

ORDINANCE NO. 1016  
BOROUGH OF HATBORO  
MONTGOMERY COUNTY, PENNSYLVANIA

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**AN ORDINANCE AMENDING THE BOROUGH OF HATBORO CODE OF ORDINANCES BY ADDING NEW PART 7 ENTITLED "GRAFFITI" TO CHAPTER 6, "CONDUCT," FOR THE PURPOSE OF ESTABLISHING DEFINITIONS; PROHIBITING GRAFFITI AS A FORM OF VANDALISM; REQUIRING THE REMOVAL OF GRAFFITI; AND ESTABLISHING PENALTIES FOR VIOLATIONS OF THIS ORDINANCE**

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**WHEREAS**, the Borough Code, 53 P.S. § 45101, et seq., authorizes the Borough Council of the Borough of Hatboro ("Borough Council") to make and adopt ordinances that are consistent with the constitution and laws of the Commonwealth when necessary for the proper management, care and control of the Borough and the maintenance of peace, good government, health and welfare of the Borough and its citizens;

**WHEREAS**, the Borough Council deems it be in the best interest and general welfare of the citizens and residents of the Borough to amend its Code of Ordinances by adding new Part 7 entitled "Graffiti" to Chapter 6, "Conduct," for the purpose of protecting public and private property located in the Borough of Hatboro by prohibiting graffiti as a form of vandalism and requiring the removal of graffiti.

**WHEREAS**, the Borough Council, after due consideration of the proposed ordinance at a duly advertised public hearing, has determined that the health, safety, and general welfare of the residents of Hatboro Borough will be served by the amendment of the Hatboro Borough Code of Ordinances.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** by the Borough Council of the Borough of Hatboro, Montgomery County, Pennsylvania, and it is hereby enacted and ordained by the authority of same as follows:

**SECTION 1. CODE AMENDMENT.**

**THE BOROUGH OF HATBORO CODE OF ORDINANCES IS HEREBY AMENDED BY ADDING NEW PART 7 ENTITLED "GRAFFITI" TO CHAPTER 6, "CONDUCT," AS FOLLOWS:**

**§ 6-701. Short Title.**

This Part shall be known as the "Hatboro Graffiti Ordinance."

**§ 6-702. Definitions and Interpretation.**

For purposes of this Part, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

*Broad-tipped indelible marker* – any felt-tipped marker or similar implement which contains fluid which is not water soluble and which has a flat or angled writing surface one-half inch or greater.

*Consent* – Voluntary agreement by a person.

*Graffiti* – every name, identification, description, crude drawing, announcement, display, illustration or insignia, any symbol (including any letter, word, numeral, emblem or combination thereof), other than advertising, which is otherwise provided for by Borough ordinances, which is marked, written, drawn, painted, scratched or affixed directly to or upon any property or surface, public or private, without the express consent of the owner or person in possession of said property or surface.

*Graffiti implement* – any aerosol paint container, broad-tipped indelible marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or man-made surface.

*Minor* – for the purpose of this chapter, a person who has not yet reached 18 years of age.

*Owner* – any and all persons with legal and/or equitable title to real property in the Borough as their names and addresses are shown upon the official property records.

*Person* – any individual, firm, partnership, association, corporation, company or organization of any kind.

*Property* – any real estate, including improvements thereon; tangible property, including but not limited to newsboxes, newsstands, utility poles, public telephones, tree planters and other items of street furniture; and vehicles located thereon.

*Surface* – any exterior surface of real or tangible property, including building exteriors, walls, parking areas, driveways, roads, sidewalks and any area paved in concrete, asphalt, packed stone or similar material.

#### **§ 6-703. Prohibited Acts.**

- A. *Making graffiti.* No person shall make graffiti of any type on any real or tangible property or any surface, public or private.
- B. *Possession of graffiti implements.* No minor shall have in his/her possession any aerosol paint container or broad-tipped indelible marker while on any public property (including any highway, street, alley, sidewalk or park) or while on any private property, unless the owner or person in possession of the property knows of and consents to the minor's possession of the aerosol paint container or broad-tipped indelible marker while on his/her property.
- C. *Sale to minors.* No person shall sell, furnish or convey to any minor, and no minor shall buy, any aerosol paint container or broad-tipped indelible marker.

#### **§ 6-704. Display of Paint and Markers.**

Every person who owns, conducts, operates or manages a retail commercial establishment selling aerosol paint containers or broad-tipped indelible markers shall:

- A. Place a sign in clear public view at or near the display of such products, stating:

GRAFFITI IS A CRIME UNDER THE PA. CRIMES CODE § 3304, CRIMINAL MISCHIEF. ANY PERSON DEFACING REAL OR PERSONAL PROPERTY WILL BE SUBJECT TO ARREST AND PROSECUTION.

- B. Place a sign in the direct view of such persons responsible for accepting customer payment for aerosol paint containers or broad-tipped indelible markers, stating:

IT IS A VIOLATION OF THE BOROUGH ORDINANCE TO SELL  
AEROSOL PAINT CONTAINERS OR BROAD-TIPPED INDELIBLE  
MARKERS TO PERSONS UNDER 18 YEARS OF AGE.

- C. No person shall sell or offer for sale, transfer or offer to transfer any aerosol paint container or broad-tipped indelible marker unless such items are observable by the attendant of the retail establishment or unless such items are stored, out of sight, in a manner that prevents free access to the items by the public.

**§ 6-705. Graffiti Removal.**

- A. *Requirement to remove graffiti.* Upon written notification by the Borough, the owner of property upon which graffiti has been placed shall remove the graffiti within thirty (30) calendar days from the date of the notice. If delivery is not made to the owner, then a written notice of removal of the graffiti shall be posted upon the premises. The Borough will supply the property owner with information and methods of removal upon request.
- B. *Remedy.* If a property owner fails to remove graffiti within thirty (30) days after notice of violation has been issued, the Borough may proceed to remove the graffiti itself or by contract, and the property owner may be responsible for the costs of removal, including all related administrative costs. Notice of this fact shall be provided to the property owner at the same time and in the same manner as the notice of violation is issued. A bill for such costs of removal may be delivered to the property owner, proprietor or other responsible agent, and the Borough may file a lien against the property in the amount of such costs. Liability for costs of removal under this section may be in addition to liability for any fine imposed.
- C. *Exigent circumstances.* In the interest of public safety, the Borough reserves the right to remove any graffiti on private property without the owner's permission when such graffiti may constitute the crimes of institutional vandalism or ethnic intimidation.

**§ 6-706. Violations and Penalties.**

1. Any person who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not more than \$350 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.
2. In addition to the penalties specified by Paragraph 1 above, any person who violates any provision of this Part shall pay the cost of the repair and removal of graffiti that he or she has been found to be responsible for.
3. The fine or penalty imposed by this Part shall be in addition to any other penalty imposed by this Part or allowed by law. A person found to be in violation of this Part may also be required to perform community service to offset the costs of removal or cleanup, subject to the discretion of the court.

**SECTION 2. REPEALER.**

All Ordinances or parts of Ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

**SECTION 3. REVISIONS.**

The Council of the Borough of Hatboro does hereby reserve the right, from time to time, to adopt modifications of, supplements to, or amendments of its Ordinance, including this provision.

**SECTION 4. SEVERABILITY.**

In the event that any section, sentence, clause, phrase or word of this Ordinance shall be declared illegal, invalid or unconstitutional by any Court of competent jurisdiction, such declaration shall not prevent, preclude or otherwise foreclose enforcement of any of the remaining portions of this Ordinance.

**SECTION 5. EFFECTIVE DATE.**

This Ordinance shall take effect immediately and be in force from and after its enactment as provided by law.

**SECTION 6. FAILURE TO ENFORCE NOT A WAIVER.**

The failure of the Borough of Hatboro to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

**SECTION 7. ENACTMENT.**

Under the authority conferred by the Borough Code, 53 P.S. § 45101, et seq., and other relevant statutory law, the Council of the Borough of Hatboro in the County of Montgomery, Commonwealth of Pennsylvania does hereby ordain and this Ordinance for the Borough of Hatboro, this 23rd day of September, 2013.

Approved by the Borough Council of the Borough of Hatboro, this 23<sup>rd</sup> day of September, 2013.

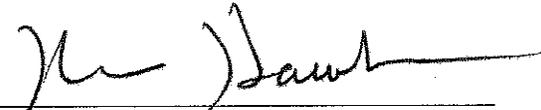
ATTEST:

BOROUGH OF HATBORO:

  
\_\_\_\_\_  
Alfred Zollers, Secretary

By:   
\_\_\_\_\_  
John Zygmunt, Council President

Examined and approved as an Ordinance, this 23<sup>rd</sup> day of September, 2013.

  
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Norm Hawkes, Mayor