



**Borough of Berlin  
700 North Street  
Berlin, PA 15530**

## **Regular Council Meeting**

**February 6, 2025 – 4:30 P.M.**

### **Approved and Official Minutes**

---

The meeting was called to order by President Michael Lottig

Pledge of Allegiance to the American Flag was quoted.

#### **Council Attending:**

Michael Lottig – Present  
Clifford Horner – Present  
John Harding – Present  
Marshal Engleka – Present  
Stephen Custer – Present  
Thomas Fisher – Absent  
Michael Fogle - Present  
Mayor Joseph Krause - Present

Others Attending –Traci Horning, Executive Borough Secretary

Motion by John Harding seconded by Marshal Engleka, to approve the January 2, 2025, Regular Council Meeting. Ayes 6, Nays 0. Motion carried.

Motion by John Harding, seconded by Marshal Engleka, to approve the Mayor and Police Department's Report for January 2025. Ayes 6, Nays 0. Motion carried.

#### Park and Planning

DCNR Grants Community Conservation Partnerships Program. Currently looking to apply for grant money to improve the area at the Lower Diamond where the clock is at.

Somerset County Planning Commission sent a letter stating that it has not approved the non-residential land development plans for the Berlin Brethren Church due to some deficiencies.

#### Garbage

The Borough has contacted All Green Services LLC, commercial and residential recycling, to get information on getting help with starting recycling in the borough. Going to see about getting roll-off containers to collect recyclables. Looking into grants to apply for to purchase roll-off containers.

Dumpsters are being blocked by vehicles/delivery trucks and the dumpsters are not being picked up. Borough is asking that day of dumpster pick up from the hours of 7am to 3pm that the dumpster not to be blocked. Borough employees will not be going into business and asking to have the vehicles/delivery trucks moved.

Personnel and Finance

Motion by Stephen Custer, seconded by Clifford Horner to approve the January 2025 bills. Ayes 6 Nays 0. Motion carried.

Motion by Stephen Custer, seconded by John Harding to approve the Treasurer's Report for December 2024. Ayes 6, Nays 0. Motion carried.

Motion by Stephen Custer, seconded by Clifford Horner to approve Ordinance No. 365 An Ordinance Providing For The Prevention and Control Of Air Pollution In The Borough of Berlin. Ayes 6, Nays 0. Motion carried.

As follows:

ORDINANCE No. 365

AN ORDINANCE PROVIDING FOR THE PREVENTION AND CONTROL OF AIR POLLUTION IN THE BOROUGH OF BERLIN

An Ordinance of the Borough of Berlin, County of Somerset, Commonwealth of Pennsylvania, for the prevention and control of air pollution; defining certain terms used herein; providing for regulations, exceptions, enforcement orders, responsibility of owners and operators, penalties, unlawful conduct, public nuisances, and validity.

BE IT ORDAINED AND ENACTED by the Borough of Berlin (hereinafter referred to as "Berlin Borough") as follows:

SECTION I. TITLE

This Ordinance shall be known and may be cited as the Berlin Borough Air Pollution Control Ordinance of 2024.

SECTION II. AUTHORITY

The Council of Berlin Borough under, and by virtue of pursuant to the authority granted by the Borough Code, 8 Pa. C.S. § 3301.1 et seq., does hereby enact and ordain this Ordinance.

SECTION III. POLICY

Whereas, the Council of Berlin Borough as determined that air pollution from open burning may be detrimental to the health, comfort, living conditions, welfare and safety of the citizens of Berlin Borough, and it is hereby declared to be the policy of Berlin Borough to safeguard the citizens of Berlin Borough from such air pollution.

#### SECTION IV. 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:

- (1) Agricultural Commodity- As defined in 3 P.S. § 952.
- (2) Air Basin – A geographic area of this Commonwealth as delineated in 25 Pa. Code 121.1. Definitions.
- (3) 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 particular matter are contained.
- (4) 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 any smoldering shall be deemed a burning.
- (5) Clearing and Grubbing Wastes – Trees, shrubs and other 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.
- (6) Composting – The process by which organic solid waste is biologically decomposed under controlled anaerobic or aerobic conditions to yield a humus-like product.
- (7) Domestic Refuse – Waste which is generated from the normal occupancy of a structure occupied solely as a dwelling by two families or less. The term does not include appliances, carpets, demolition waste (insulation, shingles, siding, etc.), furniture, mattresses or box springs, paint, putrescible waste, solvents, tires, or treated wood.
- (8) Municipality- a city, incorporated town, township, borough, county municipal authority, or other public body created under State law having jurisdiction over the disposal of sewage, industrial wastes, or other wastes.
- (9) Open Burning – A fire, the air contaminants from which are emitted directly into the outdoor atmosphere and not directed thereto through a flue.
- (10) 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, authority, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.
- (111) Yard Waste – Leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery and other vegetative material.

## SECTION V. REGULATIONS

After \_\_\_\_\_ (the effective date), no person may permit the Open Burning of material with the exception of the following:

- (1) A fire set to prevent or abate a fire hazard, when approved by the Department of Environmental Protection's Regional Air Quality Program office and set by or under the supervision of a public officer.
- (2) Any fire set for the purpose of instructing personnel in firefighting, when approved by the Department of Environmental Protection's Regional Air Quality Program office.
- (3) A fire set for the prevention and control of disease or pests, when approved by the Department of Environmental Protection's Regional Air Quality Program office.
- (4) A fire set for the purpose of Burning Clearing and Grubbing Waste. If within an Air Basin, an Air Curtain Destructor must be used and must be approved by the Department of Environmental Protection's Regional Air Quality Program Office.
- (5) A fire set in conjunction with the production of an Agricultural Commodity in their unmanufactured state on the premises of the farm operation.
- (6) A fire set for the purpose of Burning that amount of Domestic Refuse generated from one dwelling, when the fire is on the premises of a structure occupied solely as a dwelling by two families or less and when the refuse results from the normal occupancy of said structure.
- (7) A fire set for the purpose of Burning that amount of Yard Waste generated from the premises of a structure occupied solely as a dwelling by two families or less (except where composting is mandatory), when the fire is on the premises of said structure.
- (8) A fire set solely for cooking food.
- (9) A fire set solely for recreational or ceremonial purposes.
- (10) A fire set for the purpose of Burning associated with an operational business permitted by the Pennsylvania Department of Environmental Resources or the U.S. Department of Environmental Resources.

## SECTION VI. ENFORCEMENT ORDERS

- (1) Berlin Borough Council hereby designates the Berlin Borough Police Department with the power and duty to enforce the provisions of this Ordinance.
- (2) Berlin 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 Berlin Borough finds that any condition existing in or on the facility or source involved is causing or contributing to Open Burning or if Berlin Borough finds that any person is in violation of any provision of this Ordinance.

(3) Berlin Borough may, in its order, require compliance with such conditions as are necessary to prevent or abate open burning or effect the purposes of this Ordinance.

(4) An order issued under this section shall take effect upon notice, unless the order specifies otherwise. An appeal of Berlin Borough's order shall not act as a supersedeas, provided, however, that, upon application and for cause shown, the local Magisterial District Judge or Court having jurisdiction over such matter may issue such a supersedeas under such rules established by the Commonwealth of Pennsylvania.

(5) The authority of Berlin 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 VII. RESPONSIBILITY OF OWNERS AND OPERATORS

(1) Whenever the Berlin Borough Police Department finds that Open Burning is occurring in Berlin Borough, other than those exceptions noted in Section V above, the Berlin Borough Police Department may order the owner or operator to take corrective action in a manner satisfactory to Berlin Borough, or the Berlin Borough Police Department may order the owner or operator to allow access to the land by Berlin Borough employees, agents and/or representatives for a third party to take such action.

(2) 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, Berlin 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 Section IX of this Ordinance.

#### SECTION VIII. CRIMINAL PENALTIES

Any person who violates any provision of this Ordinance or any order of Berlin 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 (\$100.00) nor more than One Thousand (\$1,000.00), for each separate offense together with the costs and, in default of payment of such fine, may be sentenced to imprisonment for ninety (90) days for each separate offense. Each day a violation exists shall constitute a separate offense. Employees of Berlin 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 Berlin Borough Council is hereby authorized to prosecute these offenses. For purpose of this section, a summary offense may be prosecuted before any district justice in Berlin Borough. There is no accelerated rehabilitative disposition authorized for a summary offense.

## SECTION IX. CIVIL PENALTIES

(1) 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, Berlin Borough may assess a civil penalty for the violation. The penalty may be assessed whether or not the violation was willful. The civil penalty so assessed shall not exceed Six-Hundred Dollars (\$600.00) per day for each violation. In determining the amount of the penalty, Berlin Borough shall consider the willfulness of the violation; damage to air, soil, water, or other natural resources of Berlin Borough or their uses; financial benefit to the person in consequence of the violation; deterrence of future violations; cost to Berlin 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.

## SECTION X. UNLAWFUL CONDUCT

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 Berlin 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 Berlin Borough or its personnel in their performance of any duty hereunder, including denying the Berlin Borough Police Department and/or employees, agents, representative of Berlin 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 Berlin Borough to result from the source.

## SECTION XI. PUBLIC NUISANCE

A violation of this Ordinance or of any order issued by Berlin Borough under this Ordinance shall constitute a public nuisance. Berlin 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, Berlin Borough may recover the expenses of abatement following the process for assessment and collection of a civil penalty contained in Section IX. 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. Any person who causes the public nuisance shall be liable for the cost of abatement.

## SECTION XII. REPEALER

All other ordinances or parts thereof which are in conflict with this Ordinance are hereby repealed.

## SECTION XIII. VALIDITY

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. It is hereby declared to be the intent of the Board of Supervisors 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 IV. EFFECTIVE DATE

This Ordinance shall become effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

ATTEST

BERLIN BOROUGH

\_\_\_\_\_  
Traci Horning, Secretary

\_\_\_\_\_  
Michael Lottig, President

APPROVED BY THE BERLIN BOROUGH MAYOR

\_\_\_\_\_  
Joseph Krause

Motion by Michael Fogle, seconded by John Harding to accept the proposal from Beer Ream Co. of 250 East Union Street, PO Box 629, Somerset, PA 15501 to do the financial statement audit for year ending December 31, 2024, for the Department of Community and Economic Development. Ayes 5, Nays 0. Motion carried.

House

House committee has a meeting schedule with the Fire Department and Ladies Auxiliary for Thursday February 27, 2025, at 6 pm.

Council members would like to have snow guards put on the roof. Contact Patrick Carns of Westmoreland Commercial Roofing to get a quote on roof guards.

Streets, Sidewalks, Storm Sewers

A permit was received to fix the ADA ramp at 534 Main Street. Working with engineers to have the drawing submitted to the Borough.

Berlin Brothersvalley School District does not have a contract with anyone to salt/antiskid the school premises. The Borough puts salt/antiskid on the Berlin School premises (parking lots and roadways). The council was not aware of this being done without a contract and not paying for salt/antiskid. After discussion among the council this service will no longer be provided starting the 2025-2026 school year and beyond.

Motion by John Harding, seconded by Stephen Custer to no longer provide the service of salt/antiskid the school premises (parking lots and roadways) starting the 2025-2026 school year and continuing to the future. Ayes 6, Nays 0. Motion carried.

### Electric & Equipment

When Wiedenhoft Electric is called out to look at a resident for an electrical issue and the borough is not at fault for the issue the homeowner will be charged for the call if it is not an emergency, or it is an emergency call effective March 7, 2024. 12/25/2024 resident called with an emergency call need to bill resident for emergency call.

Pennsylvania Municipal Electric Association/PA Public Power information on PJM Lawsuits: What's All the Fuss About?

Senator Pat Stefano E-Newsletter article about Pennsylvanians Deserve the Truth about Electricity Costs.

AMP Public Power Partners letter about Berlin's 2024 Wholesale Power Costs.

### Fire & Police

Police Coverage hours:

December 28, 2024 – January 4, 2025

FT hrs = 90 (W. Gonzalez 50, R. Norman 40)

January 5 - January 11

FT hrs = 90 (W. Gonzalez 50, R. Norman 40)

January 12 – January 18

FT hrs = 90.5 (W. Gonzalez 50, R. Norman 40.5)

January 19– January 25

FT hrs = 93 (W. Gonzalez 50, R. Norman 43)

January 26– February 1

FT hrs = 94 (W. Gonzalez 50, R. Norman 44)

### Other Information

Berlin's Lion Club letter for "A Night at the Races" asking for a donation.

Berlin's Lion Club letter for hosting a CPR/AED/First Aid training February 22, 2025, from 8:00 am to 1:00pm.

### Municipal Authority Update

Have a job opening for an assistant manager to help oversee the wastewater treatment plant.

### Executive Session

At 5:45 P.M., Stephen Custer made the motion, seconded by Clifford Horner for the council adjourned to executive session to review and discuss agency business which, if conducted in public, would violate a lawful privilege, or lead to the disclosure of information and confidentiality protected by law, including matters related to the initiation and conduct of investigations of possible or certain violations of the law and quasi-judicial deliberations. Ayes 6, Nays 0, Motion carried.

At 5:55 P.M. John Harding made the motion, seconded by Marshal Engleka to have the council reconvened the regular meeting. Ayes 6, Nays 0. Motion carried.

Adjournment

At 6:00 P.M. a motion was made by Stephen Custer, seconded by Marshal Engleka, to adjourn this meeting. Ayes 6, Nays 0. Motion carried.

Traci Horning

---

Submitted By: Traci Horning, Executive Secretary