

TOWN OF NORTH BRENTWOOD

ORDINANCE NO. 2021-01

Introduced by: Councilmember: BAYNES

Seconded by: Councilmember: DAME

Date of Introduction: 02-01-2021

An ordinance adopting and enacting Chapter 152 “Civil Emergencies,” of *The Code of The Town of North Brentwood*, as amended, as a regular ordinance, by adopting and inserting said Chapter; providing for the authority and powers of the Mayor and Council of the Town of North Brentwood for the issuance of proclamations and orders in response to civil emergencies and to enact certain criminal penalties for violating such orders and generally relating to civil emergencies.

WHEREAS, the Governor of Maryland, on March 5, 2020, declared a state of emergency and catastrophic health emergency for the epidemic known as COVID -19 pursuant to the Maryland Constitution and Laws of Maryland including but not limited to Title 14 of the Public Safety Article, and in an effort to control and prevent the spread of COVID-10, proclaimed within the entire State of Maryland; and

WHEREAS, the Governor, as of March 12, 2020, issued a subsequent order extending certain licenses, permits, registrations, and other governmental authorizations, and authorizing the suspension of legal time requirements; and

WHEREAS, pursuant to § 14-301 of the Public Safety Article of Md. Ann. Code, a “public emergency” means: (1) a situation in which three or more individuals are at the same time and in the same place engaged in tumultuous conduct that leads to the commission of unlawful acts that disturb the public peace or cause the unlawful destruction or damage of public or private property; (2) a crisis, disaster, riot, or catastrophe; or (3) an energy emergency meaning a situation in which the health, safety, or welfare of the public is threatened by an actual or impending acute shortage in energy resources; and

WHEREAS, the Council approved Emergency Ordinance 2020-01 regarding civil emergencies on April 2, 2020 pertaining to the same subject matter and provisions as restated below, and in accordance with Section 411 of the Town Charter, now wishes to adopt the same as a regular and codified ordinance; and

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WHEREAS the Mayor’s initial proclamations declaring certain civil emergency measures since the present pandemic began last year was promulgated and renewed on March 17, 2020, April 10, 2020, May 6, 2020, June 3, 2020, July 1, 2020, July 30, 2020, August 10, 2020, September 8, 2020, October 6, 2020, October 29, 2020, November 25, 2020, and December 23, 2020.

WHEREAS the spread of COVID-19 in the state continues to pose an immediate threat to all Marylanders of extensive loss of life or serious, disability, the emergency conditions, state of emergency, and catastrophic health emergency continue to exist; and

WHEREAS, pursuant to § 601 (General Powers) 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, subject to § 14-1002 of the Public Safety Article of Md. Ann. Code, a local government has a duty to prevent civil disturbances, and if a structure or personal property is stolen, damaged, or destroyed in a riot, the injured party may recover actual damages sustained in a civil action against the county or municipal corporation of the State in which the riot occurred; and

WHEREAS, pursuant to § 602(20) (Enumeration of Specific Powers; Health) of the Town Charter and § 5-209 of the LG Art. of the Md. Ann. Code, the Council has the power to pass ordinances to protect and preserve the health of the Town and its inhabitants; to appoint a public health officer, and to define and regulate his or her powers or duties; to inspect, regulate, and abate any buildings, structures or places which cause or may cause unsanitary conditions or conditions detrimental to health; but nothing therein shall be construed to affect in any manner any of the powers and duties of the Secretary of Health and Mental Hygiene, the County Board of Health, or any public, general or local law relating to the subject of health; and

WHEREAS, pursuant to § 14-111 of the Public Safety Article of Md. Ann. Code as found in the Maryland Emergency Management Agency Act, only the principal executive officer of a political subdivision, which means a county or municipal corporation of the State, may declare a local state of emergency, and except with the consent of the governing body of the political subdivision, a local state of emergency may not continue or be renewed for longer than 30 days: and

WHEREAS, pursuant to § 14-305 of the Public Safety Article of Md. Ann. Code, a law enforcement agency of a county or municipal corporation shall notify the Secretary of State Police if the local law enforcement agency receives notice of a threatened or actual disturbance that indicates the possibility of serious domestic violence; and

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WHEREAS, pursuant to § 14-306 of the Public Safety Article of Md. Ann. Code, the chief executive officer or governing body of a county or municipal corporation may request the Governor to provide the militia to help bring under control conditions existing within the county or municipal corporation that, in the requestor's judgment, the local law enforcement agencies cannot control without additional personnel; and

WHEREAS, pursuant to § 14-8A-02 of the Public Safety Article of Md. Ann. Code, the state, the governing body of a county or municipal corporation, or any other governmental agency within the National Capital Region, as defined under § 2674(f)(2) of Title 10 of the United States Code, may enter into a reciprocal agreement for the period that it considers advisable with a federal agency, the Commonwealth of Virginia, the District of Columbia, or a county or municipal corporation, within or outside the state, and establish, train, and implement plans to request or provide mutual aid through the use of its officers, employees, and agents, together with all necessary equipment, in accordance with § 7302 of the Intelligence Reform and Terrorism Prevention Act of 2004 (108 P.L. 458, 118 Stat. 3638); and

WHEREAS, the Mayor and Council find that all levels of government in Maryland should deploy resources to protect the public health and safety during the pandemic; and

WHEREAS, the Mayor and Council further finds that it is necessary for the preservation of the public peace, health, safety, or welfare the Town to enact this ordinance.

SECTION A.

NOW THEREFORE BE IT ORDAINED by the Council of the Town of North Brentwood that the following Ordinance, having been previously enacted as Emergency Ordinance 2020-01, is to be enacted or reenacted herein as a regular ordinance to be codified within Chapter 152 “Civil Emergencies” of *The Code of the Town of North Brentwood* and is hereby adopted, ratified, amended, and enacted such that said Ordinance, Chapter, Articles and Code shall henceforth read as follows:

**THE CODE OF THE TOWN OF NORTH BRENTWOOD
Part II: General Legislation**

* * *

CHAPTER 152. CIVIL EMERGENCIES

ARTICLE 1. GENERAL PROVISIONS

SECTION 152-1: PURPOSE AND AUTHORITY

A. The purpose of this Ordinance is to supplement existing law and to provide certain authority and establish guidelines for the Town of North Brentwood to react and operate hereunder during

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periods of civil emergencies, and to prevent or mitigate conditions that threaten to destroy property and harm the public health, safety, or welfare of residents of, or visitors to, the Town of North Brentwood.

B. The authority to provide for the protection of health, safety, comfort, convenience, and welfare of the Town of North Brentwood residents and visitors is provided in § 601 (General Powers) of the Charter of the Town of North Brentwood, and Title 5 of the Local Government Article of Md. Ann. Code.

C. The authority to enact such provisions or regulations is further provided in Title 14 (Emergency Management) of Public Safety Article of Md. Ann. Code.

SECTION 152-2: APPLICABILITY OF THE ORDINANCE

A. The provisions herein shall apply to the entire corporate territory and populace of the Town of North Brentwood, and to all real property whether improved or unimproved located within the corporate limits of the Town.

B. Unless an intergovernmental agreement states otherwise, the Prince George’s County Police Department and the Park Police of the Maryland-National Capital Park and Planning Commission shall retain primary law enforcement jurisdiction over the facilities, public buildings, parks, and the lands under their respective jurisdictions.

C. The Town’s police department, if any, and other Town officials shall cooperate with other police agencies operating within the corporate limits and its environs in accordance with any approved mutual aid agreements approved by the Council in accordance with State Law.

ARTICLE 2. EXECUTIVE ORDERS

SECTION 152-3: PROCLAMATION (EXECUTIVE ORDER) OF CIVIL EMERGENCY

A. Whenever riot, unlawful assembly, insurrection, other disturbance, the imminent threat thereof, or any fire, flood, storm, earthquake or other natural catastrophe, epidemic or disaster occurs in the Town and results in or threatens to result in the death or injury of persons or the destruction of property or the disruption of local government to such extent as to require, in the judgment of the President, extraordinary measures to prevent the death or injury of persons and to protect the public peace, safety and welfare, and alleviate damage, loss, hardship or suffering, the Mayor shall forthwith proclaim the existence of a municipal emergency.

B. Such civil emergency shall cease to exist within 30 days or before upon the issuance of an executive order by the Mayor or by a resolution passed by a unanimous vote of all the members present and voting of the Council terminating the same. Such proclamation shall be issued by the

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Mayor or by a resolution passed by a unanimous vote of all the members of the Council present and voting when such extraordinary measures are no longer required for the protection of the public peace, safety, and welfare. Before a civil emergency is declared terminated, either by proclamation by the Mayor or by a resolution as stated herein, the Mayor or Council will consult with the Town's Police Chief or other designated county emergency response or police official to determine if there are any fiscal, public safety response or disaster recovery imperatives that require the continuation of emergency measures.

C. Any such executive order of a civil emergency by the Mayor shall, within 72 hours of issuance of the proclamation or as soon as practical, at the earliest practicable time be filed with the Town Clerk for presentation to the Council for possible ratification and confirmation, modification, or rejection. The Council may, by resolution, modify or reject the proclamation, and if rejected, it shall be void. If the Council modifies or rejects the proclamation, said modification or rejection shall be prospective only, and shall not affect any actions taken prior to the modification or rejection of the proclamation. The Council may convene and act on any proclamation of civil emergency within 72 hours of its being presented to the Council by the Mayor. Except with the consent of the governing body of the political subdivision, a local state of emergency may not continue or be renewed for longer than 30 days pursuant to State law.

SECTION 152-4: AUTHORITY OF MAYOR TO ISSUE CERTAIN ORDERS.

A. Except as limited by § 411(f) of the Town Charter, upon the executive order of a civil municipal emergency by the Mayor, and during the existence of such civil emergency, the Mayor may, in a form that meets the requirements of this article, make, and proclaim any or all of the following orders:

- (1) An order imposing a general curfew applicable to the Town as a whole, or to such geographical area or areas of the Town and during such hours as he deems necessary, which effective hours and affected area or areas may be modified from time to time.
- (2) An order requiring any or all business establishments to close and remain closed until further order.
- (3) An order requiring the closure of any or all bars, taverns, liquor stores, and other business establishments where alcoholic beverages are sold or otherwise dispensed, provided that with respect to those business establishments which are not primarily devoted to the sale of alcoholic beverages and in which such alcoholic beverages may be removed or made secure from possible seizure by the public, the portions thereof utilized for the sale of items other than alcoholic beverages may, in the discretion of the Mayor, be allowed to remain open;
- (4) An order requiring the discontinuance of the sale, distribution or giving away of alcoholic beverages in any or all parts of the Town.

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(5) An order requiring the discontinuance of the sale, distribution or giving away of firearms and/or ammunition for firearms in any or all parts of the Town.

(6) An order requiring the discontinuance of the sale, distribution or giving away of gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(7) An order requiring the closure of any or all business establishments where firearms and/or ammunition for firearms are sold or otherwise dispensed, provided that with respect to those business establishments which are not primarily devoted to the sale of firearms and/or ammunition and in which such firearms and/or ammunition may be removed or made secure from possible seizure by the public, the portions thereof utilized for the sale of items other than firearms and ammunition may, in the discretion of the Mayor, be allowed to remain open;

(8) An order closing to the public any or all public places, including streets, alleys, sidewalks, public ways, schools, parks, shorelines, amusement areas, and public buildings provided that such an order is supplementary to and consistent with County, State and Federal orders relating such closures.

(9) An order prohibiting the carrying or possession of a firearm or any instrument which is capable of producing bodily harm and which is carried or possessed with intent to use the same to cause such harm, provided that any such order shall not apply to peace officers or military personnel engaged in the performance of their official duties.

(10) An order requesting Federal, State and/or County assistance in combating such civil emergency.

(11) An order establishing economic controls in aid of and supplementary to and consistent with State and Federal orders relating to price stabilization or controls including: the convening and establishing of rations; auditing retail and wholesale ration accounts; monitoring price control operations and reporting violations to appropriate authorities; assisting in providing essential supplies to disaster victims; advising appropriate authorities concerning rationing, price control, wage and rent controls and allocation of food and other essential commodities;

(12) An order directing the use of all public and private health, medical, and convalescent facilities and equipment to provide emergency health and medical care for injured persons.

(13) An order authorizing, in cooperation with utility management and appropriate State and federal agencies, the shutting off, restoration, and operation of utility services in accordance with priorities established for combating such civil emergency.

(14) An order providing for the evacuation and reception of the population of the Town or any part thereof.

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(15) An order to set evacuation routes and the modes of transportation to be used during an emergency and to direct the control of ingress to and egress from an emergency area, the movement of individuals in the area, and the occupancy of premises in the area.

(16) An order to authorize the use of private property, in which event the owner of the property shall be compensated for its use and for any damage to the property.

(17) An order to provide for temporary housing for Town residents.

(18) An order to authorize the clearance and removal of debris and wreckage.

(19) An order to control traffic and suspend or alter parking regulations within the Town.

(20) An order, if medically necessary and reasonable, to appoint a public health officer, and to define and regulate his or her powers and duties, and to prevent and remove all nuisances, and to inspect, regulate, and abate any buildings, structures, or places which cause or may cause unsanitary conditions or conditions detrimental to health.

(21) An order, if medically necessary and reasonable to treat, prevent, or reduce the spread of the disease or outbreak believed to have been caused by the exposure to a deadly agent, the Mayor may designate a health official to:

- (i) require individuals to submit to medical examination or testing.
- (ii) require individuals to submit to vaccination or medical treatment unless the vaccination or treatment likely will cause serious harm to the individual.
- (iii) establish places of treatment, isolation, and quarantine; or
- (iv) require individuals to go to and remain in places of isolation or quarantine until the designated official determines that the individuals no longer pose a substantial risk of transmitting the disease or condition to the public.

(22) An order to derogate or modify express charter or ordinance provisions for supervising, conducting, keeping the polls open, canvassing or postponing a municipal election or to prescribe the method or means of conducting a municipal election.

(23) An order abrogating or modifying any relevant and existing ordinance, resolution, rule, regulation, charter provision or other time or act of an event described within any state or local statute, ordinance, rule or regulation that the Town adopts or administers to allow for extensions of legal or procedural deadlines, permits, licenses, registrations, nomination certificates or other permissions, deadlines or mandated filings to extend or avoid lapsing of same for a period of time extending for up to 30 days after the emergency;

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(24) An order modifying employee salaries, except employees who hold a Town office, or hiring additional employees necessary for the purpose of meeting the emergency; and

(25) Such other orders as are imminently necessary for the protection of life and property.

B. The powers of the Mayor under this section are in addition to any other authority vested in the chief executive officer of a municipal corporation by law. Provided, however, that any such order(s) shall, within 72 hours of issuance of the order or as soon as practical at the earliest practicable time, be filed with the Clerk to the Council and presented to the Council for ratification and confirmation, modification, or rejection, and if rejected, shall be void.

C. The Council shall consider the statements and provisions set forth in this Ordinance and Chapter, and may, by resolution, modify, ratify, amend, or reject the order. If the Council modifies, amends, or rejects the order, said modification, amendment or rejection shall be prospective only, and shall not affect any actions taken prior to the modification, ratification, amendment, or rejection of the order. The Council shall endeavor to act on any order within 72 hours of its being presented to the Council by the Mayor; however, should the Council fail to act, the Mayor's order will remain in effect throughout the duration of the declared emergency.

SECTION 152-5: CONTENTS OF ORDER.

An order issued pursuant to this Ordinance shall contain the following:

A. A statement of the facts upon which the order is based; and

B. A statement that the Mayor believes it is in the best interest of public safety, rescue and recovery efforts and the protection of property that the exercise of certain rights be temporarily limited; and

C. A statement that the conditions of the order are designed to provide the least necessary restriction on those rights.

ARTICLE 3. LOGISTICS

SECTION 152-6: USE OF SERVICES AND EQUIPMENT OF MUNICIPALITIES AND CITIZENS; OTHER PERSONNEL.

In addition to and/or in connection with the exercise of the powers specified in this Ordinance and Chapter, the Mayor shall in carrying out the provisions thereof:

A. Utilize to the maximum extent practicable the services, equipment, supplies and facilities of existing departments, offices, and agencies of the Town, including any Community Emergency Response Team (CERT), and the State, counties and other municipal corporations organized

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under the laws of the State consistent with any applicable intergovernmental agreements (i.e., memoranda of understanding); and

B. In the event of a disaster and upon the proclamation by the Governor or the Mayor of the existence of such disaster, command the service and equipment of as many citizens as the Mayor considers necessary in the light of the disaster proclaimed, provided that citizens so commandeered shall be entitled during the period of such service to all privileges, benefits and immunities as are provided by this Ordinance and Chapter, and federal and State civil defense regulations for registered civil defense or emergency services workers; and

C. The Mayor may at any time appoint or authorize the appointment of volunteer citizens to augment the personnel of any Town activity in time of an emergency. Such volunteer citizens shall be enrolled as emergency management volunteers in cooperation with the heads of the Town departments affected and shall be subject to any rules and regulations set forth by the Mayor. Except for Town officials having subscribed to the oath pursuant to Section 1301 of the Town Charter, each person serving as a member of the Emergency Operations Committee or similar advisory council or committee, or as an employee or volunteer in any capacity in the Town's emergency management or similar organization shall, prior to assuming his duties, take an oath which shall be substantially as follows:

I, _____ do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of this State against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter, and I do further swear (or affirm) that I do not advocate the overthrow of the government of the United States or of this State by force or violence; and that during such time, as I am a member of the Town of North Brentwood's emergency management organization, I will not advocate nor become a member or an affiliate of any organization, group or combination of persons or of any political party that advocates the overthrow of the government of the United States or of this State by force or violence.

D. Emergency management volunteers assigned to duty during a period of natural disaster or civil emergency in the Town shall be eligible for the benefits of the State Workmen's Compensation Law at a rate of compensation commensurate with that of persons performing similar work under conditions of regular employment.

SECTION 152-7: DISASTER READINESS AND RESPONSE PLAN.

Plans and programs for executing emergency powers including a disaster readiness and response plan or emergency management/continuity of operations plan shall be prepared and kept current under the direction of the Mayor who shall submit such plans and programs and proposed

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amendments thereto to the Town Council for review and approval by resolution. Upon such approval the Mayor shall be authorized to exercise in accordance with such plans and programs the powers provided therein.

SECTION 152-8: NOTIFICATION OF GOVERNOR, NEWS MEDIA AND PUBLIC.

The Mayor shall cause any proclamation or order issued pursuant to the authority of this Ordinance and Chapter to be delivered to the Governor of the State and, to the extent practicable, to all news media within or near the Town, and shall utilize as many other available such means, including but not limited to, posting on public facilities, signs, public address systems, newsletters, newspapers, Town internet web sites or social media accounts as may be practical to use and as shall be necessary in his judgment, in order to give the widest dissemination of such proclamations and orders to the public.

SECTION 152-9: FAILURE TO OBEY: VIOLATIONS AND PENALTIES.

A person or business entity's responsible party, owner or executive is guilty of failure to obey the Mayor's or Council's emergency order when he or she knowingly violates any order issued under authority of this Ordinance. It is unlawful for anyone to fail or refuse to obey an order proclaimed by the Mayor or Council pursuant to the provisions of this Ordinance. Anyone convicted of a violation of this Ordinance or Chapter shall be guilty of a misdemeanor punishable by a fine of not more than \$1,000 or by imprisonment for not more than 180 days, or both such fine and imprisonment. Pursuant to Section 14-114 of the Public Safety Article of the Annotated Code of Maryland, a person who willfully violates an order, rule, or regulation issued under the authority of the Governor pursuant to the Maryland Emergency Management Agency Act is guilty of a misdemeanor and, on conviction, is subject to imprisonment not exceeding one year or a fine not exceeding \$5,000, or both.

* * *

SECTION B.

AND BE IT FURTHER ORDAINED AND ENACTED, that it is the intention of the Mayor and Council, and it is hereby ordained, that this Ordinance shall be published as an individual ordinance on the General Code website; however, the above provisions (Section A) of this Ordinance shall become and be made part of the published (re-codified) Code of the Town of North Brentwood and the numbered sections of this Ordinance may be renumbered to accomplish such intention.

SECTION C.

AND BE IT FURTHER ORDAINED AND ENACTED, that any ordinance or resolution previously adopted pertaining to a subject or subjects embodied by the title of this

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ordinance or the provisions found herein shall be deemed repealed and superseded by the provisions of this ordinance except that any civil emergency proclamations, resolutions or orders issued by the Mayor shall remain in effect unless stated otherwise within the particular proclamation, resolution or order. 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. Nothing herein this Ordinance shall be construed to nullify any previously issued emergency proclamations, resolutions or orders that are intended to remain in effect.

SECTION D.

AND BE IT FURTHER ORDAINED AND ENACTED, 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 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 E.

AND BE IT FURTHER ORDAINED AND ENACTED, this Ordinance shall take effect and become effective at the expiration of eleven (11) calendar days following adoption by the Council, and approval by the Mayor or passage by the Council over the Mayor's veto unless a different effective date has been specified herein.

SECTION F.

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 Ordinance shall become or continue to be made part of the Code of Ordinances and the sections of this may be renumbered to accomplish such intention, and that Chapter 152 of the Code of Ordinances is hereby permanently added to read as stated herein above.

THIS ORDINANCE IS ADOPTED BY THE COUNCIL OF THE TOWN OF NORTH BRENTWOOD THIS ____ DAY OF FEBRUARY 2021.

Aye:

Nay:

Absent:

Abstain:

Approved:

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TOWN OF NORTH BRENTWOOD

By: _____ On file _____
Petrella Robinson, Mayor

Date: ___February 1, 2021

I HEREBY CERTIFY that a fair summary of this 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: February 01, 2021

_____ On File _____
Carl Jones, Town Clerk

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