



# TOWN OF BERWYN HEIGHTS

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MAYOR  
Cheryl A. Jewitt

COUNCIL MEMBERS  
Jodie A. Kulpa-Eddy (Mayor Pro Tem)  
Patricia D. Dennison  
Christopher J. Rasmussen  
Gerald J. Shields

## ORDINANCE NO. 121

### AN ORDINANCE ESTABLISHING THE POWERS AND DUTIES OF THE TOWN COUNCIL, COUNCILMEMBERS, AND TOWN MANAGER FOR THE TOWN OF BERWYN HEIGHTS, MARYLAND

**WHEREAS**, Section 402 (A) of the Charter of the Town of Berwyn Heights vests the Mayor and Town Council with the authority to create, change or abolish offices and departments and assign personnel and functions to such offices and departments as they deem appropriate for the good governance of the Town; and

**WHEREAS**, the Mayor and Town Council of the Town of Berwyn Heights desire to change the title of 'Town Administrator' to 'Town Manager' to more accurately reflect the role and responsibilities of the position; and

**WHEREAS**, the Town Manager, in the role of Chief Administrative Officer (CAO) and Chief Financial Officer, is responsible for overall administration of the Town under the supervision of the Town Council; and

**WHEREAS**, the change in title supports the goal to move the Town towards a more unified organizational structure in which the Town Council, collectively and individually, focuses on setting policy and overall oversight of Town operations while the Town Manager supervises daily operations and ensures that the Town Council's goals, priorities and policies are executed.

### NOW, THEREFORE, THE AMENDED ORDINANCE READS AS FOLLOWS:

**SECTION 1: Town Council.** All legislative powers of the Town of Berwyn Heights shall be vested in the Town Council in accordance with the provisions of CHAPTER III. THE COUNCIL Section 301. Number, selection, Term. and CHAPTER IV. POWERS OF THE COUNCIL of the Town Charter of the Town of Berwyn Heights. The Town Council shall consist of five members who shall hold office for a term of two years beginning with the first Town Meeting following the Town election. The Town Council as the governing body shall act collectively as the chief executive officer for the Town government and retains any and all authority to set Town policies and priorities, and override any decision of the Town Manager, Department Directors, or employees.

**SECTION 2: Council Member as Department Head.** The Mayor may appoint, reassign, or remove an individual Council Member as department head of a Town department. Absent a Town Council decision, a department head may set policy for their individual department or core Town function, and oversee the execution of Town Council policy by his or her department, but not give operational directives.

**SECTION 3: Policy.** “Policy” shall mean a strategy or course of action, or a set of goals, objectives, or priorities established by the Town Council, Council Member Department Head, Town Manager, or a Department Director that governs and guides the specific execution of operations.

**SECTION 4: Authorization to Employ.** The Mayor and Town Council are empowered to employ a Town Manager who will serve at the pleasure of the Town Council and who will report and be accountable to the Town Council for Town government operations and for the implementation of Town Council goals, objectives, policies, and priorities.

**SECTION 5: Bond.** The Town shall furnish a surety bond in such amount as may be approved by the Town Council, such bond to be conditioned upon the financial integrity and faithful performance of the Town Manager and Chief Financial Officer duties. The cost of said bond shall be paid by the Town and may be part of a Town blanket dishonesty bond.

**SECTION 6: Compensation.** The Town Manager shall receive such compensation as the Town Council shall establish from time to time. The Town Council may enter into an employment agreement with the Town Manager that specifies in writing provisions, including but not limited to, establishing the level of compensation, specifying benefits including levels of support for the Town Manager’s continuing professional education and association activities, determining separation pay upon termination of employment, and defining other conditions of employment.

**SECTION 7: Chief Administrative Officer.** The Town Manager, under and subject to the direction of the Town Council, shall be the chief administrative officer (CAO) of the Town and shall be responsible to the Town Council for the proper administration of the affairs of the Town and Town government operations, for the execution of Town ordinances, for the compliance with appropriate federal and state laws, and for the implementation of Town Council goals, objectives, policies and priorities. The Town Manager shall serve as the Town’s chief financial officer (CFO), if so designated by the Town Council.

**SECTION 8: Acting Town Manager.** The Town Manager, after informing the Town Council, shall designate in writing a member of the Town’s senior staff to serve as Acting Town Manager to carry out the duties of Town Manager during the Town Manager’s absence, but excluding the chief financial officer’s duties. In the event of a prolonged absence, then the Town Council shall appoint an Acting Town Manager, whose office shall be temporary and who shall serve only until such time as the Town Manager is able to resume the duties of the office or a new Town Manager is appointed. Town Council may, as a standing policy, designate in advance an individual or position to serve as Acting Town Manager. The Town Council may also designate a different individual or position to serve as Acting Chief Financial Officer.

**SECTION 9: Appointing Power.** The Town Manager may appoint such assistants or employees as are necessary for the proper functioning of the Town, except that department directors, or a comparable position, shall be appointed by the Town Council.

**SECTION 10: Duties of Town Manager.** The Town Manager shall have the following duties:

- A. Supervise and ensure coordination of the activities of all departments, offices, or agencies of the Town, except as otherwise provided by law, and administer the affairs of the Town to ensure that Town business is accomplished in accordance with Town Council goals, objectives, policies, and priorities.
- (B) Prepare supporting documents for Town Council Budget Worksessions, regular Worksessions, Town Meetings, and special meetings under the direction of the mayor, who is responsible for setting meeting agendas; attend all Town Council meetings, and other official Town committee meetings as directed by the Town Council, except those from which the Town Council determines that attendance is not required because of a conflict of interest or other reasons. The Town Manager may take part in the discussion of all matters coming before the Town Council, or other official boards, commissions, or committees, but shall not have the right to vote. The Town Manager shall be responsible to notice all regular and special meetings of the Town Council in accordance with the Maryland Open Public Meetings Act.
- (C) Ensure proper maintenance, retention, disposition, and access to Town records and correspondence including minutes of all public meetings and executive session meetings in compliance with the Maryland Public Information Act.
- (D) Prepare and submit to Town Council by the date set by the Town Council a recommended annual budget for Town operations and a recommended capital program; and administer the approved budget after adoption.
- (E) Supervise and monitor the disbursement of Town funds in accordance with the Town Council's adopted budget.
- (F) Maintain a general accounting system as recommended by the auditor and in accordance with generally accepted accounting principles and the Government Accounting Standards Board rules, and account for the disbursement of all monies, and collect all revenues due the Town.
- (G) Report to Town Council periodically the financial condition of the Town.
- (H) Supervise, submit to Town Council, and make available to the public the required annual audit of Town finances; and prepare an annual report on the finances and administrative activities of the Town as of the end of each fiscal year.
- (I) Ensure proper preparation of grant and loan applications; administer grant and loan funds; and prepare appropriate reports for the Town Council and appropriate agencies.
- (J) Serve as Town's risk manager and procurer of Town Council authorized insurance policies.

- (K) Supervise and administer the procurement of commodities and services for all Town departments, offices and agencies, and promulgate purchasing rules that are consistent with Town Charter, Town ordinances, and state law.
- (L) Oversee the procurement and proper administration of information technology systems and hardware.
- (M) Serve as Town Human Resource Officer. Administer Town Personnel Manual in an equitable, fair, and objective manner. Recommend to Town Council additions, deletions, or changes to Personnel Manual and personnel rules and regulations deemed desirable to manage and improve the personnel system of the Town. Town Manager's Human Resource Officer's duties includes such things as:
  - 1. Maintain the position classification descriptions, the position classification plan, the pay plan, and conduct salary and benefit surveys.
  - 2. Review all employee performance evaluations with department directors, and Council Member Department Heads.
  - 3. Prepare a draft of each department director's and core function supervisor's performance evaluation for Town Council action.
  - 4. Oversee employee grievance, discipline, demotion, promotion, reprimand, suspension, termination, and the whistleblower protection process.
  - 5. Oversee administration of rules governing outside employment, and prevent nepotism and political activity of Town employees.
- (N) Ensure employment, promotion, compensation, discipline, reprimand, suspension or termination of all Town employees is done in a manner consistent with Town policies, and state and federal law; all actions related to directors or core-function supervisors shall be decided or approved by the Town Council while all binding actions related to other employees shall require advance prior approval of the Town Manager. Employees retain the right to appeal disciplinary actions or other matters to the Town Council.
- (O) Maintain an inventory of all real and personal property of the Town and location of such property. Town Manager shall be responsible for the care and custody of all Town property that is not assigned to some other agency or body for care and control.
- (P) Ensure that all franchises granted by the Town and all contracts with the Town are faithfully kept and performed by all parties thereto.
- (Q) Forward complaints about services provided by public utilities to the proper utility authorities.
- (R) Ensure fair and prompt handling of complaints concerning the administration of Town services and programs.
- (S) Evaluate Town projects, programs, agreements and services and make recommendations to Town Council on modifications and improvements thereto.
- (T) Advise the Town Council on such matters or actions deemed to be in the best interest of the Town.

- (U) Represent Town in its dealings with other governmental agencies and officials, businesses, not-for-profit organizations, residents, and the general public as appropriate or as designed by the Town Council.
- (V) Hold such other appointive offices as the Town Council may determine, and to faithfully and honestly discharge the duties and powers associated with such office.
- (W) Perform such other duties as may be required by the Town Council consistent with state statutes and ordinances of the Town.

**SECTION 11: Matters Directed to Town Manager's Attention.** Departments shall submit all operational, budget, and policy matters requiring Town Council action or attention to the Town Manager, who shall submit them to the Town Council with recommendations as may be deemed necessary. All formal departmental or employee requests to Town Council shall be submitted to the Town Manager in advance who shall provide instruction as to current policies and procedures, options, or actions.

**SECTION 12: Interaction.** The Town Manager shall work with each Department Head, department director, and core-function supervisor to ensure that department operations adhere to the policies established by Town Council and the Department Head, as appropriate. The Town Manager may overrule an operational directive of a Department Head if it is in conflict with standing Town Council policies or procedures. This matter shall be heard by the Town Council for a decision. Department Heads are encouraged not to give orders to subordinates of the Town Manager and to work with and through the Town Manager to accomplish their individual concerns and goals for their department.

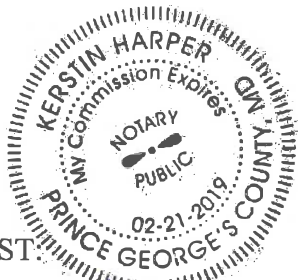
The powers and/or authority assigned to the Town Manager are not intended to diminish those powers otherwise assigned to other officers by statute or ordinance, including, but not limited to the Mayor, a Council Member, or Town Council as a whole.

**SECTION 13: Removal.** The Town Manager, department director, acting department director, or core-function supervisor may be removed in accordance with law by a majority vote of the sitting members of Town Council.

**NOW, THEREFORE, BE IT ORDAINED** that the Town Council of the Town of Berwyn Heights, Maryland this 9<sup>th</sup> day of May, 2018 does hereby adopt the above amendments to Ordinance 121 - Powers & Duties establishing the position of Town Manager; and

**BE IT FURTHER ORDAINED** that if any section or provision or parts thereof in this Ordinance shall be adjudicated to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of this Ordinance as a whole, or any other section or provision or part thereof; and

**BE IT FURTHER ORDAINED**, that the amended Ordinance 121 - Powers & Duties shall become effective on the 29<sup>th</sup> day of May, 2018, after being read at the April 11th, 2018 and the May 9<sup>th</sup>, 2018 Town meetings, pursuant to Section 311 of the Berwyn Heights Charter, unless within twenty (20) days after its passage a Referendum Petition is filed with the Town Administrator. If such a Petition is filed, this Ordinance shall be held in abeyance pending the outcome of a special election.



ATTEST:

*Kerstin Harper*

Kerstin Harper, Town Clerk

By Order of the Mayor and Town Council

Cheryl Jewitt  
Mayor, Town of Berwyn Heights

Adopted: 05/14/2014  
Effective: 06/04/2014  
Adopted: 05/09/2018  
Effective: 05/29/2018