shall staff the voting booths and one shall staff the ballot boxes, if paper ballots are used. Physically disabled voters shall be assisted as prescribed in the Maryland Election Law Article, as may be amended.

The Chief Judge shall be responsible for provisional voting and ensure that residents, who are not on the voter registration list, are able to cast a provisional ballot. Provisional ballots are set aside for separate tallying. Votes remain provisional until the eligibility of the voter has been established by the Prince George's County Board of Elections.

The Town Clerk shall announce the closing of polls five minutes before 7:00 p.m. on Election Day. Any resident wishing to observe the tallying may remain inside the polling station when the doors are locked. No one shall be permitted to enter or re-enter the polling station while tallying is in progress.

C. **Vote Tallying:** All tallying of ballots shall be performed by the members of the Board of Election Supervisors in public view. Challenges to the count must wait until after the count is complete.

If voting machines are used:

1. The Chief Judge, with two other members of the Board of Election Supervisors, shall open the voting machines and unroll the tally sheets.
2. The machine count shall be verified by at least two members of the Board of Election Supervisors. Under the supervision of the Chief Judge, members of the Board of Election Supervisors shall tally record sheets from each voting machine. Once the machine votes have been tallied, the Chief Judge shall open the sealed envelopes with absentee ballots and count them. The absentee ballots shall be added to the tally of regular ballots. The result is compared with the tallied check marks on the County voter registration list and the Town supplemental voter registration list to ensure that the total number of voters agrees with the total number of ballots cast.
3. Provisional votes, cast by paper ballot, must be tallied separately, and returned separately to the Prince George's County Board of Elections to be certified.
4. Tally sheets shall be verified against the total count of the signed voter authorization cards, a count of check marks on the County voter registration list, and a count of checks on the Town supplemental registration list.
5. Voting machine tally sheets and absentee ballots shall be placed in envelopes, sealed, and signed across the seal by at least three members of the Board of Election Supervisors.
6. Voting machines shall be locked and sealed and keys placed in a sealed envelope for safekeeping until the voting machines are picked up by the vendor.

If paper ballots are used:

1. The ballot box key shall be returned to the Chief Judge by the Town Clerk to open the ballot boxes.
2. The Chief Judge shall remove ballots from the ballot box and organize them for tallying assisted by other members of the Board of Election Supervisors.
3. The Chief Judge shall read out aloud how each ballot was voted, including write-in votes and ballot questions (if any).
4. Two members of the Board of Election Supervisors will independently tally the votes cast for each candidate and results of each ballot question.
5. In the case of an irregular ballot, the Chief Judge shall consult with two other members of the Board of Election Supervisors to determine if the ballot is valid or spoiled in accordance with criteria detailed in the election procedures manual of the Town of Berwyn Heights. If spoiled, the ballot shall be marked "void" and set aside. A voided ballot shall be shown to any challenger, but shall not leave the hand of the member of the Board of Election Supervisors.
6. When all regular ballots are tallied, the Chief Judge shall open the sealed envelopes with absentee ballots and count them. The absentee ballots shall be added to the tally of regular ballots. The result is compared with the tallied check marks on the County voter registration list and the Town supplemental voter list to ensure that the total number of voters agrees with the total number of ballots cast.
7. Provisional votes shall be tallied separately and set aside until the qualification of each provisional voter can be verified.
8. Voted ballots shall be placed in envelopes, sealed and signed across the seal by three members of the Board of Election Supervisors. Said envelopes, marked voter registration list and Voter Authorization Cards shall be kept in a secure place until they are delivered to the Prince George's County Board of Elections for certification.
9. Tally sheets shall be verified, signed and dated by the Chief Judge and members of the Board of Election Supervisors. Tally sheets, together with spoiled ballots, those not distributed and not used shall be placed in envelopes, sealed, signed across the

seal by at least three members of the Board of Election Supervisors and returned to the Town Clerk.

- D. **Announcement of Election Results:** The Chief Judge shall announce the five candidates receiving the highest number of votes as Councilmembers-elect, with the candidate receiving the highest number of votes as Mayor-elect, and the candidate receiving the second highest number of votes as Mayor Pro Tem-elect. The Chief Judge shall also announce the results of any Ballot Questions.
- E. **Statement of Election Results:** The Chief Judge shall, within forty-eight (48) hours, present a Statement of Election Results to the sitting Mayor for his or her signature. The statement of election results shall be dated and signed by at least three members of the Board of Election Supervisors, placed in an envelope, sealed and signed across the seal by three members of the Board of Election Supervisors.
- F. **Reporting Election Results and Certification:** The Town Clerk shall deliver the Statement of Election Results, the marked voter registration list, Voter Authorization Cards, absentee and provisional ballots to the Prince George's County Board of Elections within four days after the election. The County Board of Elections will independently tally the votes, including confirmed provisional votes, and certify the election.

After tallying the votes, the Prince George's County Board of Elections will return the voter registration lists, Voter Authorization Cards, and voted ballots, which shall be retained by the Town for a period of at least six (6) months.

- G. **Runoff Elections:** If one or more Council seats, or the positions of Mayor and Mayor Pro-Tempore remain unfilled because of an equal number of votes being received by two or more candidates, a runoff election shall be held among those candidates for the Council Seat or seats remaining unfilled. Such election shall be held no later than the second Tuesday of June in accordance with the provisions of Chapter V of the Town Charter.

Section 8 Town Council Selections to Fill Mid-Term Vacancies

In the event a vacancy occurs on the Town Council during mid-term, the remaining councilmembers shall appoint a qualified resident to fill the vacancy in accordance with Section 309 of the Town Charter. The appointment must be made within forty-five (45) days of the occurrence of the vacancy and shall be for the remainder of the current term. The vacancy can be filled by public solicitation of applications or by appointment of a candidate who ran in the previous Town Council election. The swearing-in of an appointee shall take place at the earliest available Town meeting after an appointment has been made. The swearing-in shall mark the date at which an appointee becomes a full member of the Town Council with all attendant powers and duties.

- A. **Public Solicitation of Applications:** If appointment of a successor is made by public solicitation of applications, the vacancy shall be advertised as soon as feasible in the Town Bulletin, Town website, special mailing and/ or other suitable means of public outreach. The public notice shall state the deadline for submitting applications, and the qualifications for serving on the Town Council. After the deadline for submissions has passed, the Town's Ethics Commission shall review the Financial Disclosure Forms submitted by the applicants to ensure all comply with the requirements set forth in Ordinance 110 - Ethics. The Town Council shall set a

date for interviewing the qualified applicants. The interviews shall be conducted individually in executive session, which may be held during a regularly scheduled worksession, or a special meeting called for this purpose. Selection of the preferred candidate shall be made in executive session and announced in the next Town Bulletin and/ or by other suitable means of public outreach, as needed.

- B. **Appointment of previous Town Council candidate:** Alternatively, the Town Council may offer a vacant Council seat to a qualified candidate who ran in the immediately preceding election and received the next highest number of votes after the top five (5) vote getters. If the candidate accepts the offer, the selection shall be announced in the next Town Bulletin and/ or other suitable means of public outreach, as needed.
- C. **Special Election:** If a vacancy cannot be filled by appointment within forty-five (45) days of its occurrence, the Board of Election Supervisors shall call a special election. The special election shall not be held sooner than forty-five (45) days and not later than sixty (60) days after the occurrence of the vacancy. A public notice of such an election shall be given as soon as feasible by a special mailing and/ or by other suitable means of public outreach.
- D. **Multiple Town Council Vacancies:**
 - 1. In the event a second Town Council vacancy occurs within three (3) months of the first vacancy, the Town Council may offer the vacant seat to any of the other applicants for the first vacancy without initiating a new round of public solicitation of applications.
 - 2. If more than one (1) vacancy occurs at the same time, the Board of Election Supervisors shall call a special election, which shall not be held sooner than forty-five (45) days and not later than sixty (60) days after the occurrence of the vacancy.
 - 3. In the event that three (3) or more members of the Council are no longer active, the remaining members of the Town Council shall appeal to the District Court or the Circuit Court to appoint an Administrator to take charge of the Town Government and provide continued service, and call for an election in accordance with the provisions of the Town Charter and the State of Maryland's Election Law Article.
 - 4. In the event there are no active members remaining on the Council, five (5) concerned citizens qualified to vote may proceed as outlined in Section 8 D (3).

Section 9 Severability

If any section, subsection, paragraph, sentence, clause, or word contained in this Ordinance shall be declared invalid for any reason, such decision shall not affect the remaining portion of this Ordinance, which shall remain in full force and effect, and to this end the provisions of the Ordinance are hereby declared to be severable.

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