

**BOROUGH OF BERLIN
ORDINANCE NO. 2016-16**

**AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF BERLIN
CHAPTER 246, PROPERTY MAINTENANCE**

WHEREAS, the Borough of Berlin (“Borough”) is a municipal entity organized and existing under the laws of the State of New Jersey and located in Camden County; and

WHEREAS, the Borough Council believes it to be in the best public interest and welfare to modify the Code of the Borough of Berlin to revise Chapter 246, entitled Property Maintenance in its entirety; and

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Berlin, County of Camden, State of New Jersey, amend the Code of the Borough of Berlin as follows:

Section 1: Chapter § 246, entitled Property Maintenance shall be amended in its entirety to read as follows:

Article I. Purpose; Definitions; Compliance.

§ 246-1 – Title

This chapter shall be known as the “Property Maintenance Ordinance of the Borough of Berlin.”

§ 246-2 – Findings of Fact

It is hereby found and declared that there exists, in the Borough of Berlin, buildings and premises used for residential and nonresidential purposes which are or may become substandard with respect to structural integrity and maintenance, and further, that such conditions including but not limited to structural deterioration, lack of maintenance of the exterior of the premises, infestation and existence of fire hazards constitute a menace to health, safety, welfare and reasonable comfort of the citizens and inhabitants of the Borough of Berlin.

§ 246-3 – Purpose

The purpose of this chapter is to provide minimum standards of property maintenance:

- A. To promote the public health, welfare and safety.
- B. To make buildings and premises fit for human cohabitation, occupancy and use.
- C. To fix certain responsibilities and duties upon owners and operators.
- D. To foster a clean community.
- E. To prevent blighting conditions.

- F. To authorize and establish procedures for the inspection of such premises.
- G. To correct violations or to fix penalties for the violations of this chapter.
- H. To preserve the quality, character and property values of the Borough.
- I. To provide owners and operators with a system to enforce the standards set forth herein.
- J. To avoid, prevent and eliminate conditions which, if permitted to exist or continue, will depreciate the value of adjacent or surrounding properties.
- K. To avoid, prevent and eliminate the maintenance or creations of hazards to the public health and safety.

§ 246-4 – Definitions.

BLIGHT - A destructive force; something that spoils or damages things severely.

BUILDING – Any structure which has enclosed walls, floor and roof, is affixed to the land and has one or more floors or stories. A building shall not include such structures as billboards, signs, fences or structures with interior surfaces not normally accessible to human use, such as gas tanks or similar structures. A building may be used for agricultural, commercial, industrial, public, institutional, or residential purposes.

COMMERCIAL VEHICLE – Any motor vehicle licensed by the State as a commercial vehicle.

DETERIORATION – The condition of a building or a part thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay, neglect, lack on maintenance or excessive wear.

DRIVEWAY – A private roadway providing access for vehicles to a parking space, garage, dwelling or other structure.

DUMPSTER – Any container that has the ability to hold more than two (2) fifty-gallon trash cans of debris.

DWELLING UNIT – The part of a dwelling designed for use by one family only and containing one or more rooms and facilities for living, including cooking, sleeping, storage of possessions, and sanitary needs.

PROPERTY MAINTENANCE INSPECTOR – the mayoral appointee, with the advice and consent of the Council, as set forth in N.J.S.A. 40A:60-4(g), to conduct inspections, regulations and enforcement of this chapter.

EXPOSED TO PUBLIC VIEW – Any building or premises or part thereof that which may be lawfully viewed by the public or any member thereof from a path, sidewalk, walk, street, alleyway or parking lot.

EXTERIOR OF PREMISES – Those portions of a building or structure which are exposed to public view or are visible from adjoining or adjacent lots, including all outside surfaces and appurtenances thereto and to the open land space of any premises outside of any building or structure erected thereon viewed by adjoining property owners or the public.

EXTERMINATION – The control and elimination of insects, rodents and other pests as determined by the County Department of Health by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food by poison, spraying, fumigating, trapping or by any other approved pest elimination methods.

FIRE HAZARD – Anything or any act which increases or may cause any increases of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service of preventing, suppressing or extinguishing fire or which may obstruct, delay or hinder or may become the cause of an obstruction, delay, hazard or hindrance to the prevention, suppression or extinguishment of fire.

GARBAGE – Waste resulting from handling, preparing, cooking and consumption of food or other products. (See also “refuse” or “rubbish.”)

HABITABLE SPACE – a space in structure which is used for living, sleeping, eating, cooking, etc.; does not include basements, attics, patios, porches, garages, etc. A habitable space must have a clear height from finished floor to finished ceiling of not less than 7 ½ feet. A habitable room must have a minimum area of 70 square feet between enclosed walls, exclusive of closet space. A habitable space which is partly below and partly above grade must have at least one half its height above grade. The grade is a reference line representing the average of finished ground level adjoining the building at all exterior walls. Spaces under sloping roofs must be at least five feet in height to be considered habitable space.

HAZARDOUS MATERIALS - Materials or liquids that pose a threat present or future to the environment, whether in use, storage or transit.

INFESTATION – Inhabited or overrun in numbers or quantities large enough to be harmful, threatening or obnoxious.

MAINTENANCE - Work that is done regularly to keep a building or premises in good condition.

MIXED OCCUPANCY - Any building containing one or more dwelling units and also having a portion thereof devoted to nonresidential uses. The applicable provisions for residential and nonresidential shall control.

MOBILE TRANSPORT VEHICLE – A trailer, horse trailer, utility trailer or other mobile device licensed to be lawfully used on public streets and which attaches to and is pulled or pushed by a powered vehicle and used for transporting or carrying personal recreational vehicle(s), recreational homes, watercraft, off-road vehicle(s) or any other similar device, or any types of items such as wood, dirt, building materials, etc.

MULTI-FAMILY DWELLING – a freestanding residential building of three or more dwelling units, with common walls and floors, constructed on one lot or adjacent lots, having an indirect entrance from the outside to each dwelling, unit, and having a yard area as common to all dwelling units.

NUISANCE –

- A. An interference with the enjoyment and use of property.
- B. Any public or private condition that would constitute a nuisance according to the statutes, laws and regulations of the State of New Jersey, its governmental agencies or the ordinances of the Borough.

- C. Any physical condition existing in or on the exterior of any premises which is potentially dangerous, detrimental or hazardous to life, health, safety of persons on, near or passing within the proximity of the premises where such condition exists.
- D. Inadequate or unsanitary sewerage or plumbing facilities in violation of this chapter.
- E. Fire hazards.

OCCUPANT – Any person residing, living or sleeping in or on the premises or having actual possession, use or occupancy of a dwelling, premises or unit or operating a business therein, or any person or entity in possession of or using any premises or part thereof, whether or not the owner thereof and regardless of the duration of time of such possession, use or occupancy.

OPERATOR – Any person, persons or entity, but not the owner, who has charge, care or control of a dwelling or premises or a part thereof, with or without the knowledge, consent or authority of the owner.

OWNER – Any person, persons, or entity who shall have legal or equitable title in any form whatsoever to any premises or part thereof, with or without accompanying actual possession thereof or who shall have charge, care or control of any lot, premises, building, structure or part thereof, as owner or agent of owner, or as a fiduciary, trustee, receiver, guardian, lessee or mortgagee in possession, regardless of how such possession was obtained. Any person, group of persons or entity who is a lessee, sublessee or assignee of a lease of any part or all of any building, structure or land shall be deemed to be a co-owner with the lessor for the purposes of this chapter and shall have the responsibility over the portion of the premises so sublet, leased or assigned.

PATH – A cleared way for pedestrians and/or bicycles that may or may not be paved or otherwise improved.

PERSONAL PROPERTY – Any movable item or thing that is subject to ownership.

PORTABLE ON-DEMAND STORAGE UNIT STRUCTURE – Any container, storage unit, shed-like container, or other portable structure designed for the storage of personal property that is typically rented to owners or occupants of property for their temporary use, and which is customarily delivered and removed by truck, and which is located for such purposes outside an enclosed building other than an accessory building or shed complying with all building codes and land use requirements. For the purposes of this chapter, a “portable storage unit” may also be identified as simply a “unit(s).”

PREMISES – All buildings, structures or objects erected or placed upon any land, in addition to the land itself, and right-of-way or multiples thereof, which includes any naturally occurring conditions or things thereon.

PUBLIC AREA – Includes any street, sidewalk, highway, public lane, alley, right-of-way, Borough parking lot or other public place in the Borough.

RECREATIONAL HOME – Any enclosed mobile structure that can be used as temporary living accommodations, and which contains either built-in cooking facilities or lavatory facilities, and is self-motorized, placed on another vehicle for transport. Or towed by another vehicle, including, but not limited to, items such as motor coaches, motor homes, fifth wheelers, recreational vehicles, campers or camper trailers.

RECREATIONAL VEHICLE – Any motorized, human powered, electrical powered, or wind-powered vehicle used primarily for recreational purposes, including, but not limited to, such items such as boats,

sailboats, snowmobiles, canoes, kayaks, motorbikes, off-road vehicles, jet skis and other equipment or vehicles of similar nature.

REFUSE OR RUBBISH – All solid waste matter or materials, combustible or noncombustible, including but not limited to garbage, trash, ashes, paper goods and products, wrappings, cans bottles, containers, yard clippings, garden refuse, brush and containers of waste materials, chemicals or oil other than garbage containers used and intended to be picked up in the normal weekly scavenger collection service; debris, junk, glass, boxes, crockery, wood, mineral matter, plastic, rubber, leather, furniture, household goods, appliances, fixtures, bedding, scrap lumber, scrap metal, construction material (except during construction); inoperable machinery or parts thereof, dead or rotting vegetation, excluding compost piles which are not otherwise prohibited in this section; abandoned, inoperative, unused or unusual automobiles and vehicles, or parts and components of automobiles, motor vehicles, motorcycles or vehicles of any kinds; and solid and commercial waste.

SIDEWALK – A paved, surfaced or leveled area, paralleling and usually separated from the street, used as a pedestrian walkway.

STRUCTURE – A combination of materials to form a construction for occupancy, use or ornamentation, having a fixed location on, above or below the surface of land or attached to something having a fixed location on, above or below the surface of land, including, without limitation, buildings, fences, tanks, towers, signs, advertising devices, patios or swimming pools.

TOXIC – Material which is capable of causing detrimental effects to the physical or economic well-being of individuals, animals, or other living organisms.

TRASH – Discarded, unwanted, or worthless materials or objects.

UNIFORM CONSTRUCTION CODE – The New Jersey Uniform Construction Code (UCC) Act authorizes the Commissioner of the Department of Community Affairs to adopt and enforce rules pertaining to the construction codes and provides for the administration and enforcement of those rules throughout the State. The Uniform Construction Code contains the UCC Act and all rules issued under the Act relating to the administration of the and enforcement of construction regulations. The UCC is comprised of four (40 basic technical subcodes for construction: building, electrical, fire protection, and plumbing. In addition, the UCC contains technical subcodes for fuel gas installations; mechanical installations; one- and two-family dwellings; accessible (barrier-free) construction; the rehabilitation of existing buildings; the construction of manufactured homes; asbestos hazard abatement; radon hazard abatement; and playground safety.

VERMIN – Destructive animals or insects, such as rats or cockroaches, that are destructive, annoying or injurious to health and harm people, livestock, property or crops as determined by the County Department of Health.

WALK – Any sidewalk or walkway that is intended or suitable for pedestrian use.

WEATHERING – The deterioration, decay or damage caused by exposure to the elements.

Article II. Exterior Maintenance and Appearance.

§ 246-5. Applicability of Provisions.

A. Buildings Affected.

- (1) Every building and the premises on which it is situated, in the Borough, used or intended to be used or designed to be used, in whole or in part, for residential or nonresidential purposes shall

comply with the provisions of this chapter, whether or not any such building shall have been constructed, altered or repaired before or after the enactment of this chapter and irrespective of any permits or licenses which shall have been issued for the use and occupancy of any such building or premises for the construction, alteration or repair of any such building or for the installation or repair of equipment or facilities therein or thereon prior to the effective date of this chapter. This chapter establishes standards for the occupancy and use of all such buildings and premises and does not replace, modify or lessen the standards otherwise established for the construction, repair, alteration or use of such buildings and premises, equipment or facilities contained therein or thereon, except as provided by this section. Where there is mixed occupancy of such buildings and premises, the residential and nonresidential uses thereof shall be regulated by and subject to the applicable provisions of both this chapter and the Zoning and Land Use Code (Chapter 335) and other applicable ordinances of the Borough of Berlin.

(2) Vacant lots, lands and premises are also required to comply with the provisions of this chapter.

B. Higher standards to prevail. All premises in the Borough shall be subject to the provisions of this chapter. Nothing in this chapter shall limit or impair any of the existing remedies of the Borough or its officials. In any case where the provisions of this chapter shall impose a higher standard than set forth in any other Borough ordinance or law of the State of New Jersey, then the standards set forth herein shall prevail; but if the provisions of this chapter impose a lower standard than any other Borough ordinance or law of the State of New Jersey, then the higher standard shall prevail.

C. Issuance and renewal of other permits and licenses. After the date of the enactment hereof, all licenses, permits and certificates of occupancy relating to such buildings and premises which may be issued or renewed only upon compliance with this chapter as well as compliance with the ordinance under which such licenses and permits may be granted or renewed.

D. Compliance with other ordinances required. Compliance with this chapter shall not constitute a defense against the violation of any provision of any other ordinance of the Borough applicable to any building or premises.

E. Compliance by owners and operators. Owners and operators shall have all the duties, obligations and responsibilities prescribed in this chapter, and no such person or entity shall be relieved of any such duty, obligation or responsibility hereunder nor be entitled to assert as a defense against any charge made against him or them for violation of this chapter the fact that another owner, or operator or any other person or entity is also responsible therefor and in violation thereof.

F. Compliance with the Uniform Construction Code. Any alterations to buildings, structures or appurtenances thereto, or changes or use therein, which may be caused directly or indirectly by the enforcement of this chapter, shall be done in accordance with all applicable sections of the Uniform Construction Code.

G. Effect on zoning provisions. Nothing contained in this chapter or any requirement of compliance herewith shall be deemed to alter, impair or affect the Zoning and Land Use Code, or zoning laws of the Borough.

§ 246-6. Responsibility for Maintenance.

A. Responsibilities of owner and operator. Owners and operators shall have all the duties and responsibilities as prescribed in this chapter and the regulations promulgated thereto, unless specifically set forth to the contrary, and no owner/operator shall be relieved from any such duty and responsibility.

B. Contract to not alter responsibilities. Unless expressly provided to the contrary in this chapter, the respective obligations and responsibilities of the owner and operator shall not be altered or affected by any agreement or contract by and between the any other parties.

C. Homeowner Associations. All homeowner associations shall be required to adopt by reference this chapter and utilize and follow the minimum standards contained in this chapter.

§ 246-7. Exterior Maintenance Standards.

All of the provisions in this chapter shall be applicable to both residential and nonresidential buildings and premises, except where specifically provided to the contrary. The exterior of any premises shall be kept free of refuse, nuisances and any hazards to the safety of occupants, pedestrians and other persons utilizing the premises and free of unsanitary conditions. It shall be the duty of the owner or operator to keep the premises free of or remove, abate and correct the premises against such conditions, which include but are not limited to the following:

A. Prohibited uses and activities:

- (1) Animal excrement piles or vegetable waste, paper, rags, cartons, boxes, fallen tree branches, yard trimmings, objects in a state of general disrepair that are not being used for their original intended purpose, garbage, waste materials, scrap building materials, used tires, scrap metal, glass or wood, appliances in disuse, plumbing fixtures, furniture in disrepair.
- (2) Structurally unsafe or unsound buildings or structurally unsound parts thereof, structurally unsound walls or foundations, and fences.
- (3) Wells, shafts or other excavations except those that have been secured or closed in such a way that they are not accessible by minor children.
- (4) Ground surface hazards, such as holes, excavations, sharp or jagged projections or obstructions, glass or metal shards, projections of pipes, metal rods or similar objects that are not well marked and plainly visible.
- (5) Stagnant or recurring accumulations of surface water that are present for more than five (5) days and present a risk of insect infestation, excluding Chapter 285, Stormwater Management, regulations, facilities and additional requirements for stormwater management facilities and areas outside sewer zones.
- (6) Dead or diseased trees or shrubbery; dead or diseased limbs still attached or suspended within trees that because of their location might fall on private or public property including rights-of-way. The owner or operator shall be responsible for the removal of vegetation.
- (7) The outdoor placement of vehicles, machinery, equipment or parts thereof, including, but not limited to, boats and trailers, regardless of whether they are licensed and registered, which have been dismantled or have been in a state of visible disrepair for more than 30 days; vehicles that are mechanically inoperable or unfit for immediate use on public roadways and that have been in that condition for more than 30 days; unregistered motor vehicles that are operable but have remain unregistered for more than 90 days. Parking areas shall generally be free of grease, oil, and debris. Vehicles shall be stored in designated parking stalls, in garages or carports or on driveways.

- (8) Chimneys, flues and vent attachments thereto, if used, shall be maintained structurally sound, free from defects and so maintained as to capably perform at all times the functions for which they were designed and constructed and they shall comply with the UCC. Chimneys, flues, vents and other draft-producing equipment shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke-tight and capable of withstanding the temperature and action of flue gases.
- (9) Railings associated with exterior porches, landings, balconies, stairs and fire escapes shall be properly designed and kept structurally sound, in good repair, well painted or otherwise provided with a protective treatment or prevent deterioration and free from defects.
- (10) Refuse, rubbish or buried rubble, excluding legal landfills.
- (11) Trees and limbs or other natural growth which constitutes a hazard or may be dangerous to persons in the vicinity thereof.
- (12) Loose, overhanging and projecting objects, whether naturally occurring or man-made, which by reason of location above ground level constitutes dangers to persons in the vicinity thereof.
- (13) Breaks, projections, icy conditions, uncleared snow, obstructions and excretions of pets on paths, sidewalks, walks, driveways, streets, alleyways, parking lots and other parts of the exterior of the premises which are accessible to and used by persons having access to such premises.

B. Required obligations:

- (1) Adequate runoff drains shall be provided and maintained in accordance with applicable Borough ordinances to eliminate recurrent accumulations of stormwater.
- (2) All premises shall be kept free of rodents, vermin, pest infestation or rodent harborages. An owner of a structure or property shall be responsible for the extermination of insects, rats, vermin or other pests in all exterior or interior areas of the premises.
- (3) Foundation walls and retaining walls shall be kept structurally sound, free from defects and damage and capable of sustaining imposed loads safely.
- (4) Any awning or marquee and its accompanying structural members which extend over any street, sidewalk or other portion of the premises shall be maintained in good repair and shall be so maintained as to not constitute a nuisance or a safety hazard. In the event that any such awning or marquee is not properly maintained in accordance with the foregoing it shall together with its supporting member(s) be removed forthwith. Where such awning or marquee is exposed to public view, it shall be maintained in good condition and shall not show evidence of excessive weathering, ripping, tearing or other deterioration.

- (5) All sidewalks, steps, driveways, walkway entrances, stairways, parking spaces and similar paved areas shall be maintained in a safe condition and kept in a proper state of repair such as will not constitute a hazard to persons using the premises.
- (6) All waterways, brooks, drainage ditches, intermittent waterways and swales shall be maintained free of obstructions which would impede the natural flow of water to be consistent with state rules and regulations and as such the dumping or discarding of lawn clippings, vegetation or yard waste into any running stream or brook shall be prohibited.
- (7) Anything which material increases the risk of fire occurring or fire accelerating on the premises; any substance or arrangement of materials on the premises that materially increases the risk of fire spreading to an adjoining premises; chemicals or other substances hazardous to human health, not safely stored in a sealed container that is inaccessible to minor children lead based paint flakes on the ground where children are likely to be exposed to their presence.
- (8) Items of furniture, goods or appliances customarily intended for indoor use except insofar as the specific item is receiving regular use and is kept in good repair. No refrigerator, freezer or similar thing that presents a risk of suffocation to children shall be kept outdoors unless the same is kept under lock or is otherwise altered to eliminate the risk of entry by children.
- (9) Grass or weeds of a height of more than six inches. Excluded from this requirement are power line rights-of-way and orchard or farm lands that are actively being farmed, fields or parts of a premises that have not heretofore been sown with commercially grown grass seeds or that heretofore have not been subjected to a regular program of cutting.
- (10) Brush, hedges, other plant life that unreasonably obstructs the view of a person entering or exiting by motor vehicle from any driveway; obstructs to any degree the visibility of any children entering an existing marked crosswalk. Brush, hedges other plant life within 25 feet of the edge or curb line of two intersecting streets unless such plant life shall be kept to a height of not more than 30 inches above the pavement. Exceptions shall exist for signage, street furniture and leaf collection.
- (11) Any pool or large vessel containing water that has not been chemically treated and has become a potential source of insect breeding or a source of malodorous smells; any pool that has fallen into disrepair and that was not used for its intended purpose in the preceding 12 months.
- (12) Any physical condition which is potentially dangerous, detrimental or hazardous to the health or safety of persons on, near or passing in proximity to the premises where the condition exists, including any condition that would constitute a nuisance according to the statutes, laws and regulations of the State of New Jersey. Any condition that would serve as source of offensive odors readily detectable on adjoining properties, which source of odors is recurrent or which has been allowed to exist for more than 24 hours.
- (13) It shall be unlawful for any person or persons, corporation or otherwise, to throw wastepaper, grass clippings, sweepings, ashes, household waste, rubbish, paper, trash, garbage or any other waste material of any kind onto another person's property or into any street, avenue or highway, cartway and right-of-way in the Borough of Berlin or to interfere with, scatter or disturb the contents of any receptacle or receptacles containing waste material of any nature or description,

which shall be placed upon any pavement , street or sidewalk in the Borough of Berlin for collection by any duly authorized agency of the Borough or otherwise. A trash container may be placed in the street along the curb or edge of pavement and within the grassy strip between the path, sidewalk or walk and the curb or the edge pf the pavement as long as traffic, drainage, parking and pedestrian circulation is not impeded, and pursuant to the collection procedures and regulations set forth in Chapter 355 of the Code of the Borough of Berlin.

C. A residential property owner or a place of worship or nonprofit shall not be liable for the condition of a path, sidewalk or walk unless the owner did something to cause the defect. Uneven pavement from tree roots, normal wear or cracking shall be the responsibility of the homeowner to fix. A nonresidential property owner shall be liable for the condition of both the path, sidewalk or walk and grassy strip between the path, sidewalk or walk and the curb or edge of pavement.

D. The exterior of every building or accessory building, including fences, shall be maintained in good order and repair. It shall be maintained free of conditions reflective of extensive deterioration and subnormal maintenance, characterized by such conditions as broken panes of glass, excessively peeling paint, openings unprotected by doors or windows, loose or missing siding or roof coverings affecting 5% or more of the outside surface, numerous instances of rotting wood or crumbling stones and bricks, defective or inoperable leaders or gutters which permit water damage to the property, to the end that the property itself may be preserved, safety and fire hazards eliminated and the general welfare of the neighborhood protected.

§ 246-8. Appearance of exterior of premises.

A. Residential buildings and premises. The exterior of residential buildings and premises shall be maintained so as to facilitate the elimination of health, safety, and fire hazards and so that the appearance of the premises and all buildings thereon shall reflect a level of maintenance in keeping with the standards of the neighborhood, including, but not limited to the following:

- (1) There shall not be stored or used at the outside location equipment and material relating to construction, commercial or business uses unless there is a valid construction or home office permit in effect for that site.
- (2) No person shall park, stop or stand any motor vehicle or permit to suffer the same to be done in any front yard area of any residential building except on driveways and parking areas located, constructed and installed in compliance with the applicable Borough ordinances.
- (3) No person shall place, keep and/or store a trash or recycle container or cart in the front area of the principal dwelling or building.

B. Parking and storage of vehicles on properties with residential uses.

- (1) The purpose of this section is to establish standards for outdoor residential uses, storage and activities related to motor vehicles and non-motorized vehicles. These standards are intended to protect property values by reducing visual blight, aid in emergency access and fire safety, guard against the creation of rodent and pest harborage, and reduce the impact on the natural environment from the leaking of motor vehicle fluids.
- (2) Limitation on the number of vehicles. No more than one (1) of the following may be parked, stored or kept on the property utilized or zoned for residential purposes:

- (a) Recreational home that is equal to or less than 28 feet in length in the R-1 Zone on side or rear yard.
 - (b) Mobile transport vehicle in the R-1 Zone on side or rear yard.
 - (c) Recreational vehicle that is equal to or less than 28 feet in length in the R-1 Zone on side or rear yard.
 - (d) Commercial vehicle having a rated maximum gross vehicle weight of 11,000 pounds or more.
 - (e) Type II van with a seating capacity of 16 or less.
- (3) Parking or storage of vehicles, except for loading and unloading activities, is not permitted unless there is compliance with the following:
- (a) The vehicle (except for kayaks and canoes which need not be sight-screened) is housed within a garage or within a carport which is sight-screened from abutting properties by solid wall or fence made of wood, brick, block, or other permitted material or sight-obscuring landscaping.
 - (b) The vehicle (except for kayaks and canoes which need not be sight-screened) may be located within a side or rear yard if in compliance with the setback requirements applicable to all accessory structures and sight-screened from abutting properties by a solid wall or fence made of wood, brick, block or other permitted material or sight-obscuring landscaping. The vehicle shall be located behind the furthest front face of the main building, as measured from the property line or front right-of-way line. No storage of such vehicle shall be permitted on a corner lot in the front yard setback space by the Zoning and Land Use Code for the yards adjacent to streets.
 - (c) The storage or parking of vehicles shall be limited to a parcel of land upon which is located a inhabited dwelling unit and the vehicle which is stored or parked shall be owned by the occupant of that unit.
 - (d) All vehicles stored or parked outside shall be maintained clean, in well-kept condition which does not detract from the appearance of the surrounding area. Vehicles which are kept on site shall be operational and currently registered and licensed and ready for use, if applicable. The vehicle(s) shall be screened.
 - (e) All motorized vehicles shall be parked or stored on a hard-surfaced area or on a surface free from weeds or other vegetative growth. The approach between the driveway and the parking area does not need to be paved. When a surface other than blacktop or concrete is used, all loose material must remain within the parking area, and not be deposited on adjacent lots, sidewalks or public rights-of way. Non-motorized vehicles and vehicles that do not have fluids are allowed to be parked on a grass surface
 - (f) The outdoor storage of vehicles shall not be deemed to prevent the use of vehicles associated with a permitted home office and any vehicle engaged in delivery, pickup and service to the residential premises where located.

- (4) Sight screening. Vehicles that are being stored outside shall be reasonably screened at the ground level from all surrounding adjacent properties and public or private streets. A fence or live plantings must be provided when the vehicle is visible from adjacent and abutting properties. Except where a screening would limit legal access to a street, screening must be provided between a vehicle and public streets. If a fence is used, it must screen the maximum amount of the vehicle possible while meeting other requirements of the Zoning and Land Use Code. If live plants are used, they must reasonably screen the length and height of the vehicle at the time of planting.
- (5) Prohibition of occupancy. No vehicles shall be occupied for human habitation while parked on the residential property.
- (6) Prohibition of driving or parking on sidewalks. No vehicle shall be parked on, stored or driven over any public sidewalk at any time, except as such sidewalk has been integrated into an approved driveway.
- (7) The parking and storage of vehicles in the context of this section shall not be permitted in association with nonresidential and mixed-occupancy buildings, units designed for transient occupancy such as hotels, motels, tourist homes, or for sleeping and sanitary needs only such as a club, rooming house, fraternity, or an institutional home.
- (8) In addition to the vehicles listed in §246-8B(2), one limousine may be parked on a residential driveway. It need not be sight-screened.

C. Nonresidential and mixed-occupancy buildings. The exterior of nonresidential and mixed-occupancy buildings and premises shall be maintained so that the appearance thereof shall not constitute a blighting effect upon neighboring properties nor an element leading to a progressive deterioration and downgrading of neighboring properties including the following:

- (1) Any permanent sign and billboard exposed to the public view shall be maintained in good repair. Any permanent sign or billboard which has weathered excessively or faded or the paint on which has excessively peeled or cracked shall, with its supporting members, be removed forthwith or put into a state of good repair. All non-operative or broken electrical signs shall be repaired or shall, with their supporting members, be removed forthwith. Permanent signs and billboards shall not be located within the public right-of-way.
- (2) Sign or advertisements; removal.
 - (a) Except for “for rent” signs, any temporary window lettering or signs advertising special sales events shall be removed within two (2) days following the advertised event or within 30 days after erection, whichever is earlier.
 - (b) Temporary window lettering or signs in conjunction with any permanent window lettering or sign shall not cover, in the aggregate, more than 50% of the window area.
- (3) All windows exposed to the public view shall be kept clean and free of marks and foreign substances. Except when utilized for display purposes, no materials, stock or inventory shall be

permitted in window display areas exposed to the public view unless such areas are first screened by drapes, venetian blinds or other means making the windows opaque. All screening of interiors shall be maintained in a clean and attractive manner and in a good state of repair.

- (4) All storefronts and the exteriors of all buildings shall be kept in good repair, painted where required or otherwise provided with protective treatment sufficient to prevent deterioration and shall not constitute a safety hazard or nuisance. In the event that repairs to a storefront become necessary, such repairs shall be made in harmony with the original design with the same materials or materials of appearance similar to those used in construction of the storefront in such a manner as to permanently repair the damaged area or areas.
- (5) No shopping baskets, carts or wagons shall be left unattended or standing in open areas and shall be collected at the close of business each day and removed to the interior of the building or placed along an exterior building wall.
- (6) Any area designated for trash, refuse or garbage disposal shall be totally screened, and plants shall be provided as part of the site plan, including the location, type of screening, height of screening and access to site, and specifically provide for recycling areas, as well to be screened and shown on the site plan. The purpose is to screen recycling, trash, refuse and garbage disposal areas, so that they shall not be visible outside the screen. Dumpsters and other trash containers shall be stored within approved enclosures at all times and shall be rolled out to vehicles for collection. The enclosure, including gates shall be maintained in good condition. Gates shall remain closed at all times except during collection. No trash shall be visible above height of the enclosure. All trash, refuse, garbage and dumpster materials may be handled privately and shall not be the responsibility of the Borough.

D. Occupied and vacant buildings. Every occupied and vacant dwelling, (residential or commercial) or other similar structure shall comply with the following requirements:

- (1) All exterior doors and windows shall be kept in sound working condition free of broken glass.
- (2) All exterior doors shall be equipped with a workable lock or locking device and shall be kept securely locked during the period of time said building is vacant.
- (3) All windows shall be secured by latch, lock or other means so as to prevent easy entry into such structure by children, vagrants or unauthorized persons.
- (4) All exterior walls and roofs shall be kept in good repair, painted where required, and free of holes, cracks, defective materials and structural deterioration so as to keep such building from becoming a breeding place for rodents, roaches and disease carrying insects.
- (5) The exterior of said building and the premises thereon shall be kept free of any accumulation of flammable or combustible rubbish or waste materials of sufficient quantity to constitute a danger to said buildings or any other building or premises in the event that such waste materials become ignited.

- (6) The exterior of the premises shall be kept free of any accumulation of trash, garbage, rubbish or any waste material of such quantity as to constitute an unsanitary condition.
- (7) Any existing fence shall be maintained in good order and repair.

E. Burned Structures. Whenever any building or structure suffers fire damage, the owner or person in control shall, within six (6) months after completion of the scene investigation by the Fire Chief and/or insurer of the property, remove from the premises all refuse, debris, and all other charred and partially burnt lumber and material. If such building or structure shall be burnt to such an extent that that it is rendered incapable of being repaired, the owner or person in control shall, within six (6) months after completion of the scene investigation by the Fire Chief and/or insurer of the property, remove from the premises all the remaining portion of the building or structure. If the building or structure is to be repaired, work shall begin within six (6) months and shall be completed within one (1) year after completion of the scene investigation by the Fire Chief and/or insurer of the property.

Article III. Portable On-Demand Storage Structures.

§ 246-9. Utilization; placement; condition; permit requirements.

A. A portable on-demand storage structure may be utilized as a temporary structure within the Borough of Berlin when in compliance with the standards of this section. Any such use of such structures within the Borough not in compliance with this section shall be unlawful and subject to fines and penalties as permitted in this chapter.

B. No person shall place or utilize a portable on-demand storage structure or permit a portable on-demand storage structure to be placed on or along a public area in the Borough of Berlin without first having obtained a permit from the Zoning Official upon approval from the police department.

C. Use of a portable on-demand storage structure shall only be permitted where a permit has been issued by the Zoning Official. Application for a storage structure shall be made by a submission of the following information:

- (1) An application for the permitted use of a portable on-demand storage structure may be obtained from the Zoning Official, and the application shall be submitted, when complete by the party requesting the use of a portable on-demand structure on that form provided by the Zoning Official to the Zoning Official with a sketch showing the location of the structure on the site and detailing the distance of the structure from other buildings, fire hydrants and/or utilities.
- (2) Name and address of the applicant and the owner of the property, if different.
- (3) Street address.
- (4) Size of the portable on-demand storage structure to be placed at the site and the proposed location of the portable on-demand structure.
- (5) Anticipated length of time the portable on-demand storage structure will be located at the site.

(6) All portable on-demand storage units shall be placed in driveways unless otherwise approved by the Zoning Official.

D. Length of time structures may be on the property; extensions. The permit shall be valid for a period of seven (7) days and may be renewed upon application to the Zoning Official for an additional seven (7) day period, not to exceed a total period of 14 days. Where exceptional circumstances exist, the Zoning Official may alter the permit to extend time where these structures may be permitted on the property.

E. A permit may be revoked at any time during the its terms if the placement or use of the portable on-demand structure constitutes a hazard to the health, safety or welfare of the citizens of the Borough of Berlin for any other reason that constitutes a nuisance.

F. No permit shall be issued if the Police department determines that the issuance of a permit will constitute a danger to the public safety or an unwarranted interference with the efficient movement of traffic.

G. No more than two (2) portable on-demand storage structures may be located on a specific piece of the property within the Borough at one time; such structures shall be individually limited for the duration time period established herein.

H. No portable on-demand storage structure located within the Borough shall contain toxic or hazardous materials.

I. Location, Placement and condition of portable on-demand storage unit structures.

(1) Portable on-demand storage structures may be located in residential zoning districts. They shall not be placed in a public area, and shall be set back a minimum of 10 feet from the front of a property line. Final placement shall be to the satisfaction of the Zoning Official.

(2) Portable on-demand storage structures may be allowed in nonresidential zoning districts. The units shall be placed in the rear or side portion of a site. Under no circumstances shall a portable storage unit be placed in an area fronting a street or road, or in a grass/landscaped area, or in the front parking lot of a commercial establishment. The placement of portable storage units in fire lanes, passenger loading zone, commercial loading zones or public rights-of-way shall be strictly prohibited. Portable storage units in nonresidential zoning districts must also demonstrate, to the satisfaction of the Zoning Official, that the specific location/complex has sufficient space to place a portable storage unit and continue to provide adequate parking, public safety access and comply with all health, safety and welfare concerns.

(3) Portable on-demand unit structure(s) shall never be utilized as accessory structures in any zoning district.

(4) The owner and operator of any site on which a portable on-demand storage unit structure is placed shall be responsible in ensuring that his/her portable storage unit is in good condition, free from evidence of deterioration, weathering, discoloration, rust, ripping, tearing or other holes or breaks. When not in use, the portable on-demand storage structure unit shall be kept locked with a combination-style lock; no key locks. The owner or operator of any site on which a portable on-

demand storage unit structure is placed shall also be responsible that no form of waste, refuse or hazardous substance is stored or kept within the portable on-demand structure unit.

- (5) A portable on-demand storage structure unit shall have no signage other than a serial number identifying the unit, the name, address and telephone number of the person or firm engaged in the business of renting or otherwise placing of the portable on-demand storage structure unit.

Article IV. Sidewalk Maintenance and Repair; Defense to prosecution.

§ 246-10. Maintenance standards; defense to prosecution.

A. All sidewalks shall be maintained in accordance with the following standards:

- (1) Fallen snow shall be removed, creating a clear path, within 24 hours of the creation of the snowfall.
- (2) All sidewalks shall have grass and weed overgrowth removed to the edge of the walking surface in order to provide the maximum safe passageway for pedestrians and eliminating tripping hazards.
- (3) Any section of the sidewalk that is cracked, crumbling or substantially pitted, such that its surface presents an unreasonable tripping or falling hazard, shall be removed and replaced.
- (4) Any section of the sidewalk that is uplifted such that the edge of one section is elevated one inch or more over any point of the edge of an adjoining section of sidewalk shall be removed, repositioned or repaired in order to remove the tripping hazard.
- (5) No person shall place anything on a sidewalk that would obstruct safe passage thereon unless such placement is temporary, unavoidable, the obstruction is clearly marked and visible at nighttime, and a safe path around the obstruction is provided not requiring travel into the roadway. Any substance or thing that through force of nature or man falls upon the surface of any sidewalk and presents a tripping or slipping hazard shall be removed as soon as is practicable.

B. It shall not be a defense to a prosecution under this section that the defect in the sidewalk was caused by natural conditions or by reason of the condition existing at the time that the premises was acquired. This section, being concerned with public safety, shall apply to all conditions that exist at the time of the effective date of this chapter. However, no action to prosecute for a violation of an existing defective condition of this section shall be brought earlier than six months after the effective date of this chapter.

Article V. Debris. Snow Removal, Standards Applicable to Developers.

§ 246-11. Debris removal along public roadways.

All premises fronting on any Borough road, county road or state highway shall be cleared of litter and other traffic-generated debris from a point beginning at the edge of the roadway to the right-of-way line inward therefrom for the entire length of tract fronting the road. To the extent allowed by law, the Chief of Police or other authorized official shall make available to the property owners of such lands along such roadways persons sentenced to perform community service for the purpose of performing such cleanups.

§ 246-12. Construction and building materials.

All persons building any single housing unit, not in a development, and any person remodeling, renovating or adding on to any existing structure shall comply with the following standards.

A. Broken glass, sharp metal scraps and any other material capable of inflicting a serious cut or wound due to its inherently dangerous condition shall be containerized immediately and shall not be placed on the ground or stored in places readily accessible to children.

B. All persons subject to this section shall conduct their operations with due regard to the presence of minor children in their vicinity. They shall provide advance warning to parents of minor children on adjoining properties of any hazardous operations, such as the use of heavy equipment, the use of tree felling equipment, the excavation of trenches or other inherently dangerous procedures such that the parents may employ proper safeguards. Methods of advance warning shall be documented, reviewed and approved by the Chief of Police and the Property Maintenance Officer prior to implementation.

§ 246-13. Standards applicable to Developers.

All persons or other business entities charged with developing any tract of land for residential purposes, which development involves the construction of new streets, shall be subject to the following standards while construction continues:

A. The provisions of §246-12A through C shall also apply to developers.

B. All streets in any development that are regularly used as a means of access for residents shall be cleared of debris by sweeping or other means that will remove the loose stones, mud, accumulations of dirt or sand, hay, construction debris or similar matter on an as-needed basis but at least once every 30 days.

C. Any undeveloped lot adjoining a developed lot, which has substantially all trees and shrubs removed, shall be cleared at least monthly of weed growth over six inches.

D. All barriers erected to control erosion or flow of debris into sanitary sewers shall be cleared of debris and restored to their original condition at least once every 30 days. All plastic film barriers shall be restacked and restored to their original condition once every 30 days.

E. Until sidewalks are installed to provide a continuous path, all developers shall provide a safe passageway for children within the development that does not require them to travel in the roadway. At a minimum, the developer shall provide a clear, continuous path across the front of all lots on one or both sides of the street which shall be free at all times of construction materials, construction equipment, rocks of a diameter greater than two inches, surface conditions that present an unreasonable risk of tripping or falling, weeds or grasses higher than six inches. Such path shall be at least four feet wide and the path shall have a surface of either hay, grass, bark, wood chips or stone.

G. Snow and ice removal by developers of multiunit developments.

- (1) The developer shall remove snow and ice from streets within the development when accumulation reaches three (3) inches or greater. Snow and ice must also be removed from any and all fire hydrants within the development. Snow and ice removal must occur within eight hours after the same has fallen or has formed thereon.
- (2) The developer shall file with the Borough of Berlin, the name of the contractor to be employed and proof that the contractor is adequately insured.
- (3) Failure to remove ice and snow within the requisite period of time shall result in penalties provided by §246-17 of this chapter. Additionally, should the snow and ice not be removed within the eight hours after same has fallen or has formed thereon, the municipality may provide for the removal of same. The cost of removal of such snow and ice by the municipality shall be certified by the governing body of the municipality. The governing body shall examine such certificate and, if found to be correct, shall cause such cost to be charged against such real property, and the amount so charged shall thereupon become a lien and a tax upon such real property and be added to and be part of the taxes collected with interest in the same manner as other taxes, and/or be made a billing on developer's escrow account and/or bonding requirements.
- (4) The provisions of this section shall be applicable only to the owner or developer of real property on which there has been constructed a multiple dwelling housing development containing three or more units of dwelling space which are occupied or are intended to be occupied by three or more persons who live independently of each other.

§ 246-14. Discharge of Water.

- A. No person shall discharge or direct water from his or her premises onto the property of another, except incident to lawn or garden watering, without the express permission of another.
- B. No person shall direct the flow of rainwater collected by rain gutters onto an adjoining premises.
- C. No person shall alter the contour of the land so as to materially increase the flow of surface water onto an adjoining premises. Any person violating this section shall be ordered to restore the altered land to its original condition.

Article VI. Dumpster Use and Placement.

§ 246-15. Dumpster Use and Placement.

- A. The use and placement of dumpsters in public and private areas is regulated as follows:
 - (1) The purpose of this section is to regulate the use and placement of dumpsters in public areas, on construction and development sites in association with the renovation, rehabilitation and reconstruction of buildings and structures in private areas located within the Borough of Berlin.
 - (2) Permit required. No person shall place or utilize a dumpster to be placed on or within a public or private area in the Borough of Berlin without having first obtained a permit and a copy of the ordinance from the Construction Office and upon approval by the Chief of Police.

(3) Application for permit; fees; conditions of issuance.

- (a) Application for a dumpster permit shall be made by a submission of the following information to the Borough Zoning Office:

[1] Name and address of the applicant and the owner of the property, if different.

[2] Street address.

[3] Size of the dumpster to be placed at the site and the proposed location of the dumpster.

[4] Anticipated length of time the dumpster will be located at the site.

- (b) The permit shall be valid for a period of seven days and may be renewed upon application to the Construction Office for additional seven-day periods not to exceed a total period of 24 days.

- (c) A permit may be revoked at any time during its term if the placement or use of the dumpster constitutes a hazard to the health, safety or welfare of the citizens of the Borough or for any other reason that constitutes a nuisance.

- (d) No permit shall be issued if the Police Department determines that the issuance of a permit will constitute a danger to the public safety or an unwarranted interference with the efficient movement of traffic.

- (e) If granted, the Zoning Office shall provide a copy of the Rules and Regulations regarding dumpsters along with said permit.

(4) Location, placement and condition of dumpsters.

- (a) No dumpster shall be placed in a public or private area unless it is determined by the Police Department that there is insufficient room to place the dumpster on the property of the person utilizing the dumpster. No dumpster placed on a property shall impede the flow of pedestrian or vehicular traffic or safety site lines.

- (b) The dumpster shall be equipped with markers consisting of reflective diamond-shaped panels measuring a minimum of 18 inches by 18 inches. These panels shall be mounted at the edge of the dumpster at both ends nearest the path of passing vehicles and facing the direction of oncoming traffic. The required markers shall have a minimum height of three feet from the bottom of the panels to the surface of the roadway.

- (c) Dumpsters shall at all times be kept in good repair and shall be structurally sound and leak-proof and shall be painted as to prevent the show of rust or deterioration and shall be constructed to stand firmly upright.

- (d) Upon removal of the dumpster, the area shall be swept clean of all loose debris and restored to its former condition in accordance with the standards of the Borough Engineer and/or Public Works supervisor.

(e) The applicant shall be responsible for any damage to the roadway or other property caused by the placement of the container.

(f) The dumpster must be maintained in good condition and free from overflowing debris.

(5) Failure to remove; removal by the Borough; cost to be a lien. If the dumpster is not removed at the expiration of the time allowed by the permit, the Construction Code Official shall notify the owner that he/she has three (3) days in which to have the dumpster removed from the premises. In the event that the owner fails to comply, the dumpster shall be deemed to have been abandoned and the Construction Code Official may arrange for its removal and the disposal of its contents shall be a municipal lien against the property. A detailed statement of the aforesaid costs shall be certified by the Construction Code Official and forwarded to Mayor and Council, which shall examine the certification and, if found correct, shall cause the same to be filed with the Tax Collector and a copy forwarded to the property owner. This amount shall be charged against the land and shall become a lien upon such lands and shall bear interest at the same rate as taxes and shall be collected and enforced by the Tax Collector.

B. The following subsection B regulates the use of dumpsters outdoors or dumpsters exposed to stormwater:

(1) Purpose. The purpose of subsection B is to require dumpsters and other refuse containers that are outdoors or exposed to stormwater to be covered at all times and prohibits the spilling, dumping, leaking, or otherwise discharge of liquids, semiliquids or solids from the containers to the municipal separate stormwater system(s) operated by the Borough of Berlin and/or the waters of the State so as to protect the health, safety and welfare, and to prescribe penalties for the failure to comply.

(2) Definitions. For the purpose of subsection B, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Municipal Separate Storm Sewer System (MS4) – A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by the Borough of Berlin or other public body, and is designed and used for the collection and conveying of stormwater.

Person - Any individual corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

Refuse Container – Any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.

Stormwater – water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or draining facilities, or is to be conveyed by snow removal equipment.

Waters of the State – The ocean and its estuaries, all springs, streams and bodies of surface water or groundwater whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

(3) Prohibited Conduct.

- (a) Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling or overflowing.
- (b) Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semiliquids or solids into the municipal separate storm sewer system(s) operated by the Borough of Berlin.

(4) Exceptions to prohibition.

- (a) Permitted temporary demolition containers.
- (b) Litter receptacles (other than dumpsters and bulk containers).
- (c) Individual homeowner trash and recycling containers.
- (d) Refuse containers at facilities authorized to discharge storm water under a valid NJDEPS permit.
- (e) Large bulky items (e.g. furniture, bound carpet and padding, white goods placed curbside for pickup).

(5) Enforcement. This section shall be enforced by the Property Maintenance Inspector and /or the Police Department of the Borough of Berlin.

(6) Penalties. Any person(s) who is found to be in violation of the provisions of §246-15B shall be subject to a fine not to exceed \$2,000.

Article VII. Housing Standards.

§ 246-16. Findings.

The Borough of Berlin seeks to establish minimum standards to govern the condition and maintenance of all property, buildings and structures in the Borough of Berlin. The Borough hereby adopts these regulations with the purpose and intent of promoting the health, safety and welfare of the public in any properties, buildings and structures not regulated by any other statute, rule or ordinance.

§ 246-17. Adoption of Standards.

Pursuant to the provisions of Chapter 21, P.L. 1946 (N.J.S.A. 40:49-5.1 et seq.), the New Jersey State Housing Code, N.J.A.C. 5:28-1 et seq., as approved by the Department of Community Affairs and filed in the Secretary of State's Office, is hereby accepted, adopted and established as a standard to be used as a guide in determining whether dwellings in this municipality are safe, sanitary and fit for human habitation and rental. A copy of the New Jersey State Housing Code is annexed to this article and three copies of the same have been placed on file in the office of the Berlin Borough Clerk and are available to all persons desiring to use and examine same.

§ 246-18. Authority and Enforcement.

A. The Berlin Borough Property Maintenance Inspector and/or the Camden County Department of Health (collectively "Officer) be and is hereby designated as the officer to exercise the powers prescribed by the within article, and they shall serve in such a capacity without any additional salary.

B. The Officer is hereby authorized and empowered to make and adopt such written rules and regulations as they may deem necessary for the proper enforcement of the provisions of this article; provided, however, that such rules and regulations shall not be in conflict with the provisions thereof. The Officer shall file a certified copy of all rules and regulations which may be adopted in their office, and in the office of the Borough Clerk.

§ 246-19. Inspections and Notice.

A. The Officer is hereby authorized and directed to make inspections to determine the condition of dwelling, dwelling units, rooming units, and premises located within the Borough of Berlin in order that they may perform their duty of safeguarding the health and safety of occupants of dwellings and of the general public. For the purpose of making such inspection, the Officer is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit, and rooming unit, or the person in charge thereof, shall give the Officer free access to such dwelling, dwelling unit or rooming unit and its premises at all reasonable times for the purpose of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, or its premises, at all times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this article.

B. Whenever the Officer determines there are reasonable grounds to believe that there has been a violation of any provision of this article or any rule or regulation adopted pursuant thereto, they shall give notice of such alleged violation to the person or persons responsible therefore as hereinafter provided. Such notice shall be put in writing, including a statement of reasons why it is being issued; allow a reasonable time for performance of any act it requires; and be served upon the owner or his agent, or the occupant, as the case may require; provided that such notice shall be deemed to be properly served upon such owner or agent or upon such occupant if a copy thereof is served upon him personally; or if a copy thereof is sent by certified mail to his last known address; or if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice; or if he is served with such notice by any other method authorized or required under the laws of this State. Such notice may contain an outline of remedial action which, if taken, will effect compliance with the rules and regulations adopted pursuant thereto.

§ 246-20. Hearing.

A. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this article, or any rule or regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the Borough of Berlin Planning Board, provided such person shall file in the office of the Borough of Berlin Planning Board a written petition requesting such a hearing and setting forth a brief statement of the grounds therefor within 10 days after the day the notice was served. Upon receipt of such petition, the Borough of Berlin Planning Board shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given the opportunity to be heard and to show why such notice should be modified or withdrawn.

B. The hearing shall be commenced not later than 10 days after the day on which the petition was filed; provided that upon application by the petitioner, the Planning Board may postpone the date of the hearing

for a reasonable time beyond such ten-day period, if, in their judgment, the petitioner has submitted a good and sufficient reason for such postponement.

C. After such hearing, the Borough of Berlin Planning Board shall sustain, modify or withdraw the notice, depending upon its findings as to whether the provisions of this article and the rules and regulations adopted pursuant thereto have been complied with. If the Planning Board sustains or modifies such notice, it shall be deemed to be an order. Any served pursuant to this article shall automatically become an order if a written petition for a hearing is not filed in the office of the Borough of Berlin Planning Board within 10 days after the notice is served.

D. The proceedings at such hearing, including the findings and decision of the Planning Board shall be summarized, reduced to writing, and entered as a matter of public record in the office of the Borough of Berlin Planning Board. Such record shall also include a copy of every notice or order issued in connection with the matter.

E. Any person aggrieved by the decision of the Planning Board may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of the State of New Jersey.

F. Whenever the Officer finds that an emergency exists which requires immediate action to protect the public health or safety, they may, without notice or hearing issue an order reciting the existence of such an emergency and requiring that such action be taken as they deem necessary to meet the emergency. Notwithstanding the other provisions of this article, such order shall be effective immediately.

G. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Planning Board shall be afforded a hearing as soon as possible. After such hearing, depending upon its findings as to whether the provisions of this article and of the rules and regulations adopted pursuant thereto have been complied with, the Officer shall continue such order in effect, or modify it, or revoke it.

§ 246-21. Dwellings Fit for Human Habitation.

No person shall occupy as an owner, occupant or rent to another for occupancy any dwelling or dwelling unit for the purpose of living therein which does not conform to the provisions of the New Jersey State Housing Code, N.J.A.C. 5:28-1 et seq.; established hereby as a standard to be used in determining whether a dwelling is safe and fit for human habitation.

Article VIII. Compliance and Enforcement.

§ 246-22. Notice and Compliance.

A. All premises in the Borough of Berlin are subject to this chapter, and any person or business entity holding an interest in any affected premises shall comply without further notice.

B. Service of notice of violation. Notice of violation shall be served upon the owner of record, provided that such notice shall be deemed to be properly served upon such owner if a copy thereof is delivered to him personally or, if not found, by leaving a copy thereof at his usual place of abode with a person of suitable age and discretion, who shall be informed of the contents thereof, or by sending a copy thereof by certified mail and regular mail to his last known address or, if the letter with the copy is returned showing that it has been delivered to him, by posting a copy thereof in a conspicuous place in or about the structure affected by the notice.

C. Notice requirements. Whenever the Property Maintenance Inspector determines that there has been or is a violation of any provision of this chapter, he shall give notice of such violation or alleged violation to the person or persons responsible therefor. Such notice shall:

- (1) Be in writing.
- (2) Include a description of the real estate sufficient for identification.
- (3) Specify the violation which exists and the remedial action required.
- (4) Specify a reasonable period of time, not to exceed 10 days, in which the violation or violations shall be abated, corrected or eliminated. Said ten-day period may be extended an additional 10 days by the Property Maintenance Inspector for good cause.
- (5) State the penalty for violation of this article.

D. If the owner or operator of any lands or buildings in the Borough shall fail or neglect to remedy any identified deficiency within 10 days after notice to remove same in the manner and within the time provided, the Property Maintenance Inspector may, in addition to such other remedies provided herein, refer the case to Mayor and Council with recommendation for removal by the Borough. In such cases, the Public Works Superintendent shall certify the cost thereof to Mayor and Council which shall examine the certificate and, if found to be correct and reasonable, shall, by resolution, approve the cost as shown thereon to be charged against such lands. The amount so charged shall become a lien upon such lands and shall be added to and become part of the taxes next to be assessed and levied upon such lands; the same to bear interest at the same rate as taxes and shall be collected and enforced in the same manner as taxes.

E. Any Borough resident as well as the Property Maintenance Inspector may prosecute a violation of any subsection of this chapter in the Municipal Court of the Borough of Berlin.

§ 246-23. Violations and Penalties.

A. Any person who shall violate any provision of this chapter shall, upon conviction thereof, be subject to one or more of the following: imprisonment in the county jail or in any place provide by the municipality for the detention of prisoners, for any term not exceeding 90 days; or by a fine not exceeding \$2,000; or by a period of community service not exceeding 90 days. Each day a violation of any provision of this chapter occurs shall constitute a separate offense.

B. Any person who is convicted of violating the same provision(s) of this chapter within one (1) year of the date of a previous violation of the same offense, and who is fined for the previous violation, shall be sentenced by the court as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of this chapter.

§ 246-24. Enforcement Remedies.

In case any building, structure or land is, or is proposed to be, used in violation of any provision of this chapter, Mayor and Council, or with the approval of Mayor and Council, the Property Maintenance Inspector, may in addition to other remedies, institute the name of the Borough in any appropriate action or proceeding to prevent, restrain, correct or abate such use; or to prevent, in or about such premises, any act, conduct, business or use which constitutes a violation.

Article IX. Charitable Clothing/Donation Bins.

§ 246-25. Purpose.

The purpose of this article is to implement the provisions of P.L. 2007, c. 209 (N.J.S.A. 40:48-2.60 et seq.), and to establish guidelines for the use of charitable clothing bins/donation bins throughout the Borough of Berlin.

§ 246-26. Definitions.

For the purposes of this article only, the terms “solicitation” or “solicit” shall mean the request, directly or indirectly, for money, credit, property, financial assistance, or other thing of any kind or value. Solicitation shall include, but not be limited to, the use or employment of canisters, cards, receptacles or similar devices for the collecting of money or other thing of value. A solicitation shall take place whether or not the person making the solicitation receives any contribution.

§ 246-27. Requirements.

Notwithstanding any other provision of law to the contrary, no person, corporation or entity (hereinafter collectively “person”) shall place, use or employ a charitable clothing bin/donation clothing bin, for solicitation purposes, unless all the following requirements are met:

A. Permit. The person shall obtain a permit, valid for one year, issued by the Borough Zoning Official. In applying for such permit, the person shall include:

- (1) The name and address of the property owner(s) where the bin is proposed to be situated;
- (2) The location (street address and block/lot) where the bin is to be situated;
- (3) The location on the property in relation to the property lines and improvements [number of feet (distance) from all property lines and improvements], precisely as possible;
- (4) The manner in which the person anticipates any clothing or other donations collected via the bin would be used, sold or dispersed, and the method by which the proceeds of the collected donations would be allocated or spent;
- (5) The name and telephone number of the bona fide office of any entity which may share or profit from any clothing or other donations collected via the bin;

(6) Written consent from the property owner to place the bin on its property;

(7) The fee for the application shall be \$50; and

B. Renewal of the permit.

(1) An expiring permit for charitable clothing bin/donation bin may be renewed upon application for renewal.

(2) The fee for permit renewal shall be \$50 upon application for renewal.

C. Denial of permit.

(1) The Borough Zoning Official shall not grant an application for a permit to place, use or employ a charitable clothing bin/donation clothing bin if the Zoning Official determines that the placement of the bin could constitute a safety hazard. Such hazards shall include, but not be limited to, the placement of a donation bin within 100 yards of any place which stores or sells fuel or other flammable liquids or gases or other combustible products.

(2) No bin shall be placed upon any public property, public right-of-way and /or easement and/or public road without the approval and consent of the governing body.

D. Display of permit information. The permit number and its date of expiration shall be clearly and conspicuously displayed on the exterior of the donation clothing bin. In addition, the following information set forth in this subsection D of this section shall be displayed. The following information must be clearly and conspicuously displayed on the exterior of the charitable clothing bin/donation clothing bin:

(1) The name and address of the registered person that owns the bin, and any other entity which may share or profit from any clothing or other donations collected via the bin;

(2) The telephone number of the person's bona fide office and, if applicable, the telephone number of the bona fide office of any other entity which may share or profit from any clothing or other donations collected via the bin. For the purposes of this subsection, an answering machine or service unrelated to the person does not constitute a bona fide office; and

(3) In cases when any entity other than the person who owns the bin may share or profit from any clothing or other donations collected via the bin, a notice, written in a clear and easily understandable manner, indicating that the clothing or other donations collected via the bin, their proceeds or both, may be shared, or given entirely to, an entity other than the person who owns the bin, and identifying all such entities which may share or profit from such donations.

F. Limit and Location of Charitable Clothing/Donation Bins. No more than four (4) bins shall be allowed on a single property. Said bins shall be located to the side or rear of the respective property.

§ 246-28. Reporting Requirements.

A. The person, organization and/or entity responsible for the donation clothing bin shall provide the Clerk of the Borough of Berlin with a written annual report on or before December 1 of each year that includes the following information:

- (1) The number of times the clothing bin was emptied during the year in which the permit was issued;
- (2) The weight (in terms of pounds) of the contents each time the clothing bin was emptied;
- (3) The name, address and telephone number of the location (destination) of the contents of the clothing bin.

B. Failure to provide the information requested in this section shall be cause to deny renewal of the permit.

§ 246-29. Violations and Complaints from the Public.

A. All complaints received from the public regarding the charitable clothing bin/donation clothing bin shall be investigated within 30 days by the Zoning Official and/or his or her designee. Whenever it appears to the Zoning Official or his or her designee that a person was engaged in, or is engaging in, any act or practice in violation of this article, the owner of the property where the bin is situated and/or person who placed the bin shall be issued a warning stating that if the violation is not rectified or a hearing with the appropriate municipal agency is not requested in 45 days, the bin will be seized or removed at the expense of the person who placed the bin and/or the owner of the property where the bin is situated, and any clothing or any donations collected via the bin will be sold at public auction or otherwise disposed of. In addition to any other means used to notify the person who placed the bin and/or the owner of the property where the bin is situated, such warning shall be affixed to the exterior of the bin itself.

B. In the event the person who placed the bin and/or owner of the property where the bin is situated does not rectify the violation or request a hearing within 45 days of the posting of the warning, the Zoning Official or his or her designee may seize the bin, remove it or have it removed, at the expense of the person who placed the bin and/or the owner of the property where the bin is situated and sell it at public auction or otherwise dispose of any clothing or other donations collected via the bin. Any proceed from the sale shall be paid to the Chief Financial Officer of the Borough of Berlin.

C. In addition to any other penalties or remedies authorized by the laws of the State of New Jersey, any person who violates any provision of this article which results in the seizure of the charitable clothing bin/donation clothing bin shall be:

- (1) Subject to a penalty of up to \$20,000 for each violation. The Borough of Berlin may bring this action in the Municipal Court or the Superior Court of New Jersey as a summary proceeding under the Penalty Enforcement Law of 1999, P.L. 1999 c. 274 (N.J.S.A. 2A:58-10 et seq.), and any penalty monies collected shall be paid to the Chief Financial Officer of the Borough of Berlin.
- (2) Deemed ineligible to place, use or employ a charitable clothing bin/donation clothing bin for solicitation purposes pursuant to N.J.S.A. 40:48-2.60 et seq. A person disqualified from placing, using or employing a charitable clothing bin/donation clothing bin by violating provisions of N.J.S.A. 40:48-2.60 et seq. may apply to the appropriate municipal agency to have that person's eligibility restored. The Berlin Borough Zoning Official and his or her designee may restore the eligibility of a person who:

- (a) Acts within the public interest; and
- (b) Demonstrates that he or she made a good faith effort to comply with the provisions of N.J.S.A. 40:48-2.60 et seq. and all other applicable laws and regulations or had no fraudulent intentions.

Article X. Vacant or Abandoned Properties.

§ 246-30. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ABANDONED PROPERTY – Pursuant to N.J.S.A. 55:19-81, an abandoned property is defined as follows: Any property that has not been legally occupied for a period of six months and which meets any one of the following additional criteria may be deemed to be abandoned property upon a determination by the Property Maintenance Inspector that:

A. The property is in need of rehabilitation in the reasonable judgment of the Property Maintenance Inspector, and no rehabilitation has taken place during that six-month period;

B. Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least six months as of the date of a determination of the Property Maintenance Inspector pursuant to this section;

C. At least one installment of property tax remains unpaid and delinquent on that property in accordance with Chapter 4 of Title 54 of the Revised Statutes of the date determined by the Property Maintenance Inspector pursuant to this section;

D. Any building or structure which is not legally occupied or at which all lawful business or construction operations or renovation work or residential occupancy has substantially ceased, and which is in such condition that cannot legally be reoccupied without repair or rehabilitation, and /or the property has been determined to be a nuisance by the Property Maintenance Inspector in accordance with N.J.S.A. 55:19-82. A property which contains both residential and nonresidential space may be considered abandoned pursuant to N.J.S.A. 55:19-78 et seq. so long as 2/3 or more of the total net square footage of the building was previously occupied as residential or commercial space and none of the commercial or residential space has been legally occupied for at least six months at the time of the determination of abandonment by the Property maintenance Inspector and the property meets the criteria of subsection A or D of this definition.

CREDITOR – Any creditor (including out-of-state creditors), including, but not limited to service companies, lenders in a mortgage agreement and any agent, servant or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under a mortgage or mortgage note.

INITIATION OF THE FORECLOSURE PROCESS – Any of the following actions taken by a lienholder or mortgage holder or mortgagee:

A. Taking possession of the property;

B. Delivering the creditor's or mortgagee's notice of intention to foreclose to the borrower;

C. Commencing a foreclosure action in the Superior Court of New Jersey or filing a Lis Pendens.

OWNER – Shall include the title holder, any agent of the title holder having authority to act with respect to a vacant and/or abandoned property, any foreclosing entity that has filed a notice with the Municipal Clerk pursuant to the provisions of N.J.S.A. 46:10B-51, or any other entity determined by the Borough of Berlin to have authority to act with respect to the property.

PROPERTY MAINTENANCE INSPECTOR – as defined in §246-4.

VACANT PROPERTY- Any building or structure which is not legally occupied or at which all lawful business or construction operations or renovation work or occupancy have substantially ceased, and which is in such condition that it cannot legally be reoccupied without repair or rehabilitation, including but not limited to any property meeting the definition of “abandoned property” in N.J.S.A. 55:19-81 or where any two of the conditions defined in N.J.S.A. 2A:50-73 exist; provided, however that any property where all building systems are in working order, or where the building is in habitable condition, and where the building is being actively marketed by its owner or creditor for sale or rental, shall not be deemed a vacant property for purposes of this article.

§ 246-31. Registration Requirements.

The owner and/or creditor of any abandoned or vacant property as defined herein shall:

- A. Within 30 calendar days after the building becomes vacant property; or
- B. Within 30 calendar days after assuming ownership of the vacant property, whichever is later; or
- C. Within 30 calendar days of receipt of notice by the municipality, file a registration statement for such vacant property with the Property Maintenance Inspector on forms provided by the Borough for such purposes in the manner set forth below. Failure to receive notice by the municipality shall not constitute grounds for failing to register the property.
 - (1) Each property having a separate block and lot number as designated in official records of the municipality shall be registered separately.
 - (2) The registration statement shall include the name, street address, telephone number, and e-mail address of a person 21 years of age or older, designated by the owner or creditor or owners or creditors as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such owner or owners or creditors in connection with the enforcement of any applicable code; and the name, street address, telephone number, and e-mail address of the firm and actual name(s) of the forms individual principal(s) responsible for maintaining the property. The individual or a representative of the firm responsible for maintaining the property shall be available by telephone or in person on a twenty-four-per-day, seven-day-per-week basis. The two entities may be the same or different persons. Both entities shown on the statement must maintain offices in the State of New Jersey or reside within the State of New Jersey.
 - (3) The registration shall remain valid for one year from the date of registration, except the initial registration, for the fee prescribed in §246-37 for each vacant property registered.
 - (4) If the registration fee is not paid within 30 days of notification, a lien will be placed on the property for the amount prescribed in §246-37.
 - (5) The owner or creditor shall notify the Property Maintenance Inspector within 30 calendar days of any change in the registration information by filing and amended registration statement on a form provided by the Borough for such purpose.

- (6) The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the Borough against the owner, owners or creditor of the building.
- (7) The owner and/or creditor shall maintain insurance in accordance with §246-35E below.
- (8) The registration statement may include any additional information that the Property Maintenance Inspector may reasonably require.
- (9) If after 30 calendar days, there is no progress taken to address the code violations at the vacant property; taxes are unpaid for one quarter and the water and sewer charges, if applicable, are also delinquent for one quarter, the Borough may commence condemnation proceedings to either demolish the structure and or take title to the property to satisfy the Borough's liens and expenses.

§ 246-32. Restoration of Vacant Property.

Any owner of vacant property who plans to restore the property to productive use and occupancy during the thirty-day period following the date of the initial registration of the property shall file a sufficiently detailed statement of the owner's plans for restoration of the property with the registration statement along with a timeline schedule. Any owner who within the initial registration period completes restoration of the property whereby the property no longer is defined as vacant property may request a refund of 50% of the vacant property registration fee from the Code Enforcement Office upon presentation of a certificate of occupancy who shall forward the request to the Property Maintenance Inspector for approval.

§ 246-33. Access to Vacant Properties.

The owner and/or creditor of any vacant property registered under this article shall provide access to the Borough to conduct exterior and interior inspections of the building to determine compliance with the municipal codes, upon reasonable notice to the property owner or creditor or the designated agent. Such inspections shall be carried out on weekdays during the hours of 9:00 a.m. and 4:00 p.m., or such other time as may be mutually agreed upon between the owner or creditor and the Borough.

§ 246-34. Responsible Owner or Creditor or Agent.

A. An owner or creditor who meets the requirements of this article with respect to the location of his or her residence or workplace in the State of New Jersey may designate him- or herself as agent or as the individual responsible for maintaining the property.

B. By designating an authorized agent under the provisions of this section the owner or creditor consents to receive any and all notices of code violations concerning the registered vacant property and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice or process on the authorized agent. Any owner or creditor who has been designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purposes of this section until the owner or creditor notifies the Borough of Berlin in writing of a change of authorized agent or until the owner or creditor files a new annual registration statement.

C. Any owner or creditor who fails to register a vacant property under the provisions of this article shall further be deemed to consent to receive, by posting on the building, in plain view, and by service of notice at the last known address of the owner or creditor of the property on record with the Borough of Berlin by regular and certified mail, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the building and subject to §246-31C(9).

§ 246-35. Vacant Property Owner or Creditor Requirements.

The owner or creditor of any structure that has become vacant and/or abandoned property, and any person responsible for maintaining any such building that has become vacant and/or abandoned shall, within 30 calendar days of the structure becoming vacant and/or abandoned, or within 30 calendar days of the owner or creditor taking title to the property, do the following:

A. Board and secure the structure and all attached accessory structures, garages or similar structures as provided for in the applicable codes of the Borough of Berlin or as set forth in the rules and regulations promulgated by the Construction Code Official.

B. Ensure that the exterior grounds of the structure, including yards, fences, sidewalks, walkways, rights-of-way, alleys, retaining walls, attached or unattached accessory structures and driveways, are well maintained and free from trash, debris, loose litter, and grass and weed overgrowth and in compliance with chapter 246.

C. Post a sign, affixed and protected by the elements, to the structure indicating the name, address and telephone number of the owner or creditor and the owner's or creditor's authorized agent for the purpose of service of process, and the name, address and telephone number of the entity responsible for maintenance of the property, which may be the same as the owner or creditor or authorized agent. The sign shall include the words "No Trespassing" and "to report problems with this building, call..." shall be 24 inches by 24 inches in size, and shall be placed in a location where it is clearly visible from the nearest public street or sidewalk, whichever is nearer. The sign shall meet the requirements of Chapter 268.

D. Continue to maintain the structure in a secure and closed condition, keep the grounds in a clean and well-maintained condition, and ensure that the sign is visible and intact until the building is again occupied, demolished, or until repair and rehabilitation of the building is complete.

E. The owner or creditor of any vacant and/or abandoned property shall acquire and otherwise maintain liability insurance, in an amount of not less than \$300,000 for buildings designed primarily for residential use, and not less than \$1,000,000 for any other building, including , but not limited to buildings designed for manufacturing, industrial, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building or property subject to the provisions of this ordinance. Said insurance shall provide a rider for payment of all demolition costs should the vacant building be abandoned and require the Borough of Berlin to demolish the building. Any insurance policy acquired or renewed after the building has become vacant shall provide for written notice to the Borough of Berlin Property Maintenance Inspector within 30 calendar days of any lapse, cancellation or change in coverage. The owner or creditor shall attach evidence of the insurance to the owner's or creditor's registration statement. Any registration statement submitted that does not include such evidence shall be deemed to be an invalid registration. Insurance must name the Borough of Berlin as a party or payee for demolition costs should the Borough deem demolition is required.

F. Correct any violation of this chapter, including, but not limited to the provision of care, maintenance, security and upkeep of the exterior of the property, within 30 days of receipt of the violation notice from the Property Maintenance Inspector; or within 10 days of receipt of the violation notice if the violation presents an eminent threat to public health and safety. The issuance of a notice pursuant to this article shall constitute proof that a property is "vacant and abandoned" for the purposes of N.J.S.A. 2A:50-73.

§ 246-36. Property Maintenance Inspector-issued Rules and Regulations.

The Property Maintenance Inspector may issue rules and regulations for the administration of the provisions of this article. Such administratively promulgated rules and regulations shall be in writing and

shall be provided to the owners or creditor of properties registered under this article or their designated agents within 30 calendar days of their effective date.

§ 246-37. Fees.

A. The registration fee for each building shall be as follows:

- (1) Initial registration fee: \$1,000.
- (2) If not paid within 6 months of notification by the Borough of Berlin, the registration fee shall increase to \$1,500.

B. The renewal fee for each building shall be as follows:

- (1) First renewal fee: \$2,000.
- (2) Second and subsequent renewal fee: \$3,000.

§ 246-38. Violations and Penalties.

Any owner or creditor who violates any provision of this article or the rules and regulations issued hereunder shall be subject to a fine of up to \$2,000 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this article shall be recoverable from the owner or creditor and shall be lien on the property as described in N.J.S.A. 55:19-100.

Section 2: All other Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 3: If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such subdivision, clause or provision and the remainder of this Ordinance shall be deemed valid and effective.

Section 4: This Ordinance shall take effect immediately upon final passage and publication as required by law.

BOROUGH OF BERLIN

By: James A. Bilella II, Mayor

ATTEST:

Lois J. Sahina, Acting Borough Clerk

I, Lois Sahina, Clerk of the Borough of Berlin, hereby certify the foregoing to be a true and correct copy of an Ordinance adopted by the Mayor and Borough Council at their meeting of September ____, 2016, in the Municipal Building, 59 South White Horse Pike, Berlin, New Jersey.

Lois J. Sahina, Acting Borough Clerk