



TOWN OF BERWYN HEIGHTS

5700 Berwyn Road
Berwyn Heights, Maryland 20740
Office: (301) 474-5000
Fax: (301) 474-5002
www.berwynheightsmd.gov

MAYOR
Cheryl A. Jewitt

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

ORDINANCE 101 - ANIMALS

AN ORDINANCE TO PROTECT TOWN RESIDENTS FROM THE PUBLIC RISKS AND NUISANCES POSED BY DOMESTICATED ANIMALS AND TO PROMOTE THE HEALTH, SAFETY AND WELFARE OF DOMESTICATED AND OTHER ANIMALS.

WHEREAS, Section 402 (B) of the Charter of the Town of Berwyn Heights vests the Mayor and Town Council with the authority to regulate the keeping of domesticated animals in the Town of Berwyn Heights; and

WHEREAS, the regulations set forth in Ordinance 101 seek to abate the public risks and nuisances related to the keeping of domesticated animals, such as noise, waste, and disease; and

WHEREAS, Ordinance 101 seeks to ensure the health and wellbeing of domesticated animals and the humane treatment of all animals in the Town of Berwyn Heights; and

WHEREAS, the existing Ordinance 101 was last amended in 1993; and

WHEREAS, the Town Council wishes to amend Ordinance 101 to align it with current Prince George's County code and current Town of Berwyn Heights Noise and Clean Lot Ordinances; and

WHEREAS, the amended Ordinance 101 adds basic animal welfare standards; and

WHEREAS, the amended Ordinance 101 revises procedures for the impoundment of animals, specifically, and for the enforcement of violations of the Ordinance, generally.

NOW, THEREFORE, the amendments are as follows:

Section 1. Purpose – It is the intent of the Town Council of Berwyn Heights to establish the following Animal Ordinance designed to protect Town residents from the risks and nuisances posed by public nuisance animals and public nuisance conditions, and to promote the health, safety, and welfare of animals within Town boundaries.

Section 2. Authority - The authority is provided for in Section 402 of the Town Charter of Berwyn Heights. The Town shall operate in conjunction with and support of the animal control program of Prince George's County and its current or successor management authorities.

Section 3. 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. The Town will include observations of animal activities in its regular patrols and respond to citizen complaints received regarding animals.

Section 4. 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. **Animal** shall mean every nonhuman species, both domesticated and wild, including but not limited to dogs, cats, livestock, and fowl.
- B. **Animal fighting** means any event that involves a fight conducted or to be conducted between at least two animals for purposes of sport, wagering, or entertainment; for example, dogfighting or cockfighting.
- C. **Animal owner or custodian** shall mean a person who keeps, has temporary or permanent custody, possesses, harbors, exercises control over, or has a property right in any animal. 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.
- D. **At-large** shall mean an animal not under physical restraint of a leash and off the premises of its owner or custodian.
- E. **Attack dog** shall mean a dog trained to attack on command.
- F. **Cat** shall mean any member of the domesticated feline species. The term "cat" shall not include wild or exotic felines.
- G. **Commission** shall mean the Prince George's County Commission for Animal Control or a Hearing Officer designated by Prince George's County or its successor body.
- H. **Disposition, or to "dispose of"** shall mean the adoption or placement as a pet in an approved home, humane administration of euthanasia, or, in the case of a wild animal, release into a suitable habitat.

- I. **Dog** shall mean any member of the domesticated canine species. The term "dog" shall not include wild or exotic canines.
- J. **Domesticated animal** means an animal of a species that has been bred, raised, and is accustomed to living in or about the habitation of humans, and is dependent on humans for food or shelter.
- K. **Fowl** shall mean any and all birds, domesticated and wild, that are used for food.
- L. **Keeping or harboring** shall mean the act of or the permitting by a property owner or occupant of feeding or sheltering any domesticated animal on the premises.
- M. **Livestock** shall include all domestic or domesticated bovine animals, equine animals, ovine animals, porcine animals, cervid animals, caprid animals, camelid animals, and enclosed domesticated rabbits or hares raised for human food or fiber.
- N. **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 humans.
- O. **Property owner or occupant** means any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the State, County or Municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court. **Occupant** means any individual living or sleeping in a building, or having possession of a space within a building.
- P. **Public nuisance animal** shall mean any animal that endangers the life or health of other animals or humans; or that substantially interferes with the rights of 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 that:
 - 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. chases vehicles; or
 - 5. 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
 - 6. 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
 - 7. causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored; or
 - 8. by virtue of the number or types of animals maintained, is offensive or dangerous to the public health, safety, or welfare; or

- 9. has been found by the Commission for Animal Control, after notice to its owner and a hearing, to be a public nuisance animal by virtue of being a menace to the public health, welfare, or safety; or
 - 10. attacks other domestic animals.
- Q. **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; for example, animal hoarding. A public nuisance condition shall be deemed to exist on any premises in which any animal is maintained, kept, or harbored under conditions that constitute cruelty to such animals, or where the animal maintained, kept or harbored is a public nuisance animal.
- R. **Sanitary** shall mean a condition of good order and cleanliness which minimizes the probability of transmission of disease.
- S. **Wild/exotic animals: Exotic animal** shall mean any animal of a species that is not indigenous to the State of Maryland and is not a domesticated animal and shall include any hybrid animal that is part exotic animal. **Wild animal** means any animal that is not included in the definition of "domesticated animal" and shall include any hybrid animal that is part wild animal.
- T. Vicious or dangerous animal shall mean any animal that 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 has on one or more occasions caused significant injury to person or domesticated animals may be deemed to be a vicious animal.

Section 5. Applicable Selected Prince George's County Codes

- A. The Prince George's County Animal Management Division enforces licensing and permits, animal cruelty concerns, and the prohibition on the keeping of wild/exotic animals, animal fighting, attack dogs, and vicious or dangerous animals.
- B. The Prince George's County Code, Subtitle 3, Divisions 1 through 7, as may be amended from time to time, is hereby incorporated by reference and adopted in this Ordinance to the extent it is not inconsistent herewith. When a conflict exists between the County Animal Control Code and a Town Ordinance, the Town Ordinance shall prevail. References in the Prince George's County Animal Control Code to authorized County representatives shall be interpreted to include the applicable Town officials.
- C. The Prince George's County Department of Permitting, Inspection and Enforcement or its successor agency enforces the Zoning Ordinance regarding animal activities (e.g., boarding/breeding kennels, livestock, fowl) allowed within the Town.
- D. The Prince George's County Zoning Code, Subtitle 27, as may be amended from time to time, is hereby incorporated by reference and adopted in this Ordinance to the extent it is not inconsistent herewith.

Section 6. Standards. The following are minimum standards for enforcement of anti-cruelty laws for pets. When a conflict exists between the Prince George's County Animal Management Division's Proper Shelter and Care Guidelines and this Town Ordinance, the more stringent standard shall prevail:

A. Food

1. Food shall be wholesome, palatable and free from contamination.
2. Food shall be of sufficient quantity and nutritive value to maintain all animals in good health.
3. The diet shall be prepared with consideration for the age, species, condition, size and type of animal.
4. Animals shall be fed at least once a day except as dictated by hibernation, veterinary advice or other professionally accepted practices for the safety and well-being of the animal.
5. All food receptacles shall be kept clean and sanitary.
6. If more than one animal is fed at one time or in one place, it shall be the responsibility of the animal owner/custodian to ensure each animal receives enough.

B. Drink

1. Proper drink shall mean clean, potable water available at all times.
2. Exceptions shall be determined by a veterinarian.
3. All water receptacles shall be kept clean and sanitary.

C. Air

1. Holding areas shall be constructed to allow the free flow of fresh air.

D. Space

1. All animals must be able to stand to their full height, stretch out, turn around, lie and make normal postural and social adjustments comfortably and with adequate freedom of movement to maintain physical condition.
2. Unless animals are allowed to exercise freely twice a day for periods of at least one hour, the square footage of the area of confinement must equal the length of the animal multiplied by six (6). The area must be of sufficient height to allow the animal to stretch to its full height.
3. If an animal is confined by a chain or tether, the length of the chain or tether shall be fifteen (15) feet, and shall be arranged so that it cannot become entangled.
4. The above space standards may not be sufficient for certain animals. Inadequate space may be indicated by evidence of poor physical condition and stress or abnormal behavior patterns such as pacing or circling within the area of confinement.

E. Light

1. All animals must have five (5) hours of light every day, except as dictated by hibernation, veterinary advice or professionally accepted practices for the safety and well-being of the animal.
2. Lighting of primary enclosures shall be designed to protect the animals from excessive illumination. The duration of illumination shall be appropriate for the species involved.

F. Indoor Shelter

1. Facilities shall be sufficiently regulated by heating or cooling, if necessary, to protect animals from extremes of temperature and to provide for their health and comfort.
2. The ambient temperature shall not be allowed to fall below or rise above temperatures compatible with the health and comfort of the animal.
3. Facilities shall be adequately ventilated by natural or mechanical means to provide for the health of and to prevent the discomfort of the animal at all times. Such facilities shall be provided with fresh air either by means of windows, doors, vents, fans or air conditioning and shall be ventilated so as to minimize drafts, odors and moisture condensation.

G. Outdoor Shelter (General)

1. Dogs and cats kept outdoors must be acclimated to the temperatures prevalent in the area. Certain breeds of dogs or cats that cannot tolerate the prevalent temperatures in the area without stress or discomfort (such as short-haired breeds in cold climates) and sick, infirm, aged or young dogs or cats should not be kept in outdoor facilities, unless that practice is specifically approved by a veterinarian.
2. All animals must have access to shade from the sun.
3. All animals kept outdoors must have access to a weatherproof shelter, that is, a structure of no less than three sides, a roof and floor. The shelter must contain clean, dry bedding material (such as cedar chips, hay or straw) if the ambient temperature is below 50 °F (10 °C).
4. Structures shall be windproof and moisture proof.
5. In cases where there is no artificial heat source, structures must be small enough, if appropriate, to allow the animal to maintain its body heat and to warm the interior of the structure.
6. No outdoor shelters shall have any interior metal surfaces.
7. **DOGS:** The shelter for a dog shall have a solid floor raised at least two (2) inches from the ground. The entrance shall be covered by a flexible, windproof material or a self-closing door.
8. **CATS:** Cats maintained outside must be confined on their owner's property and provided with proper food, water, and shelter.

H. Veterinary Care

1. **EMERGENCY TREATMENT:** An animal shall be afforded immediate veterinary care if it is known or suspected to have suffered an accident or has been struck by a vehicle, person or heavy object with force or frequency sufficient to cause internal or external injury, and exhibits signs of such injury such as vomiting, diarrhea, shock, temperature fluctuation, tremors, swelling, broken bones, open wounds, inability to eat, blistering, irregular or abnormal breathing, partial or total paralysis, irrational behavior, discharge or bleeding from any orifice, or other such sign. Animals exhibiting symptoms of bloat shall receive immediate veterinary care.
2. **TREATMENT WITHIN FORTY-EIGHT HOURS:** An animal shall be afforded veterinary care if it has exhibited any sign of illness, severe parasitic infestation or disease such as infection, orificial bleeding or discharge, failure to void, loss of appetite, moaning, weight loss, abnormal skin condition or hair loss, tremors,

temperature fluctuation, crying, vomiting, diarrhea or any other such sign over a period of forty-eight hours or more.

3. INCIDENTAL: If an animal has an abnormal growth of a size or weight or in such a position as to impede the animal in any way, such condition shall be brought to the attention of a veterinarian.

I. Sanitation

1. Indoor enclosures shall receive cleanings as necessary to remove excreta, dirt and debris so as to minimize disease hazards, odor and danger to the animal.
2. Exterior property areas shall be maintained free from imminent threats such as domestic animals in a contaminated or soiled environment; hazardous threats such as an excessive accumulation of domestic animal feces; and kept in a reasonably clean and sanitary condition in accordance with Ordinance 107.
3. 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 animal owner or custodian to immediately remove the animal's excrement shall be a violation of this Ordinance. The animal owner or custodian shall be liable for any damages.

J. Grooming

1. Animals with coats requiring grooming to prevent severe matting, filth accumulation and/or skin diseases shall be groomed in accordance with normal and accepted grooming practices.

K. Restraint

1. Dogs and cats are not allowed to be maintained on a balcony or to be on a balcony unless accompanied by a human adult.
2. Animal owners or custodians within the municipal limits of the Town of Berwyn Heights must confine his or her animal securely on his or her property or place of residence. Animals not on the property must be 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.

L. Noise

1. Sounds from dogs, birds or other animals that cause frequent or sustained noise are prohibited if they produce audible sound beyond the property line of the property on which these activities are being conducted or from the public right-of-way, and exceed the decibel levels for the time period set forth and specified in Ordinance 153.
2. Animals that cause frequent or continued noise will not be allowed to disturb the comfort or repose of any person in the vicinity. Any person disturbed by a noisy

animal must advise the owner. If the public nuisance condition is not abated, the person may then notify the Commission to file a complaint.

Section 7. Enforcement

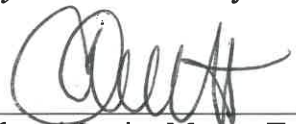
- A. Whenever the Code Compliance Officer or other designated Town representative determines there are reasonable grounds to believe that there has been, or is, a violation of any provision of this Ordinance or of any rule or regulation adopted pursuant thereto, the Code Compliance Officer or designated representative may give notice of such alleged violation to the person or persons responsible. Section 6. I. b. and Section 6. L. a. refer to other applicable Town Ordinances and notice provisions in those Town Ordinances may be enforced accordingly.
1. Such notice shall:
 - a Be verbal or in writing;
 - b Include a description of the animal and/or real property sufficient for identification;
 - c Include a statement of the reason why the notice is being issued with reference to the section of this ordinance violated.
 2. Delivery of the notice shall be to the animal owner or custodian, or property owner or occupant shall be by any of the following means:
 - a Personally, or by leaving the notice at the usual place of abode of the property owner or occupant with a person of suitable age and discretion who shall be informed of the intent thereof; or
 - b By appropriate means of mail addressed to the animal owner or custodian, property owner or occupant at the address whereon the alleged violation was observed; or
 - c By posting a copy of the notice in a conspicuous place on the premises affected by such notice.
- B. The Code Compliance Officer or other designated Town representative may contact Prince George's County Animal Control to investigate any animal kept in violation of this Ordinance, or to impound any animal found running at-large, or vicious or dangerous animal. Any animal turned over to the proper county authorities will be disposed of according to Prince George's County law. Any investigation by Prince George's County authorities will be handled in accordance with Prince George's County law.
- C. Any animal that is found at-large or running at-large and, in the judgment of an Animal Control Officer or Police Officer is deemed to be an immediate and actual threat to the health and safety of any person (i.e., an animal that is vicious or dangerous, and cannot be immediately captured, tranquilized and impounded), may be destroyed by a Prince George's County Animal Control Officer or any Police Officer.
- D. The timeframes for issuing the initial notice, subsequent notices and assessing penalties and fines for any person or persons found violating the Clean Lot Ordinance 107 or Noise Ordinance 153 shall be as stated in those Ordinances.

Section 8. Severability - 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.


NOW, THEREFORE, BE IT ORDAINED that the Town Council of the Town of Berwyn Heights, Maryland this 9th day of May, 2018 does hereby adopt the above amendments to Ordinance 101 - Animals; and

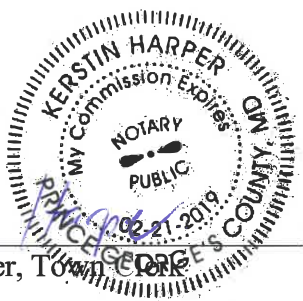
BE IT FURTHER ORDAINED, that the amended Ordinance 101 - Animals shall become effective on the 29th day of May, 2018, after being read at the March 14th, 2018 and the May 9th, 2018 Town meetings, pursuant to Section 311 of the Berwyn Heights Charter, unless within twenty (20) days after its passage a 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.

By Order of the Mayor and Town Council


Cheryl Jewitt, Mayor, Town of Berwyn Heights

ATTEST:


Kerstin Harper, Town Clerk



Adopted: 9/10/1980
Effective 9/10/1980
Amended: 1/13/1993
Effective: 2/2/1993
Amended: 4/11/1993