

## **ORDINANCE NO. 705**

AN ORDINANCE OF THE BOROUGH OF SELLERSVILLE, BUCKS COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE BOROUGH OF SELLERSVILLE TO MAKE IT UNLAWFUL TO ERECT, STORE, OR MAINTAIN RECREATIONAL EQUIPMENT IN THE PUBLIC RIGHT-OF-WAY

WHEREAS, Sellersville Borough Council finds that there currently exists temporary or permanent recreational equipment, such as basketball nets, that have been erected throughout the Borough and maintained within the public right-of-way; and

WHEREAS, such recreational equipment may constitute a danger to the public traveling on the Borough's streets and sidewalks; and

WHEREAS, the Borough of Sellersville desires to amend the Code of the Borough of Sellersville (the "Code") to prohibit the erection, storage, or maintenance of such recreational equipment within the public right-of-way.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of Sellersville Borough, Bucks County, that the Code is hereby amended as follows:

**Section 1.** Section 130-49 of Article IV, Chapter 130 of the Code is hereby amended by adding the following definitions:

**PUBLIC RIGHT-OF-WAY** – The surface and space in, on, and above any real property in which the Borough of Sellersville, the Commonwealth of Pennsylvania, or any agency thereof, has an interest in law or in equity, other than real property owned in fee by the Borough of Sellersville.

**RECREATIONAL EQUIPMENT** – Any equipment, structure, object, or other personal property, whether temporary or permanent in nature, that is or may be used for sporting or recreational activity including, but not limited to, basketball poles, nets, and backboards, and hockey, soccer, field hockey, and street hockey nets, and any accessories and appurtenances thereto.

**Section 2.** Article IV, Chapter 130 of the Code is hereby amended by adding the following sections:

§ 130-53.1. Recreational equipment in the public right-of-way. It shall be unlawful for any person to construct, erect, place, store, leave, or maintain the presence of any recreational equipment on or in any public right-of-way within the Borough of Sellersville.

§ 130-53.2. Notice. The Borough Manager, or his designee, is hereby authorized to give written notice by personal service or United States mail to any real property owners or persons possessing or occupying real property upon which a violation of Section 130-53.1 has occurred, to remove or cause to be removed such recreational equipment within ten days of the date of such notice. It shall be unlawful for any such person to fail or refuse to remove or cause to be

removed such recreational equipment within such ten day period. The notice set forth in this Section shall not be a prerequisite to the Borough's institution of an action under Section 130-54.

§ 130-53.3. Removal by Borough. In addition to, and not in lieu of, the remedies set forth in Section 130-54, upon the failure or refusal of any person to timely comply with the notice set forth in Section 130-53.2, the Borough shall have the right to remove or cause to be removed the recreational equipment, and the costs of such removal shall be collected pursuant to and as authorized by Section 130-53.4.

§ 130-53.4. Cost of removal. In the event the Borough exercises its right to remove any recreational equipment under Section 130-53.3, the owners of the real property on which the violation occurred shall be responsible for all costs of such removal, including any attorneys' fees incurred before, during, or after such removal, as well as all costs incurred by or on behalf of the Borough in the collection of such costs. The minimum charge for the cost of removing the recreational equipment shall be \$300. The costs imposed under this Section shall be in addition to, and not in lieu of, the costs and penalties set forth in Section 130-54.

**Section 3.** If any sentence, clause, section, or part of this Ordinance is found for any reason to be unconstitutional, illegal, or invalid by a court of competent jurisdiction, such unconstitutionality, illegality, or invalidity shall not affect or impair any remaining provisions, clauses, sentences, sections, or parts of this Ordinance.

**Section 4.** This Ordinance shall become effective immediately.

**ORDAINED and ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by Sellersville Borough Council.

ATTEST:

BOROUGH OF SELLERSVILLE

\_\_\_\_\_  
David J. Rivet  
Secretary of Borough Council

\_\_\_\_\_  
Robert C. Rudick  
President of Borough Council

**APPROVED** this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015

\_\_\_\_\_  
Thomas C. Hufnagle, Mayor