

TOWN OF NORTH BRENTWOOD

EMERGENCY ORDINANCE NO: 2014-05

Introduced by: Councilmember Martha Cuffie

Seconded by: Councilmember Markel Day

Date of Introduction: June 16, 2014

An emergency ordinance amending Chapter IV “Traffic, Vehicles, and Transportation and Chapter VII “Public Health, Safety and Conduct,” of *The Code of Ordinances of the Town of North Brentwood, Maryland*, as amended, by amending or readopting said Chapters; by adding and adopting newly revised Section 4-2104 (Parking on Public or Private Property) of Chapter IV and newly adopted Article 6 (Property-related Public Nuisances) of Chapter VII declaring certain acts or omissions when committed or conditions when existing within the Town of North Brentwood to be or constitute public nuisances, and generally relating to the regulation, abatement and mitigation of public nuisances and storage or parking of vehicles.

WHEREAS, pursuant to § 601 of the Town Charter, the Council of the Town of North Brentwood (the “Town”) is empowered to, in addition to all the powers granted to the Council by the Charter or any other provision of law, exercise any power or perform any function which is not now or hereafter denied to it by the Constitution of Maryland, the Charter or any applicable law passed by the General Assembly of Maryland; and

WHEREAS, pursuant to § 602(27) of the Town Charter, the Council of the Town is further empowered to prevent, prohibit or abate by appropriate ordinance all nuisances in the Town which are so defined at common law, by this Charter, or by the laws of the State of Maryland or the Town; and

WHEREAS, the Town Charter, § 411(f) further authorizes in cases of emergency, that the provision that an ordinance may not be passed at the meeting at which it is introduced may be suspended by the affirmative votes of all the Councilmembers present, and that an emergency ordinance may be enacted when it is necessary for the immediate preservation of the public

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peace, health, safety, or welfare, and that no action shall be taken unless at least two Councilmembers are present, and that an emergency ordinance may become effective immediately or on a later date as specified therein upon adoption and approval by the Mayor or passage by the Council over the Mayor's veto; and

WHEREAS, pursuant to § 22-119 of the Land Use Article of Md. Ann. Code, a municipal corporation in Prince George's County has concurrent jurisdiction with the county to enforce zoning laws within the boundaries of the municipal corporation provided the municipality enters into an agreement with the district council, but the Town has not yet entered into such an agreement; and

WHEREAS, pursuant to § 25-303 of said Land Use Article, a municipal corporation in Prince George's County may enact a zoning ordinance to impose stricter or additional restrictions or limitations on fences, residential parking and residential storage provided such regulations are previously approved by the district council, but the Town has not yet enacted or had approved such a zoning ordinance; and

WHEREAS, notwithstanding the Town's limited and potential zoning authority under said Land Use Article, the Town is further delegated with certain police powers to regulate public nuisances and to declare public nuisances within its boundaries; and

WHEREAS, pursuant to Local Government Article, § 5-209 of the State Code, the Town Council has the authority to pass such ordinances as it deems necessary to prevent and remove nuisances; and

WHEREAS, the Mayor and Council finds that the Town is in urgent need of and/or will immediately benefit from a specific ordinance regarding nuisances, especially regarding the parking of commercial vehicles under certain conditions within residential areas, to supplement existing ordinances including the Common Law of Maryland and county ordinances that may be applicable within the Town's corporate limits, whereby the Town's appointed enforcement officials may with more sufficient legal basis, legal authority and clarity, effectively work to improve the health, welfare, safety and morals of the Town, its quality of life and its general appearance.

SECTION 1.

NOW THEREFORE BE IT ORDAINED by the Council of the Town of North Brentwood that Chapter IV "Traffic, Vehicles, and Transportation" and Chapter VII "Public Health, Safety and Conduct," of *The North Brentwood Town Code* are hereby adopted, amended and re-enacted such that said Chapters and Code shall henceforth read as follows:

* * *

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CHAPTER IV. TRAFFIC, VEHICLES AND TRANSPORTATION

* * *

Article 2. Stopping, Standing, and Parking

Section 4-2104. Parking on Public or Private Property

* * *

(b) IN ADDITION TO ANY OTHER APPLICABLE PARKING REGULATIONS SET FORTH IN THIS CHAPTER AND ANY OTHER LIMITATIONS OR PUBLIC NUISANCES OTHERWISE DECLARED BY THIS CODE, THE [P]parking of vehicles on private property shall be limited to surfaced parking areas, parking lots, driveways, and parking structures such as garages and carports. Parking of vehicles on green space, yards, and sidewalks is prohibited.

* * *

CHAPTER VII. PUBLIC HEALTH, SAFETY AND CONDUCT

* * *

ARTICLE 6. PROPERTY-RELATED PUBLIC NUISANCES

TITLE 1. GENERAL PROVISIONS

SECTION 7-6101. INTENT; NUISANCES GENERALLY PROHIBITED; LIABILITY

(A) INTENT. VARIOUS NUISANCES, CODE OF ORDINANCE VIOLATIONS AND MUNICIPAL INFRACTIONS MAY BE DEFINED AND PROHIBITED IN THIS AND OTHER CHAPTERS AND SECTIONS OF THIS CODE, AND IT IS THE INTENT OF THE TOWN COUNCIL IN ENACTING THIS ARTICLE TO MAKE IT SUPPLEMENTAL TO THOSE OTHER CHAPTERS AND SECTIONS WHERE NUISANCES ARE DEFINED; BY DEFINING IN THIS ARTICLE CERTAIN CODE VIOLATIONS AND MUNICIPAL INFRACTIONS AS NUISANCES; AND BY GRANTING THE TOWN AND ITS OFFICIALS WITH SUPPLEMENTAL POWERS PURSUANT TO THE PROVISIONS OF THIS SECTION RELATING TO THE ABATEMENT OF NUISANCES AND PROCEDURES FOR THE ABATEMENT OF NUISANCES IN THOSE INSTANCES WHERE OTHER METHODS AND PROCEDURES FOR ABATEMENT ARE PROVIDED. THIS ARTICLE SHALL BE ADMINISTERED AND ENFORCED BY THE MAYOR, DESIGNATED CODE ENFORCEMENT OFFICERS AND OTHER STAFF OR OFFICIALS DESIGNATED BY THE MAYOR OR TOWN COUNCIL.

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(B) NUISANCES GENERALLY PROHIBITED. IT SHALL BE UNLAWFUL FOR ANY PERSON TO CAUSE, HARBOR, COMMIT OR MAINTAIN OR TO SUFFER TO BE CAUSED, HARBORED, COMMITTED OR MAINTAINED ANY PUBLIC NUISANCE, AS DEFINED BY THE STATUTES OR THE COMMON LAW OF THIS STATE OR AS DEFINED BY THIS ARTICLE AND CODE OR OTHER ORDINANCE OF THE TOWN OF NORTH BRENTWOOD, AT ANY PLACE OR PROPERTY WITHIN THE TOWN.

(C) PERSONS IN POSSESSION, OCCUPANTS, TENANTS, AND/OR LEGAL OWNERS OF REAL PROPERTY CREATING NUISANCES DESCRIBED IN THIS SECTION SHALL BE HELD LEGALLY RESPONSIBLE FOR THEIR CREATION, PROPAGATION OR CONTINUATION AND SHALL BE REQUIRED TO COMPLY WITH ALL PROVISIONS REQUIRED HEREIN.

SECTION 7-6102. ENUMERATED NUISANCES NOT EXCLUSIVE; DEFINITIONS.

(A) THE NUISANCES DESCRIBED IN THIS ARTICLE OR ELSEWHERE IN THIS CODE SHALL NOT BE CONSTRUED AS EXCLUSIVE, AND ANY ACT OF COMMISSION OR OMISSION AND ANY CONDITION ALLOWED TO EXIST WHICH CONSTITUTES A PUBLIC NUISANCE BY STATUTE OR COMMON LAW OF THE STATE, WHEN COMMITTED, OMITTED OR EXISTING WITHIN THE TOWN OF NORTH BRENTWOOD IS HEREBY DECLARED TO CONSTITUTE A NUISANCE.

(B) EXCEPT WHEN STATED OTHERWISE HEREIN, WHENEVER ANY WORDS AND PHRASES USED IN THIS SECTION ARE NOT DEFINED HEREIN BUT ARE EXPRESSLY DEFINED ELSEWHERE IN THIS CODE OF ORDINANCES OR STATE LAW SUCH AS THE REGULATION OF THE OPERATION OF VEHICLES FOUND IN THE STATE TRANSPORTATION ARTICLE, ANY SUCH DEFINITION THEREIN SHALL BE DEEMED TO APPLY TO SUCH WORDS AND PHRASES USED IN THIS SECTION.

TITLE 2. SPECIFIC PUBLIC NUISANCES

SECTION 7-6201. CERTAIN PROPERTY-RELATED NUISANCES DEFINED

THE FOLLOWING ACTS OR OMISSIONS WHEN COMMITTED OR CONDITIONS WHEN EXISTING WITHIN THE TOWN OF NORTH BRENTWOOD ARE HEREBY DEFINED AND DECLARED TO BE OR CONSTITUTE PUBLIC NUISANCES:

(A) THE DEPOSITING OR ALLOWING OF IRRIGATION, STORM, WASTE OR OTHER WATER TO RUN OFF ONTO OR WITHIN ANY STREET, ALLEY, OR OTHER PUBLIC PLACE, OR TO CAUSE ANNOYANCE, DAMAGE, OR HAZARD TO ANY USER OF THE STREET, ALLEY, OR OTHER PUBLIC PLACE,;

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(B) THE DEPOSITING OR ALLOWING OF FOUL, FILTHY OR OFFENSIVE MATERIAL OR REFUSE, OR ANY UNCLEAN OR UNSANITARY CONDITION IN ANY STREET, ALLEY, PARK OR DRIVEWAY, LOT, BUILDING OR PROPERTY WITHIN THE TOWN WHICH IS OR WHICH MAY CONSTITUTE A NUISANCE OR MENACE TO LIFE AND HEALTH.

(C) ALLOWING OR CAUSING ANY BUILDING OR STRUCTURE TO HAVE ANY WINDOWS, DOORS OR EXTERIOR OPENINGS CLOSED BY EXTRINSIC DEVICES (E.G. BOARDS OR PLYWOOD), GIVING THE BUILDING OR STRUCTURE THE APPEARANCE THAT IT IS NOT OCCUPIED OR USED FOR ANY USE ALLOWED BY THE COUNTY ZONING CODE AT THE PARTICULAR LOCATION.

(D) MAINTAINING OR ALLOWING GRAFFITI TO EXIST FOR MORE THAN SEVENTY-TWO HOURS ON A NON-RESIDENTIAL PROPERTY OR FIXTURES, OR SEVEN (7) CALENDER DAYS ON A RESIDENTIAL PROPERTY OR FIXTURE.

(E) OUTDOOR STORAGE OF LAWN EQUIPMENT, CONSTRUCTION AND RENTAL EQUIPMENT, TRAILER-MOUNTED PRESSURE WASHERS, WOOD CHIPPERS, AND OTHER TRAILER-MOUNTED EQUIPMENT UNLESS THE PROPERTY IS ALLOWED BY THE COUNTY ZONING CODE TO BE USED FOR COMMERCIAL PURPOSES.

(F) WHETHER FOUND ON SURFACED PARKING AREAS OR NOT AS DESCRIBED IN SECTION 4-2104 OF THIS CODE, THE PARKING OR LEAVING STANDING OF ANY COMMERCIAL VEHICLE, AS DEFINED IN SECTION 4-2106 (PARKING OF COMMERCIAL AND RECREATIONAL VEHICLES ON STREETS PROHIBITED) OF THIS CODE, UPON ANY PRIVATE PROPERTY USED FOR RESIDENTIAL PURPOSES THAT MAY BE SEEN FROM ANY PUBLIC STREET OR PUBLICALLY-OWNED PROPERTY, EXCEPT WHILE ACTUALLY LOADING OR UNLOADING SUCH VEHICLE FOR A PERIOD OF LESS THAN TWO (2) HOURS, UNLESS:

1. AN ORAL OR WRITTEN PERMIT THEREFOR SHALL HAVE BEEN OBTAINED FROM THE MAYOR, WHICH PERMIT SHALL BE ISSUED ONLY FOR GOOD CAUSE AND FOR A PERIOD NOT EXCEEDING SEVENTY-TWO (72) HOURS; OR

2. A WRITTEN PERMIT FOR A PERIOD LONGER THAN SEVENTY-TWO (72) HOURS SHALL HAVE BEEN GRANTED BY THE COUNCIL, WHICH PERMIT SHALL BE GRANTED ONLY FOR A GOOD CAUSE AND AFTER PAYING A FEE AS PRESCRIBED BY RESOLUTION OF THE COUNCIL.

TITLE 3. ENFORCEMENT

SECTION 7-6301. INSPECTIONS; RIGHTS OF ENTRY

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(A) INSPECTIONS. IT SHALL BE THE DUTY OF THE MAYOR, CODE ENFORCEMENT OFFICER OR OTHER STAFF OR OFFICIAL DESIGNATED TO CAUSE INSPECTIONS TO BE MADE FROM TIME TO TIME OF ALL PORTIONS OF THE TOWN TO DETERMINE WHETHER ANY CONDITION EXISTS OR ACTIVITY IS BEING PRACTICED WHICH CONSTITUTES A NUISANCE; AND HE OR SHE SHALL CAUSE AN INVESTIGATION TO BE MADE UPON COMPLAINT MADE BY ANY RESPONSIBLE PERSON.

(B) RIGHT OF ENTRY. THE MAYOR, CODE ENFORCEMENT OFFICER OR OTHER STAFF OR OFFICIAL DESIGNATED SHALL HAVE THE RIGHT TO ENTER UPON PRIVATE PREMISES FOR THE PURPOSES SPECIFIED IN THIS SECTION UPON COMPLIANCE WITH ALL APPLICABLE PROVISIONS OF LAW, INCLUDING THE ISSUANCE OF AN ADMINISTRATIVE WARRANT. UNLESS IT APPEARS PROBABLE THAT ADVANCE WARNING WOULD DEFEAT THE PURPOSE OF SUCH ENTRY, OCCUPANTS OF PREMISES TO BE ENTERED SHALL BE GIVEN REASONABLE NOTICE IN ADVANCE, AND, IN ANY CASE, IT SHALL BE UNLAWFUL FOR ANY OWNER OR OCCUPANT TO PREVENT SUCH ENTRY WHICH IS SOUGHT TO BE MADE IN COMPLIANCE WITH LAW.

SECTION 7-6302. ENFORCEMENT; PENALTIES FOR VIOLATION

(A) EXCEPT AS STATED OTHERWISE IN THIS ARTICLE, VIOLATIONS OF THIS ARTICLE SHALL BE CONSIDERED A MUNICIPAL INFRACTION SUBJECT TO THE PROCEDURES FOUND IN ARTICLE 1, TITLE 2 OF CHAPTER X OF THIS CODE AND TITLE 6 OF THE LOCAL GOVERNMENT ARTICLE OF MD. ANN. CODE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CODE TO THE CONTRARY, VIOLATORS OF THIS ARTICLE SHALL BE LIABLE FOR A FINE OF \$200.00 FOR EACH OFFENSE.

(B) IN ADDITION TO ANY OTHER FINE, PENALTY, OR REMEDY PRESCRIBED HEREIN, A VIOLATOR MAY BE REQUIRED TO REMOVE OR RESTORE, WITHIN THREE (3) DAYS OF THE DATE OF NOTIFICATION OF THE VIOLATION BY ISSUANCE OF A CITATION, ANY CONDITION, CIRCUMSTANCES, ACT OR OMISSION CONSTITUTING THE BASIS OF THE VIOLATION. UPON EXPIRATION OF SUCH THREE (3) DAYS, EACH ADDITIONAL DAY DURING WHICH THAT PERSON SHALL NOT HAVE SO REMOVED, ABATED OR RESTORED THE SAME, SHALL CONSTITUTE A FURTHER AND SEPARATE VIOLATION SUBJECT TO SUCH FINE.

(C) AFTER OBTAINING A JUDGMENT AND/OR ABATEMENT ORDER FROM A COURT OF COMPETENT JURISDICTION, THE TOWN MAY CORRECT OR ABATE ANY SUCH CONDITION, OR DISCREPANCY AT THE VIOLATOR'S EXPENSE AND

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THEREAFTER, AS APPLICABLE, CERTIFY ANY COSTS THEREOF TO THE COUNTY FINANCE OFFICE TO BE COLLECTED IN THE SAME MANNER AS MUNICIPAL TAXES.

(D) WHENEVER ANY VIOLATION OF THIS ARTICLE CAUSES A CONDITION, THE CONTINUED EXISTENCE OF WHICH CONSTITUTES AN IMMEDIATE THREAT TO THE PUBLIC HEALTH, SAFETY OR WELFARE OR TO THE ENVIRONMENT, THE TOWN MAY SUMMARILY AND WITHOUT PRIOR NOTICE ABATE THE CONDITION. NOTICE OF SUCH ABATEMENT, INCLUDING THE REASON FOR IT SHALL BE GIVEN TO THE PERSON RESPONSIBLE FOR THE VIOLATION AS SOON AS REASONABLY POSSIBLE AFTER THE ABATEMENT. NO RIGHT OF ACTION SHALL LIE AGAINST THE TOWN OR ITS AGENTS, OFFICERS, OR EMPLOYEES FOR ACTIONS REASONABLY TAKEN TO PREVENT OR CURE ANY SUCH IMMEDIATE THREATS, BUT NEITHER SHALL THE TOWN BE ENTITLED TO RECOVER ANY COSTS INCURRED FOR SUMMARY ABATEMENT, UNLESS ACTUAL NOTICE OF SAME OR A MUNICIPAL INFRACTION CITATION IS DULY DELIVERED OR SERVED UPON THE PERSON RESPONSIBLE FOR THE VIOLATION.

(E) ANY VIOLATION OF THIS ARTICLE OR NUISANCE THAT INVOLVES OR INCLUDES IN ITS SUBJECT MATTER A VEHICLE OF ANY KIND, AND IS FURTHER SUBJECT TO AN ABATEMENT ORDER AS DESCRIBED IN PARAGRAPH (C) MAY BE REMOVED OR ABATED BY THE MAYOR OR HIS DESIGNEE BY TOWING AND IMPOUNDMENT IN THE SAME OR SIMILAR MANNER AS VEHICLES TOWED AND IMPOUNDED PURSUANT TO SECTION 4-3101 OF THIS CODE.

(F) NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO PROHIBIT OR PREVENT THE TOWN FROM PURSUING OR OBTAINING ANY OTHER FORM OF LEGAL RELIEF OR ABATEMENT AVAILABLE UNDER THE LAW INCLUDING BUT NOT LIMITED TO INJUNCTIVE OR DECLARATORY RELIEF IN A COURT OF COMPETENT JURISDICTION IN THIS STATE.

* * *

SECTION 2.

AND BE IT FURTHER ORDAINED AND ENACTED, that it is the intention of the Mayor and Council, and it is hereby ordained, that the provisions of this Emergency Ordinance shall become and be made part of the Code of Ordinances and the sections of this Ordinance may be renumbered to accomplish such intention, and that Section 4-2104 of the Code of Ordinance is hereby amended to read as stated herein above.

SECTION 3.

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AND BE IT FURTHER ORDAINED AND ENACTED, that any prior ordinances adopting and enacting any provision of Chapter IV or VII of said Code or any other ordinance or resolution previously adopted pertaining to a subject or subjects embodied by the title of this ordinance or the provisions found herein shall be deemed repealed and superseded by the provisions of this ordinance. Should a previously enacted ordinance cover a provision or subject that is not specifically covered by this ordinance, it shall remain in full force and effect unless it directly conflicts with the express language of this ordinance.

SECTION 4.

AND BE IT FURTHER ORDAINED AND ENACTED, if any section or part of a section of this Emergency Ordinance shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Emergency Ordinance nor the context in which such section or part of section so held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

SECTION 5.

AND BE IT FURTHER ORDAINED AND ENACTED, this Emergency Ordinance shall take effect immediately upon its enactment, having been passed by the affirmative votes of all the Councilmembers present but no less than two votes, and approval by the Mayor or passage by the Council over the Mayor's veto.

SECTION 6.

AND BE IT FURTHER ORDAINED AND ENACTED, upon adoption, pursuant to the Town Charter, § 411(f), a fair summary of this Emergency Ordinance shall be immediately published in the Town newsletter or other newspaper of general circulation in the Town and posted on an official bulletin board to be maintained by the Council in a public place, and that this emergency ordinances shall have a date of termination not to exceed one (1) year after enactment.

SECTION 7.

AND BE IT FURTHER ORDAINED AND ENACTED, that this Ordinance shall become effective immediately upon execution by the Mayor and that the Town Clerk is hereby ordered to ensure the Code sections herein are properly adopted and re-enacted by regular ordinance within one year of the effective date of this Emergency Ordinance.

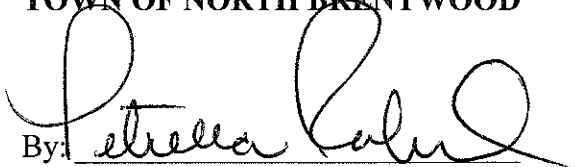
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THIS ORDINANCE IS ADOPTED BY THE COUNCIL OF THE TOWN OF NORTH BRENTWOOD THIS 16th. DAY OF JUNE, 2014.

Aye: 3
Nay: 0
Absent: 0
Abstain: 0

Approved: June 16, 2014

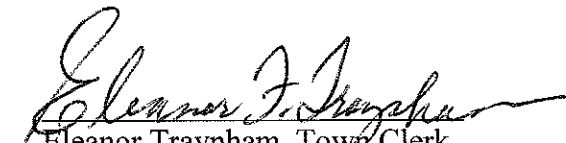
TOWN OF NORTH BRENTWOOD

By: 
Petrella Robinson, Mayor

Date: June 16th, 2014

I HEREBY CERTIFY that a fair summary of this Emergency Ordinance has been published in the Town newsletter or other newspaper of general circulation in the Town and posted on an official bulletin board to be maintained by the Council in a public place pursuant to the Town Charter.

Date: June 16, 2014


Eleanor Traynham, Town Clerk

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