

Ordinance No 42

Berrysburg Open Burning Ordinance

Section 1 - Title

This Ordinance shall be known as: Berrysburg Open Burning Ordinance.

Section 2 - Purpose

An ordinance of The Borough of Berrysburg, Dauphin County, Commonwealth of Pennsylvania to regulate open burning.

Open burning is the burning of unwanted materials such as paper, trees, brush, leaves, grass, and other debris, where smoke and other emissions are released directly into the air without passing through a chimney or stack. Open burning also includes incineration devices that do not control the combustion air to maintain an adequate temperature and do not provide sufficient residence time for complete combustion. Open burning pollutes the air and poses a fire hazard. The air pollution created by open burning can irritate eyes and lungs, obscure visibility, soil nearby surfaces, create annoying odors, and are a danger to those with respiratory conditions.

This ordinance is intended to promote the public health, safety and welfare; as well as safeguard the health, comfort and living conditions of the citizens of Berrysburg Borough due to the air pollution and fire hazards created by outdoor open burning. This ordinance will further provide measures for the prevention and control of air pollution created by outdoor open burning; as well as defines certain terms used herein, provide for regulation, exceptions, enforcement orders, define the responsibility of owners and operators, and to set penalties for non compliance.

Section 3 - Authority

- A. In accordance with **The Borough Code Act of February 1, 1966 as Amended**, residences, commercial and industrial establishments situated within the Borough are entitled to clean air and environmental circumstances free of unreasonable dust, obnoxious odors, noxious fumes and smells, as well as an environment free of debris in exterior areas within a densely populated area.

- B. **The Pennsylvania Code, Title 25, Chapter 121**, also prohibits air pollution caused by open burning within the borough. Emissions from open burning of materials that are visible, malodorous or where air contaminants are detectible outside the property is prohibited except as allowed herein after.
- C. **Pennsylvania Consolidated Statutes, Section 18, Crimes and Offenses, Chapter 65 “Nuisance”** as amended.
- D. **Air Pollution Control Act (APCA), as amended, 35 P.S. 4012, Sections 9, 9.1, and 12(g)**.
- E. The provisions of **18 Pa.C.S. § 4903 (relating to false swearing) or 4904 (relating to unsworn falsification to authorities)**.

Section 4 - Applicability

- A. This ordinance applies to all open burning within the municipal limits of Berrysburg Borough.
- B. **This ordinance does not apply to:**
 - 1. Grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.
 - 2. Burning in a stove, furnace, fireplace or other heating device that is located within a building or structure used for human or animal habitation.
 - 3. The use of propane, acetylene, natural gas, fuel oil, gasoline, kerosene, etc used in a device that is intended for temporary use during construction or maintenance activities.
 - 4. A fire set for the prevention and control of disease or pests. (A permit from the Mayor, Mayors representative or Borough Health Officer is required).
 - 5. A fire set to prevent or abate a fire hazard, when approved by the Mayor or his representative, and under the direct supervision of the Berrysburg Fire Chief.
 - 6. Any fire set for the purpose of instructing personnel in fire fighting and under the supervision of the Berrysburg Fire Chief.
 - 7. The operation, maintenance or permitting of an Outside Fuel Burning Appliance (OFBA)

Section 5 - Definitions

The following words, terms and phrases, when used in this ordinance, unless the context clearly indicates otherwise, shall have the following meanings ascribed to them:

ACM – Asbestos Containing Material

Air Basin – A specific geographic area in the Commonwealth where Berrysburg Borough is located. (Berrysburg Borough and all of Dauphin County is located in the Harrisburg Air Basin).

Air Pollution - “The presence in the outdoor atmosphere of any form of contaminant, including, but not limited to, the discharging from stacks, chimneys, openings, buildings, structures, open fires, vehicles, processes or any other source of any smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic, hazardous or radioactive substances, waste or other matter in a place, manner or concentration inimical or which may be inimical to public health, safety or welfare or which is or may be injurious to human, plant or animal life or to property or which unreasonably interferes with the comfortable enjoyment of life or property.

Air Curtain Destructor – A mechanical device which forcefully projects a curtain of air across a pit in which open burning is being conducted so that combustion efficiency is increased and smoke and other particulate matter are contained.

Borough – Berrysburg Borough

Burning – The act of consuming by fire; to flame, char, scorch, or blaze. As used in this ordinance, smoldering shall have the same meaning as burning and shall be deemed as burning.

Clean Wood – Wood without paint, or other coating, and wood that has not been treated with, including but not limited to, copper chromium arsenate, creosote pentachlorophenol or other wood life extending preservative.

Clearing and Grubbing Wastes – Trees, shrubs and other native and non-native vegetation which are cleared from land during or prior to the process of construction. The term does not include demolition wastes and dirt laden roots.

Council – Berrysburg Borough Council.

Competent Person – A person of at least 16 years of age, who is capable of identifying existing or predictable fire hazards or conditions; and possesses the necessary knowledge to apply the proper extinguishing agents and the ability to operate the fire extinguishing equipment necessary to take prompt corrective measures to have complete control of the fire.

Downwind – The prevailing winds for central Pennsylvania are westerly, therefore, downwind for the Borough of Berrysburg is defined as lying eastward from a reference point.

Dwelling – A residence, whether or not currently occupied. Neighboring dwellings are dwellings, other than the owner's dwelling, which are located in the vicinity and which include, but are not limited to dwellings on adjacent properties.

Firewood – Trunks and branches of trees and bushes, not including leaves, needles, and vines or brush less than three inches in diameter.

NAAQS – National Ambient Air Quality Standards as set forth with the Code of Federal Regulations [40 CFR Part 50] by the EPA, which designates pollutants, considered harmful to public health and the environment.

Outside Fuel Burning Appliance [OFBA] - An outside fuel burning appliance is located outside living space ordinarily used for human or animal habitation, and is designed to provide heat and/or domestic hot water to spaces or appliances within the residence or to a separate structure. Most commonly the appliances are located as a standalone unit, in a shed or other outbuilding and the heat is transferred by water through a system of insulated piping or insulated duct work to the residence or other structure.

Opacity – The degree to which emissions, other than water, reduce the transmission of light and obscure the view of an object in the background.

Open Burning - The kindling or maintaining of a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. This includes burning in a burn barrel.

Patio Wood-Burning Unit – a chimnea, patio warmer or other portable temporary wood burning device used for outdoor recreation and/or patio/deck heating.

Person – Any individual, public or private corporation for profit or not for profit, association, partnership, firm, trust, estate, department, board, bureau or agency of the Commonwealth or the Federal Government, political subdivision, municipality, district,

municipal authority or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

Non-Burnable Materials List - Although no list of non-burnable materials can be all inclusive, no person shall burn any of the following materials under any circumstances:

- A. Any wood that does not meet the definition of "clean wood".
- B. Garbage.
- C. Tires and other tire products.
- D. Waste petroleum products.
- E. Paint, paint thinners or other cleaning solvents.
- F. Construction and demolition debris.
- G. Manure, animal carcasses or other animal by-products.
- H. Asphalt products.
- I. Plastic, rubber products, wire and cable insulation.
- J. Explosives, explosive devices, gunpowder or ammunition.
- K. Aerosols or containers whose contents are under pressure.
- L. Wet & soggy wood.
- M. Batteries.
- N. Fiberglass, asbestos or asbestos containing materials.
- O. Bio-hazardous waste, bandages, wound dressings, syringes, etc
- P. Human waste.
- Q. Materials that create a foul or offensive odor or that cause smoke emissions that are reasonably offensive to occupants of the surrounding properties
- R. Putrescible waste (Solid waste that contains organic matter capable of being decomposed by microorganisms and of such a character and

proportion as to cause obnoxious odors and to be capable of attracting or providing food for birds or animals).

S. Furniture and appliances.

T. Household chemicals and pesticides.

Refuse - means any normal waste material generated from one domestic dwelling, except those materials list on the "Non-Burnable Materials List".

Substantiated Complaint – A written complaint from a resident of the Borough, which is supported by at least two (2) additional, written complaints from other Borough residents, not members of the same household, and which relates to the same occurrence within a twenty four (24) hour period. An "occurrence" shall be emissions that affect the same or different properties. All written complaints must be dated and signed to be the basis of a substantiated complaint. Upon establishment of a substantiated complaint the property owner shall be subject to the requirements of Section 14.

Yard Waste – Limbs and small trees less than 3 inches in diameter, leaves, weeds, grass clippings and other vegetative matter normally found in a residential yard

Verified Complaint – A verbal or written complaint from a Borough resident which is mailed, tendered or delivered to a representative of the Borough, which is subsequently verified to be valid through observation by a Borough or other governmental representative within 24 hours of receipt of the complaint. In the event of a verbal complaint, the resident will be requested to place the complaint in writing and submit it to a borough representative. All written complaints must be dated and signed to be the basis of a verified complaint. Upon establishment of a verified complaint the property owner where the prohibited burning activity is located shall be subject to **Sections 14 and 15**.

SECTION 6 – General Regulations for Open Burning

- A. Open burning is prohibited in Berrysburg Borough unless the burning is specifically permitted by this ordinance.
- B. Open burning is prohibited upon any street, curb, gutter or sidewalk or on the ice or in the water of a pond, stream, or other body of water.

- C. No person shall ignite, burn or permit the continuation of the burning of any combustible material, upon Borough property without written permission from the Borough Council.
- D. A person utilizing or maintaining open burning shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.
- E. Open burning is prohibited and shall not be undertaken during periods when a burning ban or an ozone action day has been issued for Dauphin County, the Borough or the Harrisburg Air Basin.
- F. All allowed open burning shall be conducted in a safe, nuisance-free manner, when wind and weather conditions minimize adverse effects and do not create a health hazard or a visibility hazard on roadways.
- G. All open burning of any kind from an apartment building with three (3) or more dwelling units or a commercial or industrial establishment is prohibited.
- H. Open burning shall only be conducted at a location at least 25 feet from the closest structure or other combustible material.
- I. Burning must be constantly attended and supervised by a competent person 16 years of age or older, until the fire is completely extinguished and cold. The person shall have readily available for use such fire extinguishing agents and equipment as may be necessary for the total control of the fire.
- J. Open burning shall be conducted in conformance with all local, state and national fire protection regulations.
- K. Open burning shall only be conducted between the hours of 8:00 AM and 12:00 PM, Saturday except for permitted burning.
- L. The burning shall be completely extinguished when not accompanied by a competent person 16 years of age or older.
- M. No person shall kindle or keep up a fire in such a position or manner that it endangers any structures.

- N. No person shall carry any lighted pipe, cigar, cigarette or flame not in an enclosed lantern, into any barn, stable or other place where straw, hay or other flammable material is stored.
- O. Any open burning for salvage purposes is prohibited.

Section 7 - Open Burning of Refuse.

- A. Open burning of refuse may only be conducted for no more than four (4) hours per week and only between the hours of 8:00 A.M. and 12:00 P.M. on a Saturday, weather conditions permitting.
- B. Open burning of refuse from a one or two family dwelling is allowed if all of the following conditions are met:
 - 1. The burning does not create a nuisance
 - 2. The burning is conducted in a container constructed of metal or masonry that has a metal covering device that does not have an opening larger than ½ inch.
 - 3. The burning container is located at least 25 feet from the closest structure or other combustible materials.
 - 4. The material being burned is not listed on the “Non-Burnable Materials List”.
 - 5. Borough Council can grant a waiver of Section 7 to the Berrysburg Fire Chief for the purpose of fire prevention or suppression training. The waiver must be applied for and granted prior to the schedule date of the training.

Section 8 - Open Burning of Yard Waste

Open burning of yard waste is allowed in accordance with all the following provisions:

- 1. The burning does not create a nuisance.
- 2. The burning is conducted in a container constructed of metal or masonry that has a metal covering device that does not have an opening larger than ½ inch.

3. The burning container is located at least 25 feet from the closest structure or other combustible materials.
4. The material being burned is not listed on the "Non- Burnable Materials List".
5. Burning of yard waste may be conducted between 8:00 A.M. and 12:00 P.M. on a Saturday and only one (1) time in a 30 day period.

SECTION 9 - Open Burning of Clearing and Grubbing Waste, Trees, Logs, Brush And Stumps

Open burning of clearing and grubbing waste, trees, logs, brush, and stumps is allowed only in accordance with all of the following provisions:

1. A permit issued in accordance with **Section 13** of this ordinance must be obtained prior to open burning under this section.
2. An air curtain destructor shall be used so that combustion efficiency is increased and smoke and other particulate matter are contained.
3. Open burning of clearing and grubbing waste, trees, logs, brush, and stumps must be conducted at least 500 feet from the closest structures.

SECTION 10 - AGRICULTURAL BURNING

- A. Open burning of weeds, brush, and crop stubble on agricultural lands is allowed if conducted in accordance with other applicable provisions of this ordinance.
- B. Open burning of weeds, brush, and crop stubble on agricultural lands shall not be conducted within 25 feet of an adjacent property not owned by the person conducting the burning, unless the owner (s) of the adjacent property agree to allow the burning to come closer to the property line. This agreement must be in writing and submitted to the Borough prior to the burning.
- C. The burning must be exclusively for disposal of Agricultural waste. The burning shall not be used as a means to dispose of refuse material including tires, pesticides, petroleum waste, ACM's and other hazardous material that is listed on the "Non-Burnable Materials List".

SECTION 11 - Patio Wood- Burning Units

Patio wood-burning unit may be installed and used in accordance with all of the following provisions:

1. The patio wood-burning unit shall not be used to burn refuse.
2. The patio wood-burning unit shall burn only clean wood.
3. The patio wood-burning unit shall not cause a nuisance to neighbors.

SECTION 12 - Fire Prevention and Suppression Training

Notwithstanding sections 6 and 7 of this ordinance, structures and other materials may be burned for fire prevention training only in accordance with all of the following provisions.

- A. The burning must be exclusively for fire prevention or suppression training. The burning shall not be used as a means to dispose of waste material including tires and other hazardous material that is listed on the "Non-Burnable Materials List".
- B. Any standing structure that will be used in fire prevention or suppression training shall be inspected by a licensed asbestos inspector. A notification of this inspection must be submitted to the Borough at least ten business days prior to burning a standing structure. The notification must be by USPS registered mail and contain the following information: name, address (es), telephone number, and contact person of the inspector, certified under PA §2105.61.a of this Article, who performed the ACM inspection of the structure that is proposed to be burned.
- C. All asbestos must be removed prior to conducting the fire suppression training. If the structure is a residential dwelling, the owner may remove the asbestos or have it removed by a licensed abatement contractor. If it is a commercial building, all asbestos must be removed by a licensed abatement contractor.
- D. All ash shall be disposed of in an approved landfill or at an alternate location approved by the Pennsylvania Department of Environmental Protection.
- E. Asphalt shingles and asphalt or plastic siding shall be removed prior to the practice burn unless the Fire Chief determines that they are necessary for the fire practice.
- F. At least seven (7) days before a planned practice burn, residents within 2,000 feet of the site of the proposed burn shall be notified.

- G. All fire suppression training should conform to the guidelines established by the National Fire Protection Association (NFPA) Standard on Live Fire Training Evolutions (NFPA 1403).

SECTION 13 - Burning Permits

- A. No person shall start or maintain any burning covered under this ordinance, which requires a permit; without a burning permit being issued prior to the burning by the appropriate Borough officer.
- B. Any person responsible for burning leaves, brush, clean wood or other vegetative debris under Section 9 of this ordinance shall obtain a burning permit before starting the fire.
- C. Burning that does not require a permit must still comply with all other applicable provisions of this ordinance.
- D. The fee for a burning permit shall be \$20.00.
- E. When weather conditions warrant, the Mayor or the President of the Council may temporarily suspend issuing burning permits and may temporarily suspend previously issued burning permits for open burning.
- F. A burning permit issued under this section shall require compliance with all applicable provisions of this ordinance and any additional special restrictions deemed necessary to protect public health and safety.
- G. Any violation of the conditions of a burning permit shall be deemed a violation of this ordinance. Any violation of this ordinance or the burning permit shall void the permit.

SECTION 14 – Right of Entry and Inspection

- A. The Mayor, President of Council, or authorized representative of the Borough shall have the power and duty to enforce the provisions of this ordinance.
- B. The Mayor, President of Council, or authorized representative of the Borough may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

- C. Authorized representatives of the Borough, authorized to conduct inspections or investigations are hereby declared to be law enforcement officers authorized to issue or file citations for summary violations under this ordinance, and the Borough Solicitor is hereby authorized to prosecute these offenses.

SECTION 15 - Enforcement Orders

- A. The Borough may issue such orders as are necessary to aid in the enforcement of the provisions of this ordinance. These orders shall include, but shall not be limited to: orders requiring persons to cease unlawful open burning which, in the course of its occurrence, is in violation of any provision of this ordinance; orders to take corrective action or to abate a public nuisance; orders requiring the testing, sampling, or monitoring of any open burning; or orders requiring production of information. Such an order may be issued if the Borough finds that any condition existing in or on the property or source involved is causing or contributing to open burning or if the Borough finds that any person is in violation of any provision of this ordinance.
- B. The Borough may, in its order, require compliance with such conditions as are necessary to prevent or abate open burning or affect the purposes of this ordinance.
- C. An order issued under this section shall take effect upon notice, unless the order specifies otherwise. An appeal to the **Dauphin County Court of Common Pleas** of the Borough's order shall not act as a supersede as provided, however, that upon application and for cause shown, the **Dauphin County Court of Common Pleas** may issue such a supersede under rules established by the **Dauphin County Court of Common Pleas**.
- D. The authority of the Borough to issue an order under this section is in addition to any remedy or penalty which may be imposed pursuant to this ordinance. The failure to comply with any such order is hereby declared to be a public nuisance.

Section 16 – Responsibility of Owners

- A. Whenever the Mayor, President of Council, or authorized representative of the Borough finds that open burning is occurring in the Borough, other than those exceptions noted above, the Mayor, President of Council, or authorized representative of the Borough may order the owner or operator to take corrective action in a manner satisfactory to the Borough, or the Mayor, President of Council, or authorized representative of the Borough may order the owner or operator to allow access to the land by the Mayor, President of Council, or authorized representative of the Borough or a third party to take such action.

- B. For purposes of collecting or recovering the costs involved in taking corrective action or pursuing a cost recovery action pursuant to an order or recovering the cost of litigation, oversight, monitoring, sampling, testing, and investigation related to a corrective action, the Borough may collect the amount in the same manner as civil penalties are assessed and collected following the process for assessment and collection of a civil penalty contained in this ordinance.

SECTION 17 - Criminal Penalties

- A. Any person who violates any provision of this ordinance or any order of the Borough issued pursuant to this ordinance commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than one hundred dollars (\$100.00) nor more than two thousand five hundred dollars (\$2,500.00) (See Table 1) for each separate offense and, in default of the payment of such fine, may be sentenced to imprisonment for ninety (90) days for each separate offense.

<u>Table 1</u>	<u>Minimum Fine</u>	<u>Maximum Fine</u>
1st Offense within 3-year period*	\$100.00	\$500.00
2nd Offense within 3-year period*	\$200.00	\$600.00
3rd Offense within 3-year period*	\$400.00	\$1,000.00
4th or More Offense within 3-year period*	\$1,000.00	\$2500.00

- B. For purposes of this section, a summary offense may be prosecuted before any district justice in Dauphin County. There is no accelerated rehabilitative disposition authorized for this summary offense.

SECTION 18 - Civil Penalties

- A. In addition to proceeding under any other remedy available at law or in equity for a violation of a provision of this ordinance or any order issued pursuant to this ordinance, the Borough may assess a civil penalty for the violation. The penalty may be assessed whether or not the violation was willful.
- B. The civil penalty so assessed shall not exceed twenty-five thousand dollars (\$25,000.00) per day for each violation.
[Note: The allowable amounts for the penalty increase in 1995 to \$15,000.00 per day for each violation and in 1996 and thereafter to \$25,000.00 per day for each violation.]

- C. In determining the amount of the penalty, the Borough shall consider the willfulness of the violation; damage to air, soil, water, or other natural resources of the Borough or their uses; financial benefit to the person in consequence of the violation; deterrence of future violations; cost to the Borough; the size of the source or facility; the compliance history of the source; the severity and duration of the violation; degree of cooperation in resolving the violation; the speed with which compliance is ultimately achieved; whether the violation was voluntarily reported; other factors unique to the owners or operators of the source or facility; and other relevant factors.
- D. When the Borough proposes to assess a civil penalty, it shall inform the person of the proposed amount of the penalty. The person charged with the penalty shall then have thirty (30) days to pay the proposed penalty in full; or if the person wishes to contest the amount of the penalty or the fact of the violation to the extent not already established, the person shall forward the proposed amount of the penalty to the **Dauphin County Court of Common Pleas** within the thirty (30) day period for placement in an escrow account with the State Treasurer or any Commonwealth bank or post an appeal bond to the **Dauphin County Court of Common Pleas** within thirty (30) days in the amount of the proposed penalty, provided that such bond is executed by a surety licensed to do business in the Commonwealth and is satisfactory to the Borough. If, through administrative or final judicial review of the proposed penalty, it is determined that no violation occurred or that the amount of the penalty shall be reduced, the **Dauphin County Court of Common Pleas** shall, within thirty (30) days, remit the appropriate amount to the person with any interest accumulated by the escrow deposit. Failure to forward the money or the appeal bond at the time of the appeal shall result in a waiver of all legal rights to contest the violation or the amount of the civil penalty unless the appellant alleges financial inability to prepay the penalty or to post the appeal bond. The **Dauphin County Court of Common Pleas** shall conduct a hearing to consider the appellant's alleged inability to pay within thirty (30) days of the date of the appeal. The **Dauphin County Court of Common Pleas** may waive the requirement to prepay the civil penalty or to post an appeal bond if the appellant demonstrates and the **Dauphin County Court of Common Pleas** finds that the appellant is financially unable to pay. The **Dauphin County Court of Common Pleas** shall issue an order within thirty (30) days of the date of the hearing to consider the appellant's alleged inability to pay. The amount assessed after administrative hearing or after waiver of administrative hearing shall be payable to the Borough and shall be collectible in any manner provided by law for the collection of debts, including the collection of interest on the penalty amount computed in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) from the date of assessment of the penalty. If any person liable to pay any such penalty neglects or refuses to pay the same after demand, the amount, together with interest and any costs that may

accrue shall constitute a debt of such person, as may be appropriate, to the Borough. The debt shall constitute a lien on all property owned by said person when a notice of lien incorporating a description of the property of the person subject to the action is duly filed with the prothonotary of the court of common pleas where the property is located. The prothonotary shall promptly enter upon the civil judgment or order docket, at no cost to the Borough, the name and address of the person, as may be appropriate, and the amount of the lien as set forth in the notice of lien. Upon entry by the prothonotary, the lien shall attach to the revenues and all real and personal property of the person, whether or not the person is solvent. The notice of lien, filed pursuant to this Section, which affects the property of the person shall create a lien with priority over all subsequent claims or liens which are filed against the person, but it shall not affect any valid lien, right, or interest in the property filed in accordance with established procedure prior to the filing of a notice of lien under this section.

[Note: The penalties and remedies available to the municipality are those set forth in the Air Pollution Control Act (APCA), as amended, 35 P.S. 4012, Sections 9, 9.1, and 12(g). Each municipality may tailor the penalty provisions to reflect the municipality's preferred penalty policy, within the legal limits of the APCA.]

SECTION 19 - Unlawful Conduct

- A. It shall be unlawful to fail to comply with or to cause or assist in the violation of any of the provisions of this ordinance or to fail to comply with any order or other requirement of the Borough; or to cause a public nuisance; or to cause air, soil, or water pollution resulting from an open burning incident; or to hinder, obstruct, prevent, or interfere with the Borough or its personnel in their performance of any duty hereunder, including denying the Mayor, President of Council, or authorized representative of the Borough access to the source or facility; or to violate the provisions of 18 Pa.C.S. § 4903 (relating to false swearing) or 4904 (relating to unsworn falsification to authorities) in regard to papers required to be submitted under this ordinance. The owner or operator of an open burning source shall not allow pollution of the air, water, or other natural resources of the Borough to result from the source.

SECTION 20 - Public Nuisances

- A. A violation of this ordinance or of any order issued by the Borough under this ordinance shall constitute a public nuisance.
- B. The Borough shall have the authority to order any person causing a public nuisance to abate the public nuisance. In addition, when abating a public nuisance, the Borough may recover the expenses of abatement following the

process for assessment and collection of a civil penalty contained in Section 18. Whenever the nuisance is maintained or continued contrary to this ordinance or any order issued pursuant to this ordinance, the nuisance may be abatable in the manner provided by this ordinance.

- C. Any person who causes the public nuisance shall be liable for the cost of abatement.

SECTION 21 - Repealer

- A. **Ordinance 19, Dated 2 November 1964**, previously enacted is hereby repealed.
- B. All other ordinances or parts thereof which are in conflict with this ordinance are hereby repealed.

SECTION 22 - Severability

- A. The provisions of this ordinance are severable, and if any section, clause, sentence, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts, or provisions of this ordinance.
- B. It is hereby declared to be the intent of the Berrysburg Borough Council that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision had not been included herein.

SECTION 23 - Effective Date


This ordinance shall become effective on the 13th day of April, 2009.

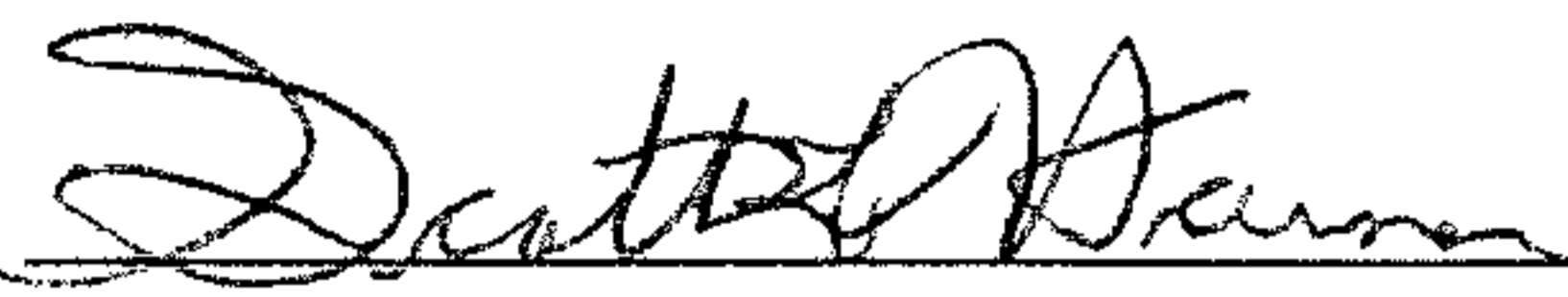
This ordinance shall be effective April, 13, 2009

Enacted and ordained this 13th day of April, 2009.

Attest:

Berrysburg Borough Council





Mayor

President

I, Diane Kennedy, being the Secretary of the Borough Council of Berrysburg Borough, Dauphin County, Pennsylvania, do hereby certify that the copy of the within Ordinance is a true and correct copy of the original which was adopted by the Borough Council of Berrysburg, Dauphin County, Pennsylvania, at a regular meeting held at 7:00 p.m. on April 13th, 2009



Secretary