



# Town of Berwyn Heights

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## ***ORDINANCE 134 –COMMERCIAL CLEAN LOT***

### Section 1. Purpose and Authority

- A. The purpose of this Ordinance is to protect the public health, safety, and welfare of residents, and visitors from excessive accumulation of debris and weeds on any improved or unimproved real property in the commercial, or industrial, or mixed-use zone as defined in the Prince George's County Zoning Ordinance or on any improved or unimproved real property assessed or taxed as commercial or industrial property; require owners of same to maintain the appearance, upkeep and good repair of structures on said property and the equipment on the structures and surrounding grounds; require owners to maintain the appearance, upkeep and good repair of surrounding grounds, parking lots, compactor, commercial garbage or refuse container or dumpster and garbage, refuse or recycling areas, enclosed or screened or not, including the aprons, curb, gutter and sidewalk in the State or Town right of way, and the line striping of directional arrows, handicap parking stalls, parking stalls and painting of curbs on-site; and require owners to keep property free of abandoned, junked, wrecked, untagged or unlicensed motor vehicles.
- 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 any improved or unimproved real property in the commercial, or industrial, or mixed-use zone as defined in the Prince George's County Zoning Ordinance or to any improved or unimproved real property assessed or taxed as commercial, industrial, or mixed-use property located within the corporate limits of the Town of Berwyn Heights including the abutting State or Town right of way and adjacent apron, curb, gutter and sidewalk.

### Section 3. Prince George's County Zoning Ordinance and Regulatory Agencies

- A. All provisions of the Prince George's County Zoning Ordinance, as may be amended, shall be taken into consideration when enforcing this Ordinance. The commercial zones in the Town of Berwyn Heights are C-O (Commercial Office), C-S-C (Commercial Shopping Center), and DDO (District Development Overlay). The industrial zone in THE Town of Berwyn Heights is I-1 (Light Industrial) and the mixed- use zone is M-X-T (Mixed Use Transportation Oriented).
- B. The Prince George's County Zoning Ordinance permitted uses permitted in for the Commercial Zones are listed in the Uses Permitted Tables of Part 6, Section 27-461 of the Zoning Ordinance; for the Industrial Zones in the Uses Permitted Table of Part 7, Section 27-473; and for the Mixed Use for the Mixed Use – Transportation Oriented Zone in the Uses Permitted Table of Part 10, Section 27-547, as may be amended.
- C. The rules and regulations of the State of Maryland or Prince George's County shall be taken into consideration when enforcing this Ordinance.

### Section 4. Adoption of Standards by Reference

The International Code Council International Building Code, as amended from time to time, and the Maryland Rehabilitation Code, as amended from time to time, and as adopted by the State of Maryland, shall be the Official Building Codes of the Town of Berwyn Heights as applicable to the commercial, industrial, and mixed-use zoned properties.

### Section 5. 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. Words used in the present tense include the future; words used in the masculine gender include feminine and neuter; and the singular includes the plural and the plural the singular.

- A. Abandoned, Junked or Wrecked, or Non-Road Worthy Motor Vehicle means any motor vehicle or not-over-the-road construction, grass cutting or like equipment, 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 tag 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. Appurtenance or Appurtenant Structure means all exterior decorative, aesthetic or other devices such as, but not limited to, cupolas, flower boxes, signage, that are attached to walls or railings, other parts of the structure, and exterior of the structure, which shall be maintained in a safe and weather-resistant condition.
- E. 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.
- F. Extermination means the control and elimination of insects, rats or other pests by eliminating their harborage places, by removing or making inaccessible materials that serve as their food; spraying, fumigating, and trapping; or through any other elimination methods.
- G. Exterior Property Areas means all areas external to improvements on the property or on unimproved real property, including the State or Town right of way and adjacent street curb, gutter, driveway apron, and sidewalk. Exterior Property Area specifically excludes any trees along or in the State or Town right of way unless the property owner planted the trees.
- H. Debris means any quantity or combination of litter, rubbish, garbage, tree limbs or branches, or motor vehicle parts.
- I. Garbage means putrescible animal, food and vegetable wastes resulting from the handling, preparation, cooking and/or consumption of food.
- J. Graffiti means the drawings or inscriptions that have been scratched, painted, rubbed, etched, gouged, cut, or engraved, or built on any property, buildings or surface, which mar, blemish, deface, disfigure, blight, cause deterioration, damage, loss, erosion, mutilation, corrosion, or tarnish to said property, building or surface.
- K. Hazard means a situation, condition or action by a person that creates an environment that is unsafe or threatens public health, safety, or welfare.
- L. 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.
- M. Infestation means the presence within, or contiguous to, a structure or premises of insects, rats, vermin or other pests.
- N. 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.
- O. 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 public places or is thrown, deposited or stored on private property and creates a nuisance or a threat to public health, safety and welfare.

- P. 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 entireties, or joint tenant, of the whole or part of such building or land.
- Q. 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.
- R. 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.
- S. Premises means a lot, plot or parcel of land including any structures thereon.
- T. Public Nuisance means situation, condition or action whereby a person creates an environment that is unsafe or threatens the public health and welfare of the surrounding area or disturbs public peace.
- U. Repeat Violator means any person that has been noticed for two or more violations of this Ordinance in an eighteen (18) month period.
- V. Rubbish means all non-putrescible combustible or non-combustible solid waste normally generated from running a commercial or industrial business.
- W. Town Council means the Town Council for Town of Berwyn Heights.
- X. Weeds mean brush, grass, 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 6. 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; 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; overflowing dumpsters; and a leaning fence.
  3. Non-Hazard. All exterior property areas shall be maintained in a reasonably clean and sanitary condition and free from any accumulation of debris. All Public rights of way shall be cleared of snow and ice. 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 six (6) 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 apron, sidewalk, or in the State or Town right of way without prior Town Administrator approval.
- C. Invasive Plant Species and Bamboo. Invasive plant species and bamboo plants shall be prohibited.
- D. Discarded Vehicles. It shall be unlawful for any person to discard any vehicle on any commercial, industrial, or mixed-use premises 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 in the light industrial zone shall permit an abandoned, junked, wrecked, or non-road worthy motor vehicle to be kept on the premises unless there are provisions to the contrary in the Prince George's County Zoning Ordinance or a County or State agency regulation.
  3. No property owner or Agent shall permit an abandoned, junked, wrecked, or non-road worthy motor vehicle to remain on such property, with the exception of those enclosed in a garage, unless the vehicle is undergoing inspection at an authorized vehicle inspection station or is actively undergoing service repairs at a duly authorized service facility. 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. 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.

- G. Plantings in the Right of Way. All bushes, shrubs, trees and other plantings on the premises or in the State or Town right of way shall be maintained in an attractive, presentable appearance.
- H. 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 commercial, industrial, or mixed-use zoned property except during a "snow emergency" or where the Prince George's County Zoning Ordinance may permit such parking. 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.
- I. Building Materials. Exterior property areas shall not be utilized for the open storage of bathroom or kitchen fixtures, building construction materials, furniture, or lawn and garden equipment, irrespective of age or condition, except for outdoor lawn furniture or table and chairs for active restaurant facilities, or materials used in construction or renovation projects with the appropriate County and Town permits or where otherwise permitted in the Prince George's County Zoning Ordinance.
- J. Motor Vehicle Parts. exterior property areas shall not be utilized for the storage of motor vehicle except where otherwise permitted in the Prince George's County Zoning Ordinance.
- K. Wood Storage. The storage of wood and other materials not prescribed by this Ordinance, including 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.
- L. Condition of Public Amenities. All on-site aprons, curbs, gutters, sidewalks, parking lots, parking spaces, stairs, stormwater infrastructure, walkways and similar areas shall be kept in a proper state of cleanliness, have a maintained appearance, and be in good repair and structurally sound, and maintained free from hazardous conditions. The property owner shall maintain the appearance and keep in good repair all on-site line stripping of directional arrows, handicap-parking stalls, parking stalls, painted curbs and signage.

M. Structures and Accessory Structures.

1. Conditions. All structures and accessory structures shall be kept in a proper state of cleanliness, have a maintained appearance, be in good repair and structurally sound, painted, if appropriate, including all equipment on all structures, accessory structures and surrounding grounds and including, but not limited to, commercial garbage or refuse container or dumpster and garbage, refuse, recycling or rubbish areas, enclosed or screened or not, compactor, fences, garages, and walls or retaining walls of any type. All commercial garbage or refuse container or dumpster, compactor, and garbage, refuse, recycling or rubbish areas are to be screened from view of adjoining properties or street in accordance with the Prince George's County Landscape Manual.
2. Compliance with Rules, Regulations, and Codes. All property owners are required to maintain the appearance, upkeep and in good repair all structures and accessory structures on the property and the equipment on the structures and on the surrounding grounds in accordance with the rules and regulations adopted from time to time by the Town Council and the provisions of the International Code Council International Building Code of America, as may be amended from time to time, and the Maryland Building Rehabilitation Code, as may be amended from time to time.

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

O. Premises Grading. All premises shall be graded and maintained to prevent erosion of soil and to prevent the accumulation of stagnant water thereon or within any structure located thereon.

P. Compliance with County Zoning Ordinance. The Property Owner is required to comply with all provisions and uses permitted in the Prince George's County Zoning Ordinance, as may be amended.

Q. 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.

R. Construction Safety. All equipment, tools, and materials left at a project site shall be secured in a manner to protect public health, safety, and welfare.

Section 7. 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 8. 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 8. 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 premises 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 ten (10) days of continued violation, or one (1) day for immediate violations, 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 6. N. of this Ordinance may include the boarding up or razing of buildings or structures on the premises.
- 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 commercial, industrial, and mixed-use 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. 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. Regular Order 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. Structural means a person shall have thirty (30) 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 30 (30) 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.

<b>CATEGORY OF VIOLATION AND TIMEFRAMES FOR NOTICE AND VIOLATION</b>	<b>IMMEDIATE</b>	<b>REGULAR ORDER</b>	<b>STRUCTURAL</b>
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. Vegetation		X	
G. Plantings in the Right of way		X	
H. Parking Surfaces	X		
I. Building Materials		X	
J. Motor Vehicle Parts		X	
K. Wood Storage		X	
L. Condition of Public Amenities			X
M. Structures and Accessory Structures			X
N. Building Security	X		X
O. Premises Grading			X
P. Compliance with County Zoning Ordinance		X	
Q. Premises Identification		X	
R. Construction Safety		X	

### Section 9. Repeat Violations

Unless otherwise noted in this Ordinance, any two (2) or more 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 Regular violation, with the exception of a violation deemed to be an Immediate violation, pursuant to Section 8. 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.

### Section 10. Fines

The fine schedule for this Ordinance will be set from time to time by resolution of the Town Council.

### Section 11. Right to Appeal

- A. Any person affected by any notice of violation may elect to appeal to the Town Council.
- B. 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, 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.
- C. 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.
- D. 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.
- E. Failure to pay after adjudication or request of adjudication by the Town will result in the amount of any fine imposed being collected in the same manner as delinquent Town taxes.

Section 12. Interpretation and Waiver

- A. The Mayor and Town Council of Berwyn Heights shall decide questions of interpretation of this Ordinance.
- B. Upon written request, the Mayor and Town Council may waive or vary particular provisions of this Ordinance to the extent that the waiver is not inconsistent with Annotated Code of Maryland if geographic differences or unique local conditions justify the waiver and the waiver would not threaten the health or safety of a tenant or occupant.

Section 13. Rules and Regulations

The Town Council may pass such rules and regulations as are consistent with the purpose, intent and enforcement of this Ordinance.

Section 14. Severability

If any section or part of a section of this Ordinance shall be held invalid by a court of competent

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