



# Town of Berwyn Heights

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

## ***ORDINANCE 111 – MUNICIPAL INFRACTIONS***

### **Section 1. Definitions**

- A. **Municipal Infraction** - A municipal infraction is any violation of Town Ordinances which violation has been specifically declared to be a municipal infraction. For purposes of these ordinances, a municipal infraction is a civil offense. The word infraction used in these ordinances means municipal infraction.
- B. **Misdemeanor** - A misdemeanor is:
1. A criminal offense, not amounting to a felony, arising from a violation of a law of the State, which violation is defined as a misdemeanor; or
  2. Unless otherwise specified, a violation of any law of the Town of Berwyn Heights. All violations of Town Ordinances shall be treated as misdemeanors, unless specifically declared to be infractions.

### **Section 2. General Penalties**

- A. **Infraction.** - Any person found guilty of violating a provision of the Town Ordinances, which violation is an infraction as declared (\$100.00) dollars. The fine shall be paid by the offender to the Town within twenty (20) calendar days of receipt of a citation. Repeat offenders may be assessed a fine not to exceed two hundred (\$200.00) dollars for each repeat offense. Each day a violation continues shall, unless otherwise provided, constitute a separate or repeat offense.
- B. **Misdemeanor.** Unless otherwise provided herein, any person found guilty of violating any provision of the Town Ordinances, which violation is a misdemeanor as defined herein, shall be subject to a fine not to exceed one hundred (\$100.00) dollars and imprisonment not to exceed thirty (30) days or both such fine and imprisonment. Each day such violation continues shall constitute a separate offense.

### **Section 3. Declaration as Infraction; Fine**

The Mayor and Town Council shall, by official act, declare the violation of which ordinance or ordinances shall be an infraction, or infractions, and for each such violation a specific fine shall

be set. This fine shall never exceed one hundred (\$100.00) dollars for any single, initial violation or two hundred (\$200.00) dollars for each repeat or continuing violation. The fine shall be expressed as a discrete amount rather than being expressed in terms of a maximum or minimum amount. The authority to declare infractions and set fines shall not be delegated by the Mayor and Town Council to any other administrative or legislative body.

#### **Section 4. Issuance of Citation**

Those enforcement officials authorized by the Mayor and Town Council to enforce Town Ordinances may deliver a citation to any person alleged to be committing an infraction. A copy of the citation shall be retained by the Town and shall bear the certification of the enforcing official attesting to the truth of the matter set forth in the citation. The citation shall contain at a minimum the following information:

- A. Name and address of the person charged.
- B. The nature of the infraction
- C. The location and time the infraction occurred, or was observed.
- D. The amount of the infraction fine assessed.
- E. The manner, location and time in which the fine may be paid to the Town.
- F. The right of the accused to stand trial for the infraction.

#### **Section 5. Payment of Fine**

The fine for an infraction shall be as specified in the law violated. The fine is payable by the recipient of the citation to the Town within twenty (20) calendar days of receipt of the citation.

#### **Section 6. No Formal Hearing by Town**

The Town shall not conduct any formal hearing for those persons in receipt of a citation of infraction. Any offender so cited may pay the fine as indicated in the citation or elect to stand trial for the offense. This provision shall not prevent an offender from requesting, either personally or through an attorney, additional information concerning the infraction.

#### **Section 7. Election to Stand Trial**

A person receiving the citation for an infraction may elect to stand trial for the offense by notifying the Town in writing of the person's intention of standing trial. The notice shall be given at least five (5) days prior to the date of payment as set forth in the citation. Upon receipt of the notice of the intention to stand trial, the Town shall forward to the District Court having venue, a copy of the notice from the person who received the citation indicating the intention to stand trial. Upon receipt of the citation, the District Court shall schedule the case for trial and notify the defendant of the trial date. All fines, penalties or forfeitures collected by the District Court for violations of infractions shall be remitted to the general fund of the Town.

#### **Section 8. Failure to Pay Fine**

If a person receiving a citation for an infraction fails to pay the fine for the infraction by the date of payment set forth on the citation and fails to file a notice of the person's intention to stand trial for the offense, a formal notice of the infraction shall be sent to the offender's last known address.

If the citation has not been satisfied within fifteen (15) days from the date of the notice, the

offender shall be liable for an additional fine not to exceed twice the original fine. If, after thirty-five (35) days the citation has not been satisfied, the Town may request adjudication of the case through the District Court. The District Court shall promptly schedule the case for trial and summon the defendant to appear.

**Section 9. Conviction Not Criminal Offense**

Conviction of a municipal infraction, whether by the District Court, or by payment of the fine to the Town, is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.

**Section 10. Court Proceedings and Rights of Accused**

In any proceeding for a municipal infraction, the accused shall have the same rights as for the trial of criminal cases. The accused shall have the right to cross-examine witnesses against him or her, to testify or introduce evidence in the person's own behalf and to be represented by an attorney of the person's own selection and at the person's own expense.

Adopted 9 July, 1980

Effective 29 July, 1980