



Town of Berwyn Heights

5700 Berwyn Road
Berwyn Heights, MD 20740
Tel. (301) 474-5000
Fax (301) 474-5002

ORDINANCE 123 - COMMERCIAL DISTRICT

AN ORDINANCE TO ESTABLISH A COMMERCIAL DISTRICT AND A COMMERCIAL DISTRICT AUTHORITY WITHIN THE BOUNDARIES OF THE TOWN OF BERWYN HEIGHTS, MARYLAND.

Section 123-1. Definitions.

As used in this Ordinance, the following terms shall have the meanings indicated:

- A. Business Establishment – Any retail, service, rental, industrial, institutional, research, or professional business entity, association, corporation, or limited liability corporation or partnership.
- B. Commercial District Management Authority or "Authority" – The incorporated organization of persons who operate retail, service, rental or professional businesses or are the associated property owners of said businesses within the Commercial district. This organization will provide management and promotional services for the Commercial District.
- C. District – The Commercial District.
- D. Person – Any individual, firm, corporation, partnership or joint venture.
- E. Private Business Sector – The separation of the business district from the government.

Section 123-2. Purpose.

The purpose of the Commercial District Management Authority hereby established shall be as provided in Article 23A Section 2(35) of the Maryland Annotated Code as follows:

- A. Promotion.
- B. Marketing.
- C. Providing security, maintenance and/or amenities within the District.

Section 123-3. Boundaries.

The Commercial District Management Authority Commercial District, for purposes of this Chapter, shall include all businesses within the following boundary: All properties on 55th Avenue between Berwyn Road and the City of College Park city line; 5411 Berwyn Road; all properties on Ballew Avenue between Berwyn Road and Branchville Road; all properties on Branchville Road between Ballew Avenue and Greenbelt Road; all properties on the north side of Greenbelt Road from the bridge over the railroad tracks to Branchville Road; all properties on

the south side of Greenbelt Road from the bridge over the railroad tracks, going eastbound on Greenbelt Road, in the 5500, 5600, 5700, 5800, 5900, 6000, 6100, 6200 and 6300 blocks of Greenbelt Road to Edmonston Road; Edmonston Road southbound to Seminole Street; westbound on the north side of Seminole Street to 57th Avenue; northbound on 57th Avenue, and returning to Greenbelt Road; and any other areas as may be amended from time to time. The Commercial District Management Authority Commercial District specifically excludes any residential properties which may be within its boundaries.

Section 123-4. Commercial District Management.

Commercial District Management Authority: A business management authority of the Commercial District comprised of the licensees of the District shall be incorporated under the laws of Maryland, and a copy of its Charter and bylaws shall be filed with the Town of Berwyn Heights.

- A. The Authority shall be governed by a seven-member Board of Directors, which shall meet at least quarterly. Four (4) members shall be business owners or operators or the commercial property owners or their designees appointed by the Mayor with the consent of the Town Council; One (1) member shall be a Town Councilmember as appointed by the Mayor; One (1) member shall be a resident of the Town of Berwyn Heights appointed by the Mayor with the consent of the Town Council; One (1) member shall be appointed at large by the Mayor with the consent of the Town Council. The CDMA Administrator as designated by the Town Council shall serve as an ex-officio member of the Board.
 1. Members shall be appointed to serve 3 years with any vacancies to be filled as directed above.
- B. One hundred percent (100%) of any District taxes or District fees collected pursuant to 123-5 and 123-6 shall be expended by the Authority.
- C. The Authority shall submit for final approval an annual budget to the Mayor and Town Council by March 1st of each year. The Town Council shall accept or reject the proposed budget without amendment. All advertising contracted for, by the Authority, shall be at least fifty percent (50%) generic, in that it advertises the District as a whole. This requirement shall be met on a yearly basis and does not necessarily apply to individual advertisements. The sum to be determined by dividing the total generic advertising cost by the total budget for advertising. Any disputes in calculations shall be settled by the Mayor and Town Council.
- D. Insofar as the Town is the tax collecting authority for the District, any special tax or fee increase levied by the Authority shall remain invalid until approved by the Mayor and Town Council.
- E. Any amendments to the Charter or bylaws contrary to the provisions of this Ordinance are invalid until approved by the Mayor and Town Council.
- F. The Commercial District Management Authority Board of Directors shall serve and fulfill the duties and responsibilities of District Advisory Committee of the Special Public Safety Taxing District as set forth in Ordinance 132.

Section 123-5. License required; fee; transferability.

- A. No person shall operate any business establishment within the District without obtaining an annual business license from the Town of Berwyn Heights.
 - 1. Business Licenses are governed under Ordinance 105 and any fees collected under the provisions of Ordinance 105 shall continue to be deposited in the Town's General Fund. Business Licensing fees assessed in addition to the requirements of Ordinance 105 shall be subject to the provisions of this Ordinance.
- B. Any fee or District tax for the Commercial District shall be as set forth on file in the Office of the Town Administrator. The annual fee schedule may be amended by the Mayor and Town Council on the advice of the Authority's Board of Directors.
- C. The CDMA Administrator shall collect any fees from the responsible person of each business establishment. Any special tax or levy applied to the District shall be levied by the Town Council as prescribed by the Maryland Annotated Code. Subject to all applicable provisions of other Ordinances of the Town of Berwyn Heights, statutes of Maryland and laws of the federal government, the Commercial District fees shall be transferable, upon written notice to the CDMA Administrator, and shall be renewable from year to year during the continuous operation of the District Authority.
- D. In the event that any person commences business operation in the Commercial District subsequent to July 1st in any year, the CDMA Administrator may prorate the amount of the fee due and payable based on the number of months of operation during the licensing year.

Section 123-6. Collection and distribution of fees.

- A. The Treasurer shall maintain a special fund account for the Commercial District Management Authority, and said special fund shall be for receipt of funds collected by the Town for CDMA expenses.
- B. The Treasurer, with the approval of the Mayor and Town Council, may set a reasonable fee to be charged to the District's special fund for the collection, accounting and administrative services performed by the Town, in an amount not to exceed the actual cost of services. The CDMA Administrator will transfer credits to the special fund from the CDMA account for any actual costs incurred.
- C. The CDMA Administrator shall maintain a checking account for the Commercial District Management Authority, and said account be credited with the fundraising revenues and state grant funds.
- D. The fund comprised of the license fees collected for the District in accordance with the Chapter shall be utilized solely for the purposes determined by the licensees, subject to the District's annual budget and guidelines in 123-4.

Section 123- 7. Penalties and interest.

Any person liable to pay the Commercial District fee who fails to pay the same within thirty (30) days after it is due and payable shall be subject to a civil penalty of ten percent (10%) of the fee and to interest at the rate of one and one-half percent (1.5%) per month, or a fraction thereof, in addition to the annual license fee. Failure to pay said penalty and interest when due shall subject

the violator to civil prosecution, including possible resulting liens, payment of court costs and reasonable attorney's fees.

Section 123-8. Other applicable provisions.

Any person who owns or operates a business in the Commercial District shall be subject to all applicable provisions of all other Ordinances of the Town of Berwyn Heights, statutes of Maryland and the laws of the federal government.

Section 123-9. Rules and regulations.

The Mayor and Town Council of the Town of Berwyn Heights are hereby authorized and empowered to make, adopt, promulgate and amend, from time to time, such rules and regulations as the Mayor and Town Council deem necessary or proper to carry out and enforce the provisions of this Chapter and to define or construe any of the terms or provisions of this Ordinance.

Section 123-10. Funds to be used for purposes stated.

Any fees imposed under this Chapter shall be used only for the purpose stated in this Chapter and may not revert to the general fund of the Town of Berwyn Heights so long as the CDMA remains in operation as approved by the Mayor and Town Council under the provisions of this Ordinance.

Section 123-11. Competition with private sector prohibited.

The Authority established pursuant to this Ordinance may not exercise the power of eminent domain or purchase, sell, construct or, as a landlord, lease office or retail space or, except as otherwise authorized by law, engage in competition with the private sector as defined in 123-1 of this Ordinance.

Section 123-12. Licensing period; bills.

For the purpose of the Commercial Business District specified in this Chapter, the licensing period shall be July 1st through June 30th of each year. Bills for fees shall be issued at least thirty (30) days prior to July 1 of each year or as far in advance of July 1st as possible and shall be due and payable thirty (30) days from the date of billing.

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