

ORDINANCE NO. 875-2023

AN ORDINANCE FOR THE BOROUGH OF HAMBURG, COUNTY OF BERKS, PENNSYLVANIA, AMENDING CHAPTER 27, "ZONING," OF THE BOROUGH CODE OF ORDINANCES BY AMENDING PART 2, "DEFINITIONS," SECTION 202, "GENERAL DEFINITIONS", TO ADD THE DEFINED TERM OF "SMOKE SHOP OR SMOKING PARLOR"; AND BY AMENDING PART 4, "DISTRICT REGULATIONS", SECTION 403, "VC BOROUGH AND VILLAGE CENTER - COMMERCIAL/RESIDENTIAL", SUB-SECTION C, "CONDITIONAL USES," BY ADDING A SMOKE SHOP OR SMOKING PARLOR THERETO.

BE IT, and it is hereby enacted by the Borough Council of the Borough of Hamburg, Berks County, Pennsylvania, as follows:

WHEREAS, the Borough Council of the Borough of Hamburg desires to amend its zoning ordinance; and

WHEREAS, the Borough Council of the Borough of Hamburg believes that such amendments will promote, protect and facilitate the public health, safety, morals, aesthetic quality and general welfare of the community through coordinated and practical land use and land development for the betterment of Hamburg commerce and the population.

NOW, THEREFORE, the Borough does hereby enact and ordain the following:

SECTION 1. Amendment to Chapter 27, "Zoning," Part 2, "Definitions," by adding a defined term of "Smoke Shop or Smoking Parlor".

The Borough Code of Ordinances Chapter 27, "Zoning," Part 2, "Definitions," Section 202, "General Definitions" is hereby amended by adding the definition of "Smoke Shop or Smoking Parlor", as follows:

"Smoke Shop or Smoking Parlor – A retail sales or wholesale establishment primarily engaged or marketed as selling tobacco, tobacco products/accessories, and/ or vaping products and accessories. Examples of vaping products and accessories referred to in this definition include, without limitation, e-cigarette or vape cartridges or refills, vaporizers, vape pens, vapor products, hookah pens, electronic cigarettes, e -cigarettes, e- cigs, e -pipes, and any other electronic nicotine delivery system ("ENDS"). ENDS shall be deemed noncombustible tobacco products. Tobacco products and accessories as referred to in this definition shall include, without limitation, any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco, matches, lighters, grinders, hookahs, pipes, chewing tobacco, cigarette rolling machines or papers, ashtrays, pipe tools, pipe supplies and pipe accessories."

SECTION 2. Amendment to Chapter 27, “Zoning,” Part 4, “District Regulations,” Section 403, “VC Borough and Village Center – Commercial/Residential”, Subsection C, “Conditional Uses,” by a new Sub-subsection (8) to permit a Smoke Shop or Smoking Parlor.

The Borough Code of Ordinances Chapter 27, “Zoning,” Part 4, “District Regulations”, Section 403, “VC Borough and Village Center – Commercial/Residential”, Subsection C, “Conditional Uses,” is hereby amended by adding a new Subsection (8):

- “(8) Smoke Shop or Smoking Parlor subject to compliance with the following:
- (a) Each Smoke Shop or Smoking Parlor shall be located no closer than 1,000 feet from any other Smoke Shop or Smoking Parlor;
 - (b) A Smoke Shop or Smoking Parlor shall not be located within 1,000 feet from a school, public park, playground, public community center, church, place of worship or youth community center;
 - (c) Cease operations between the hours of 11:00 p.m. - 10:00 a.m.;
 - (d) If smoking/consuming is allowed on premises, adequate ventilation shall be provided which, at a minimum, must prevent smoke and vapors from migrating into adjacent buildings and/or suites and to outdoor public areas;
 - (e) If smoking/consuming is allowed on premises, must comply with all current Federal, Commonwealth and local laws including, but not limited to, the Clean Indoor Air Act;
 - (f) No alcoholic beverages shall be served or consumed on the premises;
 - (g) A use hereunder shall be considered a “retail” use for calculation of off-street parking requirements under Section 27-506(2)(E)(3).

SECTION 3. Repeal of Ordinances. Any ordinance, parts of ordinances, resolution or parts of resolutions conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance’s provisions.

SECTION 4. Severability. If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance, is, for any reason declared to be illegal, unconstitutional or invalid, by any Court of competent jurisdiction, this decision shall not affect or impair the validity of the Ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word, or remaining portion

of the within Ordinance. The Borough Council of the Borough of Hamburg, Pennsylvania, hereby declares that it would have adopted the within Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the limitations, restrictions, sentences, clauses, phrases, or word that may be declared illegal, unconstitutional or invalid.

SECTION 5. Effective Date. This Ordinance shall become effective at the earliest date permitted by law.

SECTION 6. Code of Ordinances. The Code of Ordinances, as amended, of the Borough of Hamburg, Berks County, Pennsylvania shall be and remain unchanged and in full force and effect except as amended, supplemented, and modified by this Ordinance. This Ordinance shall become a part of this Code of Ordinances upon adoption.

ENACTED AND ORDAINED this 22nd day of AUGUST, 2023.

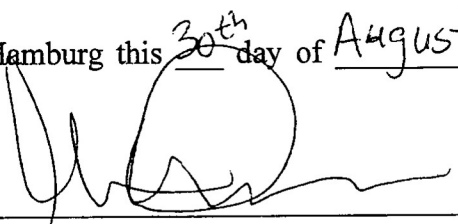
ATTEST:


Secretary

BOROUGH OF HAMBURG

By: 
President

Approved as an Ordinance of the Borough of Hamburg this 30th day of August, 2023.


Mayor

MASANO ♦ BRADLEY
ATTORNEYS AT LAW

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November 2, 2023

Bryce Zohner, Deputy Interim Borough Manager
Borough of Hamburg
Hamburg Borough Hall
61 North 3rd Street
Hamburg, Pennsylvania 19526

Re: Borough of Hamburg Ordinance Amendment 2023 (Curb and Sidewalk)

Dear Bryce:

Enclosed please find the original signed Ordinance regarding the above-referenced matter which was approved at the last Council meeting.

Very truly yours,

MASANO ♦ BRADLEY



Michael J. Gombar, Jr.

MJG/dh

Enclosure