

Ordinance No 43

Section 1 – Short Title

This Ordinance shall be known as and may be cited as the,
“Berrysburg Dangerous Buildings or Structures Ordinance.”

Section 2 - Purpose – The purpose of this ordinance is to protect the residents and general public from unsafe buildings or structures in the Borough, by providing for the vacating, removal, repair or demolition of any structures deemed to be dangerous to the health and safety of the people of the Borough. It is the intent of the Borough to set forth a consistent and impartial procedure and set of rules for determining dangerous structures. The Borough desires to regulate dilapidated, unsafe, dangerous and abandoned buildings or structures which constitute a public nuisance, a vector breeding ground or fire hazard.

Section -3 – Authority

- A. **The Borough Code Act of February 1, 1966 as Amended, Section 1202.**
- B. **Pennsylvania Consolidated Statutes, Section 18, Crimes and Offenses, Chapter 65 “Nuisance” as amended.**
- C. **The provisions of 18 Pa.C.S. § 4903 (relating to false swearing) or 4904 (relating to unsworn falsification to authorities).**

Section -4 – Application:

This Ordinance shall apply uniformly to all persons, business organizations, non-profit organizations, and all other legal entities; and it shall apply uniformly to all property and all property owners within the Borough.

Section-5 – Definitions and Word Usage:

- A. Unless otherwise specifically defined below, words or phrases used herein shall be interpreted so as to give them the same meaning as they have in common usage and so as to give the ordinance its most reasonable application consistent with its intent.
- B. **Shall** - is always mandatory and not merely directory.
- C. **Council** - shall mean the elected or appointed members of the Berrysburg Borough Council.
- D. **Borough** - shall mean the Borough of Berrysburg.

- E. **Dangerous Buildings/Structures** - shall mean all the buildings or structures which have any or all of the following defects; and all such buildings or structures shall be deemed "Dangerous Buildings/Structures" as:
1. Those which have been damaged by fire, wind or other cause so as to fail utterly to provide the amenities essential to decent living and are unfit for human habitation.
 2. Those which have been damaged by fire, wind or other cause so as to have become dangerous to the life and safety, morals, or the general health and welfare of the occupant or the people of the Borough.
 3. Those which have become or are so dilapidated decayed, unsafe, unsanitary or which is so utterly fail to provide the amenities essential to decent living so that they are unfit for human habitation.
 4. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which utterly fail to provide the amenities essential to decent living and are likely to cause accidents, sickness, or disease, so as to work injury to the health, safety or general welfare of those living therein as well as other citizens of the Borough.
 5. Those which have become or are so dilapidated, decayed, unsafe, unsanitary they have become infested with insects and/or rodents they pose a health hazard to the citizens of the Borough.
 6. Those which have parts thereof which are so attached that they might fall and injure members of the public or adjoining property, or
 7. Those which because of their general condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of the Borough.
 8. The term also includes any sign, fence, pole, shed, barn, sty, lean-to, cellar, abandoned wells, shafts, basements, abandoned construction excavations or other structure, which becomes so damaged, rotten, broken, eroded or dilapidated that it becomes a danger to the health and safety of people or property.
- F. **Vacate/Vacation** – shall mean the Dangerous Building/Structure shall be evacuated, departed from or checked out of and securely locked, cordon-off and posted with signs warning of restricted access, so as to prevent re-entry by the occupants or general public until proper corrective action has been completed and permission to reoccupy the Building/Structure has been granted by the Borough.
- G. Words used in the present text include the future and past, words in the plural number include the singular, words in the singular number include words in the plural and words whether in the feminine, masculine or neuter shall include words of the other two genders.

Section-6 – Dangerous Buildings/Structures as Nuisances

- A. All Dangerous Buildings/Structures are hereby declared to be public nuisances and shall be repaired, vacated and/or demolished.
- B. All buildings or structures and exterior property shall be kept free from rodent harborage and insect infestation.
- C. On lot storage of rubbish or garbage is prohibited. Owner(s) of a building or structure shall be responsible for disposing of all rubbish and garbage in a clean, safe and sanitary manner.
- D. Each day a nuisance in the form of a dangerous buildings continues after notice is given that said dangerous building is to be repaired, vacated and/or demolished, shall constitute a separate offense in violation of this Ordinance.

Section -7– Investigation Procedure:

Whenever it is reported or comes to the attention of any person, citizen, Borough official or other enforcement officer that any building or structure completed or in the process of construction or any portion thereof is in a dangerous condition, such person shall report the same to the Borough Council or to the Mayor. If reported to the Mayor, then the Mayor shall notify the Borough Council.

The Borough Council shall then designate an enforcement official who is a qualified, such that he/she has a degree, license or experience in a related construction field to properly perform the assigned investigation and examine the building, structure or grounds reported. The enforcement official making the investigation shall issue a written report detailing the condition of the building or structure. The enforcement official shall present the report to the Borough Council; and Council will take the necessary corrective action.

Section -8– Hearing Procedure

The Council of the Borough shall:

- A. Upon receipt of a report in accordance with the investigation procedure provided hereinabove in **Section 7** of this Ordinance, give written notice to the owner or owners of such Dangerous Buildings/Structures as determined by the records in the County assessment and Recorder of Deeds offices in and for the County, in the Commonwealth of Pennsylvania, or failing to find any owner or owners, then notice shall be given to the occupant, mortgagee, lessee, agent or any other person found with an interest in said dangerous building as the Borough may discover, and said notice shall inform the owner or other party to appear before the Council on a date specified to show cause why the building or structure reported as a Dangerous Building/Structure

- should not be repaired, demolished or vacated in accordance with any written report to Council or determination made by Council.
- B. Within not less than ten (10) days nor more than sixty (60) days from the date of such notice, hold a hearing and hear such testimony as the owner, occupant, mortgagee, lessee or other person having an interest in said building shall offer related to the Dangerous Building/Structure.
 - C. Within thirty (30) days of such hearing, make written findings of fact from the testimony offered pursuant to the hearing as to whether or not the building in question is a dangerous building, and;
 - D. Within not more than thirty (30) days following the hearing provided for by **Subsection B** hereof, issue an order, based upon findings of fact made pursuant to **Subsection C** hereof, demanding the owner of said building to repair, demolish or vacate any building found to be a Dangerous Building/Structure. Any appeal of the Borough's decision shall be commenced in the **Dauphin County Court of Common Pleas** within thirty (30) days of the date the Order is issued or it shall be considered final.

Section -9– Standards for Repair, Vacation or Demolition

The following standards shall be followed in substance by the Council in ordering repair, vacation or demolition of a Dangerous Building/Structure:

- A. If the Dangerous Building/Structure can be repaired, as determined by the Council, so that it will no longer exist in violation of the terms of this Ordinance, it shall be ordered repaired.
- B. If the Dangerous Building/Structure is in such condition as to make it dangerous to the health, safety, or general welfare of its occupants, it shall be ordered to be vacated and secured until it no longer exist in violation of the terms of this ordinance.
- C. If the Dangerous Building/Structure cannot be reasonably repaired, as determined by the Council, it shall be demolished.
- D. If the Dangerous Building/Structure is a fire hazard, is existing or erected in violation of the terms of this Ordinance, or any other ordinance of the Borough or any statute of the Commonwealth of Pennsylvania, it shall be demolished.

Section-10-Enforcement Procedures

- A. If any structure is deemed to be a Dangerous Building within the standards of this Ordinance after the hearing, then Council within the time set forth in **Subsection 6 D** of this Ordinance shall cause notice of this order issued under **Section 6 D** of this Ordinance to be served upon the owner or owners of such Dangerous Buildings/Structures as determined by the records previously or who appeared at the hearing, or to the occupant, mortgage,

- lessee, agent or any other person found with an interest in said Dangerous Building/Structure who can be located.
- B. The notice and order required by this section shall be served personally upon the owner or owners of a Dangerous Building/Structure if such owner resides, or such owners, reside in the Borough or personally upon his agent if such agent resides within the Borough AND IT SHALL BE POSTED ON THE PROPERTY. If personal service required herein cannot be obtained, such notice shall be sent to the owner or owners of a dangerous building by certified mail at the last known address according to the records available in the Tax Assessment Office in and for the County in the Commonwealth of Pennsylvania AND IT SHALL BE POSTED ON THE PROPERTY.
 - C. The notice and order shall identify the building or structure deemed dangerous; contain a statement of the particulars which made this building or structure a Dangerous Building and include an order requiring the same to be put in such condition as to conform with the terms of this Ordinance; provided further in any case where the notice prescribes the repair of any structure, the owner thereof shall have the option to remove such structure, in lieu of making the repairs thereto within the time period provided.
 - D. The notice and order shall require any person notified to repair, vacate or demolish any building to commence the work or act required by the notice, within ten (10) days of such notice and to comply with such repair, vacation or demolition within sixty (60) days from the receipt of such notice.
 - E. Upon application and approval by Council, an extension of time beyond that given on correction notice to bring the property into compliance may be granted for a reasonable cause. An application for extension shall include:
 - a. Name, address, and phone number of applicant.
 - b. Address of property referenced on correction notice.
 - c. Violations referenced for which extension is requested.
 - d. Payment of a fee of \$10.00 per each violation for which extension is being requested.

Section -11– Penalties

- A. Any owner, occupant or lessee who is in possession of any Dangerous Building/Structure who shall fail to comply with any notice or order to repair, vacate or demolish any Dangerous Building/Structure issued under **Section 10** of this Ordinance or who violates any of the other provisions of this Ordinance, shall upon conviction before a District Justice, be subject to a fine not exceeding Three Hundred Dollars (\$300.00) plus costs. Each day of a violation shall be considered separate violations and offenses.

- B. Any person having an interest in any building or structure who fails to comply with any notice or order to repair, vacate, or demolish any Dangerous Building/Structure within ninety (90) days of the receipt of such notice, by such failure does empower the Council to cause such building or structure to be repaired, vacated or demolished by the Borough and to cause the costs of such repair, vacation or demolition together with a penalty of ten (10%) per cent to be charged upon the land upon which the building or structure exists as a municipal lien, or alternatively to recover such costs and penalty in a suit at law against the owner or owners but failing to recover same to have the judgment therefore to be charged upon the land as a lien; and, this subsection is separate from in addition to the fine, penalty and costs which may be imposed by any other sub-section of this section.

Section -12 – Emergency Cases

In cases where it reasonably appears that there exists an immediate danger to the life or safety of any person caused or created by a Dangerous Building/Structure, the Council shall cause the immediate repair, vacation or demolition of such Dangerous Building/Structure. The costs of such emergency repair, vacation or demolition of such Dangerous Building/Structure shall be collected as provided for in **Section 11 B** of this Ordinance.

Section -13 – Severability

- A. In the event of any provision, section, sentence, clause, or part of this Ordinance being held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of the Ordinance, it being the intent of the Borough that such remainder shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.
- B. In the event of any legislation by the Commonwealth of Pennsylvania becomes effective in dealing with the same or similar subject matter that is included herein, such shall remain in full force and effect if it is more restrictive, and not inconsistent with such legislation, but if such legislation is more restrictive than, inconsistent with, or both, then this Ordinance shall be interpreted according to such legislation and shall be superseded to the extent necessary to give such legislation appropriate effect. However all the remainder of the ordinance shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.

Section -14- Repealer

All Ordinances or parts of Ordinances expressly inconsistent herewith, or dealing with the same or similar subject matter of this Ordinance, are expressly repealed.

Section -15- Effective Date

This Ordinance shall be effective within five (5) days after adopted by the Council.

This ordinance shall be effective July 13 2009

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

Attest:

Berrysburg Borough Council

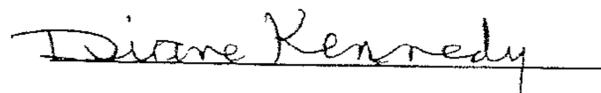


Mayor



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 July 13th, 2009



Secretary