

**BOROUGH OF BERLIN
ORDINANCE NO. 2016-20**

**AN ORDINANCE OF BOROUGH OF BERLIN RESCINDING A DEFINITION SET FORTH IN
CHAPTER 335, ZONING AND LAND USE, ARTICLE II, AND RESCINDING ARTICLE VI,
§335-77, R., (9) (e) OF THE CODE OF THE BOROUGH OF BERLIN.**

WHEREAS, the First Amendment to the United States Constitution prohibits states from enacting laws that abridge the freedom of speech which also prohibits municipal governments from restricting expression because of its message, its ideas, its subject, or its content; and

WHEREAS, laws that regulate free speech based on the expressive content of the speech are presumptively unconstitutional; and

WHEREAS, in 2005, the town of Gilbert, Arizona adopted a municipal sign ordinance that regulated the manner in which signs could be displayed including a limitation on political signs restricting their display up to 60 days before a primary election and up to 15 days following a general election; and

WHEREAS, said regulations as well as others were challenged in the Federal Court System as a violation of the First Amendment right to freedom of speech; and

WHEREAS, the case was ultimately decided by the Supreme Court of the United States on June 18, 2015; and

WHEREAS, in the Supreme Court case of Reed, et al. v. Town of Gilbert, Arizona, et al., Justice Clarence Thomas, writing for the majority of the Court, determined that the town's sign regulations imposed content-based restrictions that did not survive strict scrutiny and thus declared such regulations unconstitutional; and

WHEREAS, the Mayor and Borough Council of the Berlin of Berlin believe in the First Amendment and the right to free speech and have determined to take this action so that its Ordinances are consistent with Federal law.

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

Section 1: Article II, Definitions, §335-2. B., Definitions and word usage the definition of Political Sign is hereby deleted and rescinded.

Section 2: Article VI, §335-77. R. (9)(e) only, is hereby deleted and rescinded in its entirety.

Section 3: All other Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 4: 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 5: This Ordinance shall take effect immediately upon final passage and publication as required by law.

BOROUGH OF BERLIN

By: James Bilella, Mayor

ATTEST:

Lois Sahina, Acting Municipal 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 November 10, 2016, in the Municipal Building, 59 South White Horse Pike, Berlin, New Jersey.

Lois Sahina, Acting Clerk