



Town of Berwyn Heights

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ORDINANCE 107 - CLEAN LOT

Section 1. Purpose and Authority

- A. The purposes of this Ordinance are to establish standards for the maintenance of residential properties in the Town of Berwyn Heights, and to prevent conditions that threaten public health, safety or welfare of residents of, or visitors to, the Town of Berwyn Heights. The Ordinance also establishes a system of notifications and penalties for violations to enforce the standards and a process to appeal any penalties imposed.
- B. The authority to provide for the protection of health, safety, comfort, convenience, and welfare of Town of Berwyn Heights residents and visitors is provided in *Section 401 – General Powers* of the Charter of the Town of Berwyn Heights.
- C. The authority to enact such regulations is provided in *Section 402 - Specific Powers of the Council* of the Charter of the Town of Berwyn Heights.
- D. The authority to impose fees and penalties for violating the regulations is provided in *Section 403 - Enforcement* of the Charter of the Town of Berwyn Heights.

Section 2. Applicability of Ordinance

The provisions herein shall apply to all residentially zoned real property located within the corporate limits of the Town of Berwyn Heights, whether improved or unimproved.

Section 3. Definitions

In this Ordinance, the following words have the meanings indicated. Where terms are not defined, they shall have their ordinarily accepted meanings such as the context may imply.

- A. Abandoned, junked, wrecked, or non-road worthy motor vehicle means any motor vehicle which is unregistered, improperly registered, or which is without current State of Maryland license tags unless the State of Maryland expressly exempts such vehicles from registration requirements; bears the license tags of another vehicle; is disabled or inoperable; is dismantled or partially dismantled; is substantially damaged or in disrepair; or is unable to pass inspection by the Maryland Motor Vehicle Administration.
- B. Accessory structure means a building or structure, retaining wall, wall or fence that is incidental to the main building, located on the property.

- C. Agent means any person or company designated by the property owner to act for them.
- D. Bamboo means any of the tall, fast-growing grasses with woody stems found in tropical and subtropical to mild temperate regions that make up the subfamily Bambusoideae, family Poaceae.
- E. Debris means any quantity or combination of litter, rubbish, garbage, tree limbs or branches, or motor vehicle parts.
- F. Exterior property area means all areas external to improvements on the property or on unimproved property including the Town right-of-way and adjacent street curb and gutter. Exterior property area specifically excludes any trees along the Town right-of-way.
- G. Garbage means putrescible animal, food and vegetable wastes resulting from the handling, preparation, cooking, or consumption of food.
- H. Hazard means a situation, condition or action by a person that creates an environment that is unsafe or threatens public health, safety, or welfare.
- I. Imminent threat means a situation, condition, or action by a person that creates an environment that immediately threatens public health, safety or welfare if not immediately remedied.
- J. Invasive plant species means a species that is non-native to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm, or harm to human health as the National Invasive Species Council, the Maryland Invasive Species Council or any other State-established list the Town Administrator may determine is appropriate, or the U.S. Department of Agriculture may so identify.
- K. Litter means all combustible and noncombustible waste materials, except garbage; and the term shall include, but not be limited to, appliances, building, construction or remodeling materials or waste, bulk refuse, electronics or electronic recyclables, hazardous material or waste, household refuse, refuse, trash and yard waste, excluding organic compost piles, that is thrown, deposited or stored in or on private property or creates a nuisance or a threat to public health, safety and welfare.
- L. Multiple Repeat Violator means any person that has been noticed for three or more violations of this Ordinance in an eighteen month (18) period.
- M. Property Owner means one who has complete dominion over a particular property and in whom legal or equitable title rests, when applied to a building or land. Property Owner means any part owner, joint tenant in common, tenant by the entirety, or joint tenant, of the whole or part of such building or land.
- N. Paved Parking Area means any asphalt, bluestone, bricks, brick pavers, pervious pavers, crushed gravel, poured concrete, other hard rock surface or other masonry-like material completed in a professional manner, rolled to a smooth or level surface and maintained free of loose materials or excessive vegetative growth, situated on the property behind the property line and located and accessed in accordance with the provisions of the Prince George's County Zoning Ordinance.
- O. Person means any individual, natural person, legal entity, joint stock company, partnership, voluntary association, society, club, firm, company, corporation, business trust, organization, owner, occupant, or any other group acting as a unit, principal or agent, or the manager,

lessor, lessee, agent, servant, partner, member, director, officer or employee of any of them including an executor, administrator, trustee, receiver, or other representative appointed according to law.

- P. public nuisance means a situation, condition or action whereby a person creates an environment that is unsafe or threatens public health and welfare of the surrounding area or disturbs public peace.
- Q. Repeat Violator means any person that has been noticed for two violations of this Ordinance in an eighteen (18) month period.
- R. Rubbish means all non-putrescible combustible or non-combustible solid waste normally generated from running a household.
- S. Town Council means the Town Council for Berwyn Heights.
- T. Vacant Property means a residence that is not occupied on a regular and habitual basis by the property owner or any other person for the usual and customary purposes for which the residence is designed and lawfully permitted.
- U. Weeds means brush, plants, or any noxious growth that is injurious to public health, agriculture, recreation, wildlife or property. This definition excludes properly tended trees, ornamental plants, flowers, vegetable plants, or undisturbed woodland, not otherwise in violation of this Ordinance.

Section 4. Violations

The following are considered violations of this Ordinance:

- A. Condition of Exterior Property Areas.
 - 1. Imminent threat. All exterior property areas shall be maintained free from imminent threats. Examples of imminent threats include, but are not limited to, imminent fire hazards; spilled or improperly stored hazardous or toxic chemicals; domestic animals in a contaminated or soiled environment; and protruding nails.
 - 2. Hazard. All exterior property areas shall be maintained free from hazards. Examples of a hazard include, but are not limited to, spilled or improperly stored potentially harmful substances or pesticides; excessive accumulation of domestic animal feces; and a leaning fence.
 - 3. Non-Hazard. All exterior property areas shall be maintained in a reasonably clean and sanitary condition, free from any accumulation of debris. If pests are found, the property owner shall initiate the extermination process which shall not be injurious to the health of humans or domestic animals.
- B. Tall Grass and Weeds. All exterior property areas shall be properly maintained and no grass or weeds more than ten (10) inches tall, other than annual or perennial cultivated flowers, and plants, bushes, shrubs, garden and yard plantings, and trees properly maintained by the property owner or agent shall be allowed to accumulate or grow on any private property. No vegetation shall be allowed to grow in, or into, the public curb or gutter.
- C. Invasive plant species and Bamboo. Invasive plant species and bamboo plants are permitted provided that such invasive plant species and bamboo do not spread any closer than two (2) feet from the property owner's property line and are contained in such a manner as to not

spread to any other public or private property. Should any property owner or agent permit invasive plant species or bamboo to spread to any other public or private property, the property owner or agent from where the invasive plant species or bamboo has spread shall be responsible for the expense of its removal.

- D. Discarded Vehicles. It shall be unlawful for any person to discard any vehicle on any residential lot within the corporate limits of the Town.
- E. Vehicle Condition and Storage.
 - 1. No property owner or agent shall permit any vehicle to remain on such property in a condition that causes environmental harm or constitutes a breeding ground or habitat for mosquitoes, rats, or other vermin or pests.
 - 2. No property owner or agent shall permit an abandoned, junked, wrecked or non-road worthy vehicle as defined in this Ordinance to remain on such property, except enclosed in a garage; if such vehicle is in a driveway, it shall be properly and completely covered with a make, model and year custom-fitted or universal tightly fitted cover. Such vehicles, not enclosed in a garage, shall be limited to two (2) per residence.
 - 3. The Code Compliance Department and the Police Department are authorized to tow, impound, and send to a scrap processor a motor vehicle that has been declared an abandoned, junked, wrecked or non-road worthy vehicle, as defined in this Ordinance, only after notifying the property owner or agent of the property on which the vehicle is located and the motor vehicle owner, if known, by attaching a notice on the presumed abandoned, junked, wrecked or non-road worthy vehicle. The property owner or agent where the vehicle is located shall be responsible for all towing, storage, preservation, and any other charges related to the towing, impounding, and disposition of the vehicle.
- F. Motor Vehicle Parts. Exterior property areas shall not be utilized for the storage of motor vehicle parts.
- G. Building Materials. Exterior property areas shall not be utilized for the open storage of building materials, bathroom or kitchen fixtures, furniture, or lawn and garden equipment, irrespective of age or condition, except for routine garden maintenance equipment, outdoor lawn furniture, or materials used in construction or renovation projects with the appropriate Prince George's County and Town permits.
- H. Wood Storage. The storage of wood and other materials not prescribed by this Ordinance, including organic compost piles, shall be accomplished in a manner designed to avoid rodents, termites and other insect infestation. Wood shall be stored at least six (6) inches above the ground.
- I. Vegetation. All vegetation located on exterior property areas shall be maintained in such a way so as not to pose a danger or obstruction to adjoining property, pedestrians or vision of any motorist.
- J. Parking Surfaces.
 - 1. A paved parking area must be accessed by a curb cut unless granted an exception by the Town Council. The curb cut shall be constructed of poured concrete completed in a professional manner, situated totally within the public right-of-way, where applicable,

constructed in accordance with the Building Code of Prince George's County and located in accordance with the Prince George's County Zoning Ordinance. Grassy yards or other unpaved areas shall not be used for the parking of boats, motorcycles, motor vehicles of any type, trailers or similar items on a residential property except during a "snow emergency." All wheels of said vehicle(s) must be parked on an approved paved parking area in order to be in compliance with this Ordinance.

2. Vehicles, such as boats, trailers or other currently registered seasonal or recreational vehicles are exempted from this subsection when the vehicle's owner obtains a permit from the Town Administrator. Such permit shall be issued only for good cause and for a period of time not to exceed seventy-two (72) hours. Only through action of the Mayor and Council may a permit be issued for a period of time that exceeds seventy-two (72) hours. If there are extenuating circumstances, the Mayor and Council may grant a long-term permit for a period not to exceed one year and such permit may be renewed only by action of the Mayor and Council.

K. Building Security. No property owner or agent shall allow vacant structures or property to become a public nuisance, safety or health hazard, or be in a condition that could encourage trespassing.

L. Accessory Structures. No accessory structure shall pose a public health or safety hazard. All accessory structures shall comply with Prince George's County and Town Ordinances and any improvements to such accessory structures shall be duly permitted.

1. A Code Compliance Officer or other Town designated representative may require a property owner, at the property owner's expense, to repair or replace a fence not in compliance with the Prince George's County Zoning Ordinance. Any fence repair or replacement shall comply with provisions regarding location, height, and material in the Prince George's County Zoning Ordinance.
2. A Code Compliance Officer or other Town designated representative may require a property owner, at the property owner's expense, to repair or install a retaining wall along their property line if the Town Administrator makes a determination that rainwater or stormwater run-off discharging from their property is causing erosion or damage to adjoining properties or structures.

M. Premises Identification. All premises shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property.

Section 5. Enforcement

A. It shall be the duty and responsibility of the Town to enforce the provisions of this Ordinance as herein provided.

B. The Mayor and Council may waive applicability of this Ordinance to a property on application of the property owner or agent if:

1. Adequate notice is given in a form and manner specified by the Town;
2. The property owner or agent is afforded an opportunity to comment on the complaint either in writing or in person; and
3. The waiver would not threaten the health, safety or welfare of any resident or visitor.

Section 6. Notice of Violation of Standards and Penalty for Violations

- A. Whenever the Code Compliance Officer or other designated Town representative determines that 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 shall give notice of such alleged violation to the person or persons responsible therefore, as herein after provided unless otherwise noted in this Ordinance. Such notice shall:
1. Be in writing;
 2. Include a description of the real property sufficient for identification;
 3. Include a statement of the reason why the notice is being issued with reference to the section of this ordinance violated;
 4. Allow time, as set forth in this Ordinance, for the remedial action required to correct the violation; and
 5. Contain:
 - a. An outline of the remedial action which, if taken, will effect compliance with the provisions of this Ordinance and with the rules and regulations adopted pursuant thereto; and
 - b. The requirement that the violation must be fully corrected within the timeframe, as specified in Section 6. E. of this Ordinance. For each additional prescribed period that the violation is not fully corrected, notice will be issued of the fine amount as due and payable to the Town of Berwyn Heights. Fines for failure to take remedial action shall be established by resolution of the Town Council and shall not exceed the amount of one thousand dollars (\$1,000.00). Failure to pay fine(s) will result in the amount of any fine(s) imposed to be collected in the same manner as delinquent Town taxes.
- B. Service of notice that a dwelling is in violation shall be as follows:
1. By delivery to the property owner or agent personally or by leaving the notice at the usual place of abode of the property owner or office of the agent with a person of suitable age and discretion who shall be informed of the intent thereof; or
 2. By appropriate means of mail addressed to the property owner or agent at the address provided to the Town by the property owner or agent with postage prepaid thereon with return receipt requested, or if said letter is returned with receipt showing non-delivery, then
 3. By posting a copy of the notice in a conspicuous place on the premises affected by such notice.
- C. Town Abatement. The Town of Berwyn Heights shall have the right, after thirty (30) days of continued violation, to enter onto the premises of the property in violation to abate any violation. The costs of such abatement shall be charged to the property owner and be collected in the same manner as delinquent Town taxes. Abatement by the Town does not constitute compliance with this Ordinance. The Town's abatement procedure pursuant to Section 4. L. of this Ordinance may include the boarding up or razing of buildings or structures on the premises. Where a clean lot problem is refuse improperly put out for collection, the right to abate and collect costs will be as prescribed in Ordinance 117 – Refuse Collection.

D. Vacant Property.

1. Hazardous Situation. If a Code Compliance Officer or other Town designated representative has determined that the condition of a vacant property is hazardous to public health, safety or welfare, the Town of Berwyn Heights shall have the right to immediately enter upon the premises of the property in violation to abate any and all violations after complying with the notification provisions set forth in this Ordinance. Failure of the property owner to pay the Town for the cost of abatement within ten (10) days shall result in collection by the same manner as delinquent Town taxes.
2. Non-Hazardous Situation. If a Code Compliance Officer or other Town designated representative determines the condition of a vacant property constitutes a violation, a person shall be notified of the violation of this Ordinance by certified mail and have ten (10) days to correct the violation. If, after ten (10) days from the date of notification, the violation has not been corrected, the Town of Berwyn Heights shall have the right to enter upon the premises of the property in violation to abate any and all violations. Failure of the property owner to pay the Town for the cost of abatement within ten (10) days shall result in collection by the same manner as delinquent Town taxes.
3. The Code Compliance Department shall maintain a list of vacant residential property located within the Town.

E. Timeframe for Notice of Violation and Penalties. The definitions below and the following table provide categories of timeframes for issuing the initial violation notice, a subsequent violation notice and assessment of penalties and fines.

1. Immediate means a person shall be subject to an immediate fine, or have twenty-four (24) hours from the time the correction notice was issued to correct the violation at the discretion of a Code Compliance Officer or other designated Town representative only if the person is not a repeat violator or multiple repeat violator. If, after twenty-four (24) hours, the violation has not been corrected, another notice to correct which imposes a fine shall be issued. A recurring fine and notice to correct shall be issued in twenty-four (24) hour intervals thereafter until the violation is corrected.
2. Time Sensitive means a person shall have seven (7) days from the time the correction notice was issued to correct the violation. If, after seven (7) days, the violation has not been corrected, another notice to correct which imposes a fine shall be issued. A recurring fine and notice to correct shall be issued in seven (7) day intervals thereafter until the violation is corrected.
3. Regular Order means a person shall have fifteen (15) days from the time the correction notice was issued to correct the violation. If, after fifteen (7) days, the violation has not been corrected, another notice to correct which imposes a fine shall be issued. A recurring fine and notice to correct shall be issued in fifteen (7) day intervals thereafter until the violation is corrected.
4. Structural means a person shall have forty-five (45) days from the time the correction notice was issued to provide to an adequate plan to the Code Compliance Department to correct the violation. If, after forty-five (45) days, a person has not provided an adequate plan to the Code Compliance Department to correct the violation, another notice to correct which imposes a fine and affords the person thirty (30) days to provide the plan shall be issued. A recurring fine and notice to correct shall be issued in thirty (30) day intervals thereafter until the violation is corrected.

Category of Violation and Timeframes for Notice and Violation	Immediate	Time Sensitive	Regular Order	Structural
A. Condition of Exterior Property Areas				
1. Imminent threat	X			
2. Hazardous		X		
3. Non-Hazardous			X	
B. Tall Grass and Weeds		X		
C. Invasive Species and Bamboo			X	
D. Discarded Vehicles	X			
E. Vehicle Condition and Storage			X	
F. Motor Vehicle Parts		X		
G. Building Materials		X		
H. Wood Storage			X	
I. Vegetation			X	
J. Parking Surfaces	X			
K. Building Security		X		
L. Accessory Structures				X
M. Premises Identification			X	

Section 7. Repeat Violations

- A. Unless otherwise noted in this Ordinance, any two (2) violations occurring within an eighteen (18) month period shall be considered a repeat of any previous violation and the property owner or agent shall be deemed a repeat violator. Any repeat violations will be treated as a Time Sensitive violation, with the exception of a violation deemed to be an Immediate violation, pursuant to Section 6. Repeat violations are subject to Town abatement if not corrected within twenty-one (21) days. The costs of such abatement shall be charged to the property owner and be collected in the same manner as delinquent Town taxes.
- B. Unless otherwise noted in this Ordinance, any three (3) violations, with the exception of a violation of Section 4. K. Parking Surfaces, occurring within an eighteen (18) month period shall be considered repeats of any previous violation and the property owner or agent shall be deemed a multiple repeat violator. Any repeat violations will be treated as an Immediate violation pursuant to Section 6 of this Ordinance. Multiple repeat violations are subject to

immediate Town abatement. The costs of such abatement shall be charged to the property owner and be collected in the same manner as delinquent Town taxes.

Section 8. Right to Appeal

- A. Any person affected by any notice of violation may elect to appeal to the Town Council.
 - 1. Any person affected by any notice of violation which had been issued in connection with the enforcement of any provision of this Ordinance may request and shall be granted a hearing on the matter by the Town Council, provided that such person shall within ten (10) days after service of a notice of violation, file with the Town Council a signed written notice of appeal, requesting a hearing and setting forth a brief statement of the reasons therefore. Upon receipt of such notice of appeal, the Town Council shall set a time and place for such hearing and shall determine appeals as promptly as practicable. The Town Council, with a quorum present, shall hear appeals.
 - 2. After such hearing the Town Council may, by a majority of members present, affirm, amend, modify or withdraw the notice of violation that has been appealed. Any person who shall fail, refuse or neglect to comply with the decision of the Town Council shall be guilty of violating the provisions of this Ordinance.
 - 3. In the event a person wishes to contest the decision of the Town Council, he or she may notify the Town of his or her intent within ten (10) days after the rendering of the decision by the Town Council. In that event the Town shall issue a municipal infraction citation to the aggrieved person who may request a hearing in the District Court of Maryland pursuant to the Municipal Infraction procedure. The decision of the Town Council in such a case shall be stayed, pending a resolution by the District Court. To the extent of this Section of the Ordinance, all violations of this Ordinance will be considered municipal infractions of the Town.

- B. Failure to pay after adjudication or request of adjudication by the Town will result in the amount of any fine imposed and be collected in the same manner as delinquent Town taxes.

Section 9. 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.

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