

ORDINANCE NO. 2020-1

AN ORDINANCE OF MATAMORAS BOROUGH, PIKE COUNTY, COMMONWEALTH OF PENNSYLVANIA, ELECTING TO AMEND CHAPTER 124 OF THE CODE OF THE BOROUGH OF MATAMORAS. IT IS HEREBY ORDAINED BY BOROUGH OF MATAMORAS, PIKE COUNTY, AS FOLLOWS:

§124-30.2 Smoke Shops and Tobacco Stores

A. Purpose

- (1) The regulation of smoke shops and tobacco stores is necessary and in the interests of the public health, safety and general welfare because there is substantial likelihood of the continued establishment and operation of smoke shops and tobacco stores in the Borough of Matamoras (the Borough).
- (2) The expansion of smoke shops and tobacco stores in the Borough would result in undesirable impacts in the community. Among these impacts are increased potential for tobacco sales to minors, greater opportunity for sale of illegal drug paraphernalia that is marketed as tobacco paraphernalia, and heightened risk of negative aesthetic impacts, blight, and loss of property values of residential neighborhoods and businesses in close proximity to such uses.
- (3) This section contains amendments consistent with good zoning and planning practices to address negative impacts of smoke shops and tobacco stores while providing a reasonable number of locations and zones for such shops/stores to locate within the Borough.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

DRUG PARAPHERNALIA STORES

Any retail store selling paraphernalia commonly related to the use of any drug or narcotic of which the sale, use or possession of its subject to the provisions of "The Controlled Substance, Drug, Device and Cosmetic Act," 1972, April 12, P.L. 233. No. 64, §780-101 et seq., "roach" clips, "coke" spoons, "bongs," and cigarette rolling paper, except that this shall not be deemed to include the sale of cigarette rolling paper by a store that also sells loose tobacco or the sale by prescription of implements needed for the use of prescribed drugs or narcotics.

E-CIGARETTE

Any electronically actuated device or inhaler meant to simulate cigarette smoking that uses a heating element to vaporize a liquid solution, popularly referred to as "juice," and that causes the user to exhale any smoke, vapor, or substance other than that produced by unenhanced human exhalation. The juice used in e-cigarettes typically contains nicotine, and for this reason, e-cigarettes and their juice can be classified as both tobacco products and drug paraphernalia.

MIXED-USE ESTABLISHMENTS

Where a grocery store, supermarket, convenience store or similar market combines an area greater than 75 square feet or 2% of its retail space, whichever is less, for the display, sale, distribution, delivery, offering, furnishing, or marketing of conventional cigars, cigarettes or tobacco with the sale of other retail products. For the purpose of this section, these mixed-use establishments shall be subject to the restrictions of this section. The display, sale, distribution, delivery, offering, furnishing, or marketing of e-cigarettes or any other tobacco products or tobacco paraphernalia, regardless of square footage used, is subject to the restrictions of this section.

SMOKE SHOPS AND TOBACCO STORES

Any premises having more than 100 square feet dedicated to marketing and storage of tobacco, tobacco products, or tobacco paraphernalia.

TOBACCO

Any preparation of the nicotine-rich leaves of the tobacco plant, which are cured by a process of drying and fermentation for use in smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body.

TOBACCO PARAPHERNALIA

Any paraphernalia, equipment, device, or instrument that is primarily designed or manufactured for the smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body of tobacco, tobacco products, or other controlled substances as defined in the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. § 780-113(a)(33).

TOBACCO PRODUCTS

Any product in leaf, flake, plug, liquid, or any other form, containing nicotine derived from the tobacco plant or otherwise derived, which is intended to enable human consumption of the tobacco or nicotine in the product, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any means. For the purposes of this section, the term "tobacco product" excludes any product that has been specifically approved by the United States Food and Drug Administration (FDA) for sale as a tobacco/smoking cessation product or for other medical purposes, where such product is marketed and sold solely for such and approved purpose

C. Zoning and Use Standards

- (1) Notwithstanding any other provision of this title to the contrary, smoke shops, tobacco stores and mixed-use establishments shall be a conditional use in the C-1 and C-2 Zone.
- (2) All smoke shops, tobacco stores and mixed-use establishments proposing to operate within the C-1 and C-2 Zone after the effective date of this section must obtain a conditional use approval. Standard conditions of approval, at a minimum, shall include the following:
 - (a) No smoking shall be permitted on the premises at any time.
 - (b) No sales may be solicited or conducted on the premises by minors.
 - (c) No self-service tobacco, tobacco product, or tobacco paraphernalia displays shall be permitted.

- (d) No distribution of free or low-cost tobacco, tobacco products or tobacco paraphernalia, as well as coupons for said items, shall be permitted.
- (3) Additional Zoning and Land Use Standards for smoke shops, tobacco stores and mixed-use establishments shall be as follows:
- (a) Smoke shops, tobacco stores and mixed-use establishments shall not be located within 1000 feet, measured property line to property line, from a school (private or public), family day-care home, child-care facility, youth center, community center, recreational facility, park, church or religious institution, hospital, or other similar uses where children regularly gather.
 - (b) Smoke shops, tobacco stores and mixed-use establishments shall not be located within 1000 feet, measured from property line to property line, from another smoke shop and/or tobacco store and/or mixed-use establishment.
 - (c) It is unlawful for a smoke shop and/or tobacco store to knowingly allow or permit a minor not accompanied by his or her parent or legal guardian to enter or remain within any smoke shop or tobacco store.
 - (d) Smoke shops and tobacco stores shall post clear signage stating that minors may not enter the premises unless accompanied by a parent or legal guardian. At least one such sign shall be placed in a conspicuous location near each public entrance to all such store. It shall be unlawful for the above-listed stores to fail to display and maintain, or fail to cause to be displayed or maintained, such signage and is subject to violations and penalties as listed in §124-43.
- D. Smoke shops and tobacco stores that are legally existing on the effective date of this section may continue to operate as legal nonconforming uses and shall not be required to obtain a conditional use permit. However, any change or expansion of the legal nonconforming use shall require compliance with this chapter and a conditional use permit.
- E. All smoke shops and tobacco stores shall provide and maintain a minimum of 1 garbage can per entryway, locations as approved by the Zoning Officer
- F. Owners shall be responsible for removal of all trash, litter, garbage, etc., as a result of the purchase or use of tobacco related products, from their property and the adjacent right-of ways within the Borough.

ADOPTED AND ENACTED THE 14TH DAY OF JULY, 2020.

MATAMORAS BOROUGH

Borough Secretary

Council President, Joseph Sain

Mayor, Janet Clark

ZONING

Borough of Matamoras Appendix No. 4
 Schedule of Uses C-1 Neighborhood Commercial District
 [Amended 11-1-2005 by Ord. No. 282]

INTENT: For the purpose of creating areas for the location of commercial activities designed to serve the needs of immediately surrounding residences.			
Principal Permitted Uses	Conditional Uses	Special Exceptions	Accessory Uses
Group homes – Public parks and playgrounds – Single-family detached dwellings - Two-family dwellings	Adult day-care centers – Bed-and-breakfast establishments - Boarding homes – Child-care centers – Churches and associated facilities - Clubs/lodges, private – Garden centers, retail – Greenhouses, commercial – Home occupations – Nurseries, commercial – Nursing facilities – Multifamily dwellings – Multiple-occupant commercial buildings – Residential/commercial mixed uses - Retail businesses – Semipublic uses – Service establishments – Smoke shops & Tobacco Stores Specialty shops -Studios -	Public uses – Schools, private and public	Accessory uses customary to approved uses – Essential services – Home gardens, home greenhouses and home nurseries – Private garages, carports, sheds - Private greenhouses – Private stables – Private swimming pools – Signs accessory to approved uses – TV satellite dishes accessory to approved uses

NOTE: 1 Uses not specifically listed by this schedule shall not be permitted in the C-1 District. 2 No-impact home-based businesses are permitted in conjunction with any and all dwelling uses in all zoning districts (including all Residential Districts) in the Borough of Matamoras as a use permitted by right, except that such permission shall not supersede any deed restriction, covenant, or agreement restricting the use of land, nor any master deed, bylaw, or other document applicable to a common-interest ownership community. 124 Attachment 2:7 09 - 15 - 2008

ZONING

Borough of Matamoras

Appendix No. 5

Schedule of Uses C-2 General Commercial District

**[Amended 7-1-1997 by Ord. No. 254; 10-3-2000 by Ord. No. 259; 2-5-2002 by Ord. No. 262;
8-6-2002 by Ord. No. 266; 10-8-2002 by Ord. No. 267; 11-1-2005 by Ord. No. 282; 6-5-2007 by Ord. No. 290]**

<p>INTENT: To provide areas within the borough for the location of businesses and commercial enterprises catering to the needs of borough residents as well as surrounding communities and the transient population.</p>			
Principal Permitted Uses	Conditional Uses	Special Exceptions	Accessory Uses
<p>Adult day-care centers – Banks and associated facilities – Bed-and-breakfast establishments -Boarding homes – Child day-care centers – Convenience store – Garden centers, retail – Group homes – Home occupations – Hotels and motels – Multiple-occupant commercial buildings, all of whose uses are herein permitted – Office buildings – Professional offices – Public parks and playgrounds - Residential/commercial mixed use, all of whose uses are herein permitted – Restaurants and taverns – Retail businesses – Service establishments – Single-family dwellings – Specialty shops – Studios -Theaters – Two-family dwellings</p>	<p>Amusement arcades – Animal hospitals – Auction houses – Car and truck washes – Churches and related facilities -Clubs/lodges, private – Commercial parking facilities -Detention facilities – Dog obedience schools – Drive-in establishments – Fast-food restaurants – Funeral homes – Gasoline service stations -Greenhouses, commercial – Health facilities – Nurseries, commercial – Printing and publishing establishments – Private recreational facilities -Rehabilitation centers – Research and development – Self-storage facility – Semipublic uses – Smoke shops & Tobacco Stores Tattoo and body-piercing studio -Therapeutic massage facility – Vehicle equipment sales operations -Vehicle and equipment repair operations – Vehicle rental operation -Warehouses – Wholesale businesses -</p>	<p>Public uses – Schools, private and public</p>	<p>Accessory uses customary to approved uses – Essential services – Private garages, carports, sheds -Private greenhouses – Private swimming pools – Signs accessory to approved uses – TV satellite dishes accessory to approved uses</p>

NOTES: 1 Uses not specifically listed by this schedule shall not be permitted in the C-2 District.

2 No-impact home-based businesses are permitted in conjunction with any and all dwelling uses in all zoning districts (including all Residential Districts) in the Borough of Matamoras as a use permitted by right, except that such permission shall not supersede any deed restriction, covenant, or agreement restricting the use of land, nor any master deed, bylaw, or other document applicable to a common-interest ownership community