

**AMBLER BOROUGH, MONTGOMERY COUNTY, PA**

**ORDINANCE NUMBER 1119**

**AN ORDINANCE OF THE BOROUGH OF AMBLER, AMENDING THE SIGN ORDINANCE, SECTIONS 27-2003, 27-2004, AND A NEW SECTION 27-2011 TO DEFINE MURALS, DIFFERENTIATE THEM FROM SIGNS, AND ESTABLISH CRITERIA FOR MURALS; LEAVING THE REMAINDER OF THE ORDINANCE IN FULL FORCE AND EFFECT; INCLUDING A SEVERABILITY CLAUSE AND REPEALER; EFFECTIVE ON THE EARLIEST APPLICABLE DATE SET FORTH IN THE BOROUGH CODE**

WHEREAS, it is the determination of Ambler Borough Council that the existing sign ordinance does not sufficiently address murals, and that it is in the best interests of the citizenry, and consistent with the Borough residents' health, safety and welfare, to establish criteria for murals while recognizing and preserving every person's right to free speech and expression,

NOW THEREFORE, it is hereby ORDAINED as follows:


1. Chapter 27, part 20, Signs, at 27-2003 of the Borough codified ordinances, "Definitions", is modified as follows:  
The definition of "Mural" is stricken and replaced with the following.  
MURAL: Artwork applied to the wall of a building, the primary purpose of which is the expression of non-commercial speech. Artwork that does not have the expression of non-commercial speech as its primary purpose is a sign and may not be painted or applied to the wall of a building.
2. Chapter 27, part 20, signs, at 27-2004, "Prohibited Signs" is amended as follows:  
27-2004(F), the existing language, "Signs painted on any wall surface, excluding murals" is stricken and replaced with the following: "Signs painted on any wall surface".
3. Chapter 27, part 20, is amended by the addition of a new section, 27-2011, the text of which is as follows:

**27-2011 MURALS**

1. Whether the primary purpose of artwork painted on a building is commercial or non-commercial is a fact-based inquiry and the initial determination is to be made by the Borough zoning officer. The determination to be made is whether the expression depicted in the artwork is primarily intended to advance the economic interests of a business. Factors in making this determination include:
  - a. whether the wall is part of a business;
  - b. whether the artwork includes the name or advertising slogans of a business;
  - c. whether the artwork depicts specific elements of a transaction or business activity associated with a particular business or trade;
  - d. whether the artwork includes depictions of the owner or employees of a particular business;
  - e. if volunteered by the building owner or artist, the stated non-commercial expression sought to be expressed in the art work;

- f. Whether the artwork, in consideration of these and any other relevant factors, is intended to call attention to a business or commercial activity.
2. If the zoning officer determines the artwork to be a sign, then it shall be prohibited pursuant to 27-2004(F). If it is determined to be a mural, then it is subject only to the requirements set forth in this part. Specifically:
- a. It may not be larger than the wall on which it is painted;
  - b. It may not cover doors or windows;
  - c. It may not contain electronic elements and may not be internally illuminated;
  - d. It may not include words or graphic depictions of violence or sexuality that would be considered obscene applying contemporary community standards;
  - e. It may not project into any public right of way;
  - f. It must be created using materials durable enough to last approximately as long as ordinary exterior paint applied to the same wall in a single, uniform color.
3. Persons intending to create a mural within the Borough may apply to the zoning officer free of charge for a determination that the artwork does not constitute a regulated sign. A mural that is painted without zoning officer approval is subject to removal if it is in violation of this ordinance.
4. The perceived cultural, artistic, historical, or societal significance of any depiction in any artwork is unrelated to a determination made by the zoning officer pursuant to this ordinance.
5. Determinations of the zoning officer are appealable to the Zoning Hearing Board in the same manner as other zoning determinations in accordance with the Pennsylvania Municipalities Planning Code.
6. Any prior ordinance that is inconsistent with this ordinance is repealed to the extent of such inconsistency. If any portion of this ordinance is found invalid by a court of competent jurisdiction, such invalid provision shall be severed from the remainder of the ordinance, which shall continue to be given full force and effect. This ordinance is effective on the earliest applicable date provided for in section 3301.3 of the Pennsylvania Borough Code.

SO ORDAINED this 3rd day of May, 2021.

  
Frank DeRuosi, Council President

ATTEST:   
Mary Aversa, Council Secretary