

**ORDINANCE NO. 346****ORDINANCE OF THE BOROUGH OF BERLIN REGULATING ENTRY INTO GARBAGE DUMPSTERS OF BOROUGH AND REMOVAL OF ITEMS THEREFROM****AN ORDINANCE OF THE BOROUGH OF BERLIN, SOMERSET COUNTY, PENNSYLVANIA ESTABLISHING A TITLE FOR THIS ORDINANCE; DEFINING KEY TERMS USED THEREIN; ESTABLISHING PROVISIONS PROHIBITING DIVING OR CRAWLING INTO DUMPTERS OR REMOVING ITEMS PLACED IN DUMPSTERS OWNED OR LEASED BY THE BOROUGH; PRESCRIBING PENALTIES FOR VIOLATION OF THIS ORDINANCE; ESTABLISHING A SEVERABILITY PROVISION FOR THIS ORDINANCE; AND SETTING AN EFFECTIVE DATE FOR THIS ORDINANCE**

WHEREAS, the Borough of Berlin (hereinafter "the Borough") is empowered under Section 1202(5) of the Borough Code, 8 Pa. C.S.A. Section 1202(5), to make regulations as may be necessary for the health, safety, morals, general welfare and cleanliness and beauty, convenience, comfort, and safety of the Borough; and

WHEREAS, the Borough Council has been alerted to persons diving into or enter garbage dumpsters owned or leased by the Borough and removing items therefrom which are not such person's property; and

WHEREAS, the Council for the Borough of Berlin finds that it is in the best interests of health, welfare and safety of the Borough and its citizenry to adopt an Ordinance prohibiting such conduct or practice; and

WHEREAS, it is hereby expressly declared that it is not the purpose or intention of the Borough, by this Ordinance, to discriminate against or in any way to impose undue hardship, upon any individual, group, company or other business entity of any type; NOW, THEREFORE, be it ordained and enacted by the Council of the Borough of Berlin, Somerset County, Pennsylvania, and it is hereby ordained and enacted by authority of the same;

**SECTION NO. 1. TITLE.**

This Ordinance shall be known as the "Ordinance of the Borough of Berlin Regulating Entry into Garbage Dumpsters of Borough and Removal of Items Therefrom".

**SECTION NO. 2. DEFINITIONS.**

As used in this Ordinance, the following terms shall have the following meaning indicated, unless a different means clearly appears from the context:

- a. Borough: the Borough of Berlin, Somerset County, Pennsylvania.
- b. Garbage Dumpster: a container or other receptacle owned or leased by the Borough for placement of garbage or refuse by the Borough and its citizenry.
- c. PERSON: An individual, company, corporation, or other business entity.

**SECTION NO. 3. VIOLATIONS OF THIS ORDINANCE.**

It shall be unlawful and a violation of this Ordinance

- a. For any person to enter, dive, crawl, or reach into a Garbage Dumpster owned or leased by the Borough or attempt the same for the purpose of placing one's body or portion thereof unrelated to placement of garbage or refuse therein;
- b. For any person to enter, dive, crawl, or reach into a Garbage Dumpster owned or leased by the Borough or attempt the same for the purpose of removing garbage or refuse placed by another therefrom;
- c. For any person to remove or attempt to remove garbage or refuse placed by another person into a Garbage Dumpster owned or leased by the Borough.

**SECTION NO. 4. PENALTIES FOR VIOLATION OF ORDINANCE.**

Any person violating any provision of Section No. 3 of this Ordinance shall, upon conviction thereof before a district magistrate, be sentenced to pay a fine of not less than Three Hundred (\$300.00) Dollars for each such offense, or upon failure to pay the fine so imposed, be imprisoned in the Somerset County Jail for a period not exceeding thirty (30)

days. Each day or portion thereof during which any violation of this Ordinance continues shall constitute a separate offense and/or violation, and the person in violation thereof shall be liable for the penalty imposed, plus court costs and reasonable attorney's fees incurred by the Borough in the enforcement proceedings. Likewise, each provision under Section No. 3 of this Ordinance which is violated shall constitute a separate offense and/or violation, and the person in violation thereof shall be liable for the penalty imposed, plus court costs and reasonable attorney's fees incurred by the Borough in the enforcement proceedings. In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance related to which the Borough shall be entitled to recover all attorney's fees, costs, and expenses incurred in connection therewith. The imposition of a fine or penalty of the violation of, or non-compliance with, this Ordinance shall in no way be considered express or implied permission for such violation to continue;

**SECTION NO. 5. VALIDITY.**

If any section, clause or part of this Ordinance is for any reason found to be unconstitutional, illegal or otherwise invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Borough that this Ordinance would have been adopted had such unconstitutional, illegal or otherwise invalid sentence, clause, section or part not been included herein.

**SECTION NO. 6. EFFECTIVE DATE.**

This Ordinance shall become effective within five days of its adoption.

**DULY ENACTED AND ORDAINED**, this 12<sup>TH</sup> day of MARCH, 2019, by

the Borough Council of the Borough of Berlin, Somerset County, Pennsylvania, in lawful session fully assembled.

BOROUGH OF BERLIN,  
Somerset County, Pennsylvania

By: *Charles E. Rhodes*  
Borough Council President

*Barbara L. Zepros*  
Council Member

*Mark A. ...*  
Council Member

*Thomas Fisher*  
Council Member

*Clifford Hannon*  
Council Member

*Thomas W. Jones*  
Council Member

*John S. ...*  
Council Member

ATTEST:

*Thomas E. Blesner*  
Secretary

Approved this 7 day of March, 2019.

*[Signature]*  
Mayor