

**BERRYSBURG BOROUGH
ORDINANCE #44**

CODE AND ORDINANCE ENFORCEMENT

AN ORDINANCE OF THE BOROUGH OF BERRYSBURG, COUNTY OF DAUPHIN, COMMONWEALTH OF PENNSYLVANIA: AUTHORIZING THE ESTABLISHMENT OF THE OFFICE OF BOROUGH CODE AND ORDINANCE ENFORCEMENT FOR THE BOROUGH OF BERRYSBURG, AUTHORIZING THE BERRYSBURG BOROUGH COUNCIL TO ENTER INTO CONTRACT FOR THIS POSITION, TO FILL THIS POSITION BY APPOINTMENT AND BY RESOLUTION, EMPOWERING BOROUGH COUNCIL TO TERMINATE SAID APPOINTMENTS AND CONTRACTS FOR JUSTIFIABLE CAUSE, TO PROVIDE FUNDING FOR, PAY RELATED EXPENSES, AND TO PROVIDE FOR CONTRACTURAL COMPENSATION, TO ESTABLISH A BOROUGH CODE AND ORDINANCE ENFORCEMENT ADMINISTRATION, TO ESTABLISH OFFICIAL POSITION QUALIFICATIONS, PREREQUISITES, AND SPECIFIC POWERS AND DUTIES OF THE BOROUGH CODE AND ORDINANCE ENFORCEMENT OFFICER, TO ESTABLISH RECORD KEEPING REQUIREMENTS, UNIFORM BOROUGH CODE AND ORDINANCE ENFORCEMENT PROCEDURES, AND AUTHORIZES FOR BOROUGH CODE AND ORDINANCE VIOLATION FINES, PENALTIES AND LEVIED ENFORCEMENT COST RE-EVALUATIONS AND AMENDMENTS.

BE IT ENACTED AND ORDAINED BY THE BOROUGH OF BERRYSBURG, COUNTY OF DAUPHIN, COMMONWEALTH OF PENNSYLVANIA, AND IT IS HEREBY ENACTED AND ORDAINED BY THE AUTHORITY OF THE SAME AS FOLLOWS:

Article I

General Provisions

Section - 101. Short Title

This ordinance shall be known as and may be cited as the "Berrysburg Code Enforcement Ordinance".

Section - 102. Statement of Findings

The Berrysburg Borough Council finds that the effective enforcement of the borough's Codes and Ordinances is an important public service and it is vital to the protection of the borough residents and the public's health, safety, quality of life, and property. The Borough Council has also determined that there is a need for a credible, uniform, impartial, effective, and efficient enforcement procedure, for addressing borough code

and ordinance violations and for the issuance of any citations for unresolved incidents of said violations.

The Borough Council has further determined that a comprehensive borough code and ordinance enforcement system uses a combination of the community approach, administrative actions, and judicial remedies to establish credibility, maintain respect for, and to gain compliance with borough code and ordinance regulations.

Section - 103. Purpose, Scope, and Intent

This ordinance is intended to establish the Office of Code and Ordinance Enforcement for the Borough of Berrysburg, to establish the financial and administrative support needed for the office and officer(s), to establish uniform enforcement protocols and procedures, to establish a system of record keeping relating to said enforcement and for the handling of all complaints of violations and officially identified violations of the Borough's Codes and Ordinances. The protocols and procedures established or authorized to be established within this ordinance are enacted in addition to any other existing procedures or legal remedies available to address any borough code or ordinance violations.

In addition this ordinance authorizes council to regularly re-evaluate and to update the borough code and ordinance violation fines, penalties and any additional enforcement costs set forth in any current or future borough codes and ordinances, so that they may reasonably reflect any and all of the actual costs and any other actual or additional enforcement related expenditures directly accrued by the borough as a result of said enforcement.

Section - 104. Statutory Authority

- 1. The Commonwealth of Pennsylvania: The Borough Code Act of February 1, 1966 as Amended, Sections 1006 and 1202**
- 2. The Pennsylvania Consolidated Statutes, Section 18, Crimes and Offences**

Section - 105. Applicability

This ordinance shall apply uniformly and impartially to all individuals, all public or private businesses or corporations or organizations for profit or non-profit, and to all other legal entities and it shall be applied uniformly and impartially to all property and to all owners of any property located partially or completely within the legally established and recognized borough boundaries.

Section - 106. Severability

1. 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.
2. 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 - 107. Repealer

1. All other borough ordinances or parts thereof, which are in conflict with this ordinance, are hereby repealed.

Article II

Definitions and Interpretations

Section - 201. Definitions of Terms

The following words are defined in order to facilitate the interpretation of this ordinance for administrative purposes in the performance of the duties and responsibilities of the Berrysburg Borough Code and Ordinance Enforcement Administration, appropriate borough officials or representatives, and by the Berrysburg Borough Code and Ordinance Enforcement Officer.

Section - 202. Interpretation of Definitions

1. Unless otherwise expressly stated, the words or phrases used herein for the purpose of this ordinance shall be interpreted so as to give them the same meaning as they have in common usage to give the ordinance its most reasonable application consistent with its intent.
2. Unless otherwise expressly stated, the following words, for the purpose of this ordinance, shall have the meaning indicated.
3. Words in the present tense include the future tense.
4. The singular includes the plural.
5. The word "person" shall mean and include any individual, public or private business or corporation for profit or not for profit, association, partnership, firm,

trust, estate, department, board, bureau or agency of Dauphin County, 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.

6. Words whether in the feminine, masculine, or neuter shall include words of the other two genders.
7. The term “shall” is always mandatory.
8. Any words not included in the following definitions shall be defined as described in the latest edition of Webster’s Abridged Dictionary.

Borough - shall mean the Borough of Berrysburg, Dauphin County, in the Commonwealth of Pennsylvania.

Citation - shall mean a properly formatted and completed borough code or ordinance violation summons, recognized by the District Magisterial Courts of the County of Dauphin, in the Commonwealth of Pennsylvania.

Cite - shall mean the issuance of a properly formatted and completed borough code or ordinance violation summons, recognized by the District Magisterial Courts of the County of Dauphin, in the Commonwealth of Pennsylvania.

Code Enforcement Administration - shall mean the Code and Ordinance Enforcement Administration for the Borough of Berrysburg.

Code Enforcement Officer - shall mean the Code and Ordinance Enforcement Officer for the Borough of Berrysburg.

Council - shall mean the duly elected or officially appointed members of the Berrysburg Borough Council.

Directive - shall mean a Berrysburg Borough Code Enforcement Administration *Directive to Issue a Citation* order given to the Borough’s Code Enforcement Officer authorizing the issuance of a citation for a code or ordinance violation

Mayor - shall mean the duly elected or officially appointed Mayor of the Borough of Berrysburg.

Secretary - shall mean the officially appointed Secretary for the Borough Council

Article III

Advertising, Appointments, Contracts, Terms, and Terminations

Section - 301. Position Advertisement

1. Council has the authority to advertise for applicants for this office.

Section - 302. Appointments, Contracts, Terms, and Conditions for Termination

1. Council has full discretionary authority to decide by motion and by a two thirds majority vote: to fill the Office of Code and Ordinance Enforcement, refill, vacate, or leave said office vacant.
2. Council has the full discretionary authority to negotiate and approve by motion and by a two thirds majority vote: a one (1) year contract to fill the Office of Borough Code and Ordinance Enforcement and to make appointment(s) and or reappointments by motion and by a two thirds majority vote and by an officially adopted resolution, to fill said office for the term of said contract.
3. Council has the full discretionary authority to draft, adopt, and or amend by motion and by a two thirds majority vote: a specific Code of Conduct which the Code Enforcement Officer candidate shall sign and agree to follow and to establish and set terms and conditions by which the termination of said contract is just and warranted; a copy of which shall be attested to by the Secretary and affixed to the back of this ordinance for public, official, or legal reference to.

Justifiable conditions for termination which should be included but are not limited too, are any acts by the Code Enforcement Officer which may be deemed by Council as detrimental to the public safety or civil order of the borough or detrimental to any established Enforcement Process(s) or its credibility, such as acts of: insubordination to Council or any other part or member of the Code Enforcement Administration, willful concealment or misrepresentation of any pre-appointment or pre-contract background information or personal qualifications, or the committing of any acts of civil misconduct, inappropriate public behavior, dereliction of duties, illegal criminal or civil acts, and or any convictions of crimes by the appointee while on or off duty for the borough while still under contract for the borough.

Article IV

Budget Line Establishment, Funding, Expenses, and Compensation

Section - 401. Budget Line Establishment

1. Council is hereby authorized to establish, adopt, and or to amend by motion and by a two thirds majority vote: a budget line expense item for the Office of Borough Code and Ordinance Enforcement.

Section - 402. Funding, Enforcement Expenses, and Compensation

1. Council is hereby authorized to provide funding for this office, to dispense council approved or pre-approved enforcement related expense reimbursements and to provide just compensation to the Borough Code and Ordinance Enforcement Officer.

Article IV

Code and Ordinance Enforcement Administration

Section - 501. Borough Code and Ordinance Enforcement Administration

1. The Borough Code and Ordinance Enforcement Administration shall consist of the Borough Council, the Borough Board of Health, and the Borough Mayor.
2. Any future borough boards, officers or offices established by ordinance or by appointments by officially adopted resolutions, which may become required or necessary to administer, regulate, and or to enforce any future codes or ordinances relating to but not limiting to health and safety, zoning, land use, subdivision and development, stormwater management, historic and environmental preservation, or building and construction codes, may be added to the Borough Code and Ordinance Enforcement Administration and empowered as the same, by an officially adopted resolution; a copy of which shall be attested to by the Secretary and affixed to the back of this ordinance for public, official, or legal reference to.

Article V

Borough Code Enforcement Officer Qualifications

Section - 501. Borough Code Enforcement Officer Qualifications

1. Council has full discretionary authority to establish, adopt, and or amend by motion and by a two thirds majority vote: a specific eligibility standard of qualifications, requirements, or prerequisites for all applicant(s) for the position of Code Enforcement Officer; a copy of which shall be attested to by the Secretary and affixed to the back of this ordinance for public, official, or legal reference to.

Article VI

Powers and Duties of the Borough Code and Enforcement Officer

Section - 601. Powers and Duties of the Borough Code and Ordinance Enforcement Officer

1. Upon official appointment by resolution and under official contract by Council, the Code Enforcement Officer shall be empowered to enforce all borough codes and ordinances and to issue citations for all borough code and ordinance violations when directed to do so by a written, properly formatted, approved, and signed official Directive to Issue a Citation.
2. Council has full discretionary authority to establish, adopt, and or amend by motion and by a two thirds majority vote: additional and or specific powers and duties of the Code Enforcement Officer; a copy of which shall be attested to by the Secretary and affixed to the back of this ordinance for public, official, or legal reference to.

Article VII

Enforcement Forms and Record Keeping

Section - 701. - Enforcement Forms

1. Council has full discretionary authority to establish, draft, adopt, and or amend by motion and by a two thirds majority vote: all necessary forms for all enforcement procedures and record keeping.

Section - 702. Enforcement Record Keeping

1. Council has full discretionary authority to establish, adopt, and or amend by motion and by a two thirds majority vote: specific record keeping requirements and recording keeping responsibilities for the Code Enforcement Officer; a copy of which shall be attested to by the Secretary and affixed to the back of this ordinance for public, official, or legal reference to.
2. Council has full discretionary authority to establish, adopt, and or amend by motion and by a two thirds majority vote: specific record keeping requirements and recording keeping responsibilities pertaining to borough code and ordinance violation complaints, pursuant responsive actions, and final resolutions achieved by the Code Enforcement Administration for any such violations, including but not limited to records kept by the Secretary, the Borough Treasurer, the Borough Board of Health, the Mayor, and or any additional or future boards, offices, or officers, which may become established parts of the Code Enforcement Administration; a copy of which shall be attested to by the Secretary and affixed to the back of this ordinance for public, official, or legal reference to.

Article VIII

Enforcement Procedures and Directives to Issue Citations

Section - 801. Code and Ordinance Enforcement Procedures

1. Council has full discretionary authority to establish, adopt, and or amend by motion and by a two thirds majority vote: an impartial and systematic Borough Code and Ordinance Enforcement Procedure to be followed uniformly by the Code Enforcement Administration and the Code Enforcement Officer for the handling of all complaints relating to current and or future code and ordinance violations; a copy of which shall be attested to by the Secretary and affixed to the back of this ordinance for public, official, or legal reference to.

Section - 802. Directive to Issue Citations

1. An official written and approved *Directive to Issue a Citation* to a violator shall be given to the Code Enforcement Officer by a member of the Code Enforcement Administration, before any borough code or ordinance violator may be cited.
2. A *Directive to Issue a Citation* shall be first approved by motion and by a two thirds majority vote by Council, and then additionally reviewed, approved, and signed by the Mayor, then signed by the Council President and attested to by the Secretary.

3. The Mayor may reject a Council approved *Directive to Issue a Citation* if the Mayor deems the intent of the *Directive* is inappropriate, unwarranted, unreasonable, malicious, partial, or motivated by personal agendas, or if the Mayor can substantiate that the directive specifically: violates, contradicts or is in conflict with any established borough ordinance, code, or any borough resolution, or any adopted borough code or ordinance enforcement precedent or procedure, or any county, state, or federal laws or regulations.
4. Any Council approved *Directive to Issue a Citation* initially rejected by the Mayor, excluding any *Directive* of an emergency nature, shall not be reconsidered and or amended by council until the next regularly scheduled Council meeting, at which time Council may either approve an amended *Directive* by motion and by a two thirds majority vote and again submit it to the Mayor for review, approval, and signature, or Council may chose to override the Mayor's initial rejection and readopt the originally written *Directive* with a motion and a unanimous vote requiring the attendance of all legally seated council members; at which time the *Directive* becomes official without the need for the Mayor's signature.

Article IX

Code and Ordinance Violation Fines, Penalties, and Costs

Section - 901. Code and Ordinance Violation Fines, Penalties, and Costs

1. Council has full discretionary authority to establish, adopt, and or amend by a two thirds majority motion and by adopted resolution: all code and ordinance schedules of code and ordinance violation fines, penalties, and the enforcement process costs which are to be levied and collected from cited and prosecuted violators of all borough codes and ordinances; a copy of said resolution shall be attested to by the Secretary and affixed to the back of the original codes or ordinances and to this ordinance for public, official, or legal reference to.

Article X

Effective and Enacted Dates

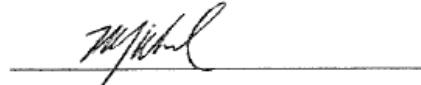
Section - 1001. Effective and Enacted Dates

1. This ordinance shall become effective on the 11th day of October 2010
2. Enacted and ordained this 11th day of October 2010

Attest: Berrysburg Borough Council



Scott Harner, President



Michael J. Ward, Mayor

I, Diane Kennedy being the Secretary of the Borough Council of Berrysburg, Dauphin County, Commonwealth of Pennsylvania, hereby certify that the foregoing Borough Ordinance #44 was advertised on the 5th day of October 2010 in the Upper Dauphin Sentinel, a newspaper of general circulation in the Borough, and I further certify that the copy of the foregoing ordinance is a true and correct copy of the original which was adopted by the Borough Council of Berrysburg, Dauphin County, Commonwealth of Pennsylvania, at a regular meeting held at 7:00 p.m. on the 11th day of October 2010.



Diane Kennedy, Secretary

(SEAL AFFIX)

