

**BERNARDSVILLE BOROUGH  
ORDINANCE #18-1767**

**CONCERNING THE USE OF BOROUGH FACILITIES BY OUTSIDE  
ORGANIZATIONS AND SUPPLEMENTING AND AMENDING CHAPTER II OF THE  
BOROUGH CODE ENTITLED "ADMINISTRATION"**

**BE IT ORDAINED** by the Council of the Borough of Bernardsville in the County of Somerset, State of New Jersey that Chapter II of the Borough Code Entitled "Administration" is hereby supplemented and amended as follows:

**Section 1.** There is hereby created a new Article VIII entitled "Use of Borough Facilities by Outside Organizations" which reads as follows:

**"2-71.1 Use of Borough Facility by Outside Organization**

Outside organizations, which include those groups, committees, associations, clubs, individuals or organizations whose functions or activities are not sponsored, controlled or regulated by the Borough must comply with the following requirements in order to use a Borough facility.

**a Governmental units which are a part of the Borough.**

Definition: Entities subject to the Public Contracts Law, which are under the town's control.

Requirements: None. These entities are a part of the Borough's insurance program.

**b Governmental units which are affiliated with the Borough but are autonomous.**

Definition: Entities subject to the Public Contracts Law, but are independent of the town's control - (for example, an independent authority or a "fire district").

Requirements: The Borough, in its sole discretion, may apply to the Borough's insurance carrier or Joint Insurance Fund ("JIF") to include these entities into the Borough's insurance program. If the governing body chooses to not include any entity in the Borough's insurance program, that entity shall be treated as an unaffiliated non-profit organization for purposes of indemnification and insurance requirements.

c **Governmental units which are not affiliated with the Borough**

Definition: Entities subject to the Public Contracts Law, but are not affiliated with the Borough (for example, another municipality or the county).

Requirements: These entities are treated as unaffiliated, non-profit organizations provided, however, that the Borough shall not require another town which is a member of the same JIF as the Borough to provide an insurance certificate.

d **Non-Profit Entities (Quasi Municipal)**

Definition: Entities which (a) are not subject to the Public Contracts Law, but perform functions which otherwise could be performed by the Borough **and** (b) have been included in the Borough's insurance program.

Requirements: To be included in the Borough's insurance program, the governing body must adopt a resolution requesting coverage from the JIF, which will be considered by the JIF's Executive Committee in accordance with the policy described earlier.

e **Non-Profit Entities (Unaffiliated)**

Definition: Entities which (a) are not subject to the Public Contracts Law **and** (b) have not been included in the Borough's insurance program pursuant to the attached quasi municipal procedure.

Requirements: \$1 million coverage, and full indemnification and hold harmless.

f **Non-Profit Entities (Unaffiliated Individuals)**

Definitions: An individual who is holding a function at a municipal or quasi-municipal facility and such function is not sponsored for the benefit of an organization including governmental units non-profit entities or for-profit entities.

Requirement: \$300,000 in liability coverage, and full indemnification and hold harmless.

Exceptions: The governing body may exempt a non-profit organization from these requirements or may reduce the requirements upon a finding that the organization is small enough that it would not normally carry insurance, provided, however, that the governing body may not grant such exceptions if:

1. The organization is charging a fee to perform a service which is regularly supplied by for-profit organizations. For example, a day care center must have insurance and cannot be granted an exception.
2. The organization is conducting a regular ongoing sports program. For example, a little league program could not be granted an exception.
3. The organization is charging a fee for a function which includes alcohol. For example, a dinner where alcohol is being served cannot be granted an exception. However, an exception could be granted for a small organization holding an open house where a small amount of wine or beer is available.

**g For Profit**

Definition: Any organization other than a governmental entity or a non-profit as defined above.

Requirements: \$1 million coverage and full indemnification and hold harmless.

(a.) A Certificate of Insurance must show minimum limits of \$1,000,000 per loss for general liability. This certificate should name the member as an additional insured and must be received prior to granting use of the facilities. Please note, any event where liquor will be served, you should obtain a hold harmless agreement and a certificate of insurance naming the fund as an additional insured with minimum limits of \$3 million from an insurance company rated no lower than "A-". If you have any question, please contact the Fund's Underwriting Manager. In addition, at the very least, local citizen community groups such as garden clubs, etc., must provide the Fund with a Hold Harmless Agreement.

(b.) "Hold Harmless" Agreement must be signed which protects the Borough from any liability which may occur during the time the facilities are being used.

**2-71.2 Special Events**

Groups to whom the Borough grants formal approval under a Special Events permit issued pursuant to section 4-12 of this Code shall be required to sign a Hold Harmless Agreement, holding harmless the Borough from any and all liability which may occur during the time they are using the facility. In addition, they are required to provide a minimum of \$1 million per loss liability insurance, naming the Borough as additional insured.

The Borough may require coverage limits excess of the minimum amount shown above if, in its judgment, the special event warrants higher coverage.

**2-71.3 Insurance Policies and Hold Harmless Agreements**

All Certificates of Insurance and Hold Harmless Agreements are subject to the approval of the Borough Attorney and the Borough’s Risk Manager.

**2-71.4 Request for a Waiver of Insurance Requirements**

The governing body may waive hold harmless and insurance agreements subject to the approval of the JIF.

**Section 2.** Any or all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

**Section 3.** In case any article, section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 4.** This ordinance shall become effective immediately upon final passage and publication as required by law.

COUNCIL OF THE BOROUGH OF  
BERNARDSVILLE IN THE COUNTY  
OF SOMERSET

ATTEST:

\_\_\_\_\_  
Anthony Suriano, Borough Clerk

By: \_\_\_\_\_  
Kevin Sooy, Mayor

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*Introduction:* \_\_\_\_\_

*1st Publication:* \_\_\_\_\_

*Public Hearing and Adoption:* \_\_\_\_\_

*2nd Publication:* \_\_\_\_\_