

**BERNARDSVILLE BOROUGH
ORDINANCE #18-1782**

**CONCERNING SIGNS AND AMENDING CHAPTER XII OF THE BOROUGH CODE
ENTITLED "ZONING" OF THE BOROUGH LAND DEVELOPMENT CODE**

Statement of Purpose: To allow logos and similar identify marks, but not advertising, on driveway entrance signs.

WHEREAS, the Borough sign ordinance currently provides in subsection 12-23.15 that:

"Signs not exceeding one (1) square foot in area may be used for a driveway entrance, exit or for warning and directional purposes provided the signs are limited to said uses, and provided further the signs do not bear thereon any type of commercial identification or advertising."; and

WHEREAS, the courts have developed the following four-part analysis in cases involving ordinances regulating commercial speech when the court must determine whether the expression is protected by the First Amendment:

"...[D]oes it concern lawful activity and is it non-misleading. Next, the court must determine whether the asserted governmental interest is substantial. If both inquiries are positive, the court must determine whether the regulation directly advances the governmental interest asserts, and whether it is not more extensive than is necessary to eve that interest." (State v. Calabria, Gillette Liquors, 201 N.J. Super. 96, 103 (Law Div. 1997); and

WHEREAS, the ordinance in question may not withstand a legal challenge using the four-part analysis set forth above; and

WHEREAS, allowing driveway entrance signs to contain some form of identification will help motorists find driveways onto commercial properties;

NOW THEREFORE, BE IT ORDAINED by the Council of the Borough of Bernardsville in the County of Somerset, State of New Jersey that Article 12 of the Borough Land Development Code entitled "Zoning" is hereby amended as follows:

Section 1. Paragraph a.16 in subsection 12-23.15 entitled "Signs" is hereby amended to read as follows:

"12-23.15 Signs.

a. **General Sign Provisions.** It is the intent of this chapter to provide design criteria and control of signs located throughout the Borough of Bernardsville to assure a high level of attractiveness and compatibility with the site and character of the community. The following provisions apply generally to all signage.

1. Signs shall not be erected or maintained except in conformity with the provisions of this chapter.

16. Signs not exceeding one (1) square foot in area may be used for a driveway entrance, exit or for warning and directional purposes provided the signs are limited to said uses, and provided further the signs do not bear thereon any type of commercial identification or advertising."

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

1st Reading and Introduction: _____

1st Publication: _____

Referral to Planning Board: _____

Notice to County Planning Board Prior to Adoption: _____

Notice to Clerks of Adjoining Municipalities (if required): _____

Notice to Affected Property Owners (if required): _____

2nd Reading and Adoption: _____

2nd Publication: _____

Filing with County Planning Board: _____

