

ORDINANCE NO. 743

AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 160 (ZONING) OF THE CODE OF THE BOROUGH OF SELLERSVILLE TO REPEAL “ADULT BOOKSTORES AND THEATERS” AS AN APPROVED USE BY SPECIAL EXCEPTION IN THE BOROUGH CORE ZONING DISTRICT AND TO AUTHORIZE “ADULT-ORIENTED USES” BY SPECIAL EXCEPTION IN THE INDUSTRIAL ZONING DISTRICT.

WHEREAS, the Borough Code, 8 Pa. C.S.A. §§ 101 *et seq.*, authorizes the Borough Council of the Borough of Sellersville (“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, and the health and welfare of the Borough and its citizens; and

WHEREAS, Borough Council has enacted the Borough of Sellersville Zoning Ordinance of 1993, as amended and codified in the Code of the Borough of Sellersville (the “Code”); and

WHEREAS, Borough Council requested the Sellersville Planning Commission to review proposed amendments to the zoning provisions in the Code, relocating the Adult Bookstore/Theater Use by Special Exception from the BC Borough Core District to the I Industrial District; and

WHEREAS, after discussion and debate at public meetings, the Sellersville Planning Commission has recommended that the proposed zoning amendments be enacted; and

WHEREAS, Borough Council desires to amend the Code in accordance with the Pennsylvania Municipalities Planning Code, 53 P.S. §§ 10101 *et seq.*; and

WHEREAS, Borough Council has met and will meet the procedural requirements of the Pennsylvania Municipalities Planning Code for the adoption of this Ordinance, including planning agency reviews, advertising, and holding a public hearing; and

WHEREAS, Borough Council, after due consideration of this Ordinance at a duly advertised public hearing, has determined that the health, safety, and general welfare of the Borough’s residents will be served by these amendments to the Code.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by Borough Council that the Code is hereby amended as follows:

SECTION 1. Amendment to Section 160-12 of the Code

Section 160-12 of the Code is hereby amended by (1) deleting the following definitions: “ADULT BOOKSTORE” and “ADULT THEATER”; and (2) adding the following definition:

“ADULT-ORIENTED USES” – means any of the following:

- A. An establishment that, as one of its principal purposes, offers for sale, rent, use, or viewing (whether or not on-premises) any one or more of the following: books, magazines, periodicals or

other printed matter, photographs, films, motion pictures, videos, or other visual representations which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual activities or sexual anatomical areas; or instruments, devices, or paraphernalia designed for use in sexual activities. These uses include, but are not limited to, what are commonly referred to as 'adult bookstores,' 'adult novelty stores,' and 'adult theaters.'

- B. An establishment that regularly features entertainers who appear in a state of nudity or semi-nudity, or live performances characterized by sexual activities or the exposure of sexual anatomical areas.
- C. An establishment that, as one of its principal purposes, offers for sale or use (whether or not on-premises) any one or more of the following: cigarettes, cigars, and any other products containing tobacco; electronic cigarettes, vaporizers, vaporizing liquids; marijuana; or instruments, devices, or paraphernalia designed to be used in connection with such uses. These uses include, but are not limited to, what are commonly referred to as 'smoke shops,' 'cigar lounges,' 'hookah lounges,' 'marijuana dispensaries,' and 'vape stores.' "

SECTION 2. Amendment to Section 160-23 of the Code

Section 160-23 B. (1) (c) of the Code is hereby amended by deleting the following commercial use and re-numbering the remaining paragraph: "[15] Adult bookstores and theaters; see § 160-61 (SE)".

SECTION 3. Amendment to Section 160-24 of the Code

Section 160-24 B. (1) (c) of the Code is hereby amended by adding the following commercial use: "[6] Adult-oriented uses; see § 160-61 (SE)".

SECTION 4. Amendment to Section 160-61 of the Code

Section 160-61 of the Code is hereby amended by deleting it in its entirety and replacing it with the following:

"§ 160-61. Adult-oriented uses.

- A. The structure containing such use shall be no less than 500 feet from any church or other place of worship, school, or day-care center.
- B. No display of material depicting sexual activities or sexual anatomical areas shall be visible from a window, door, or exterior of the. Building.
- C. Adult-oriented uses are permitted only in the Industrial District by special exception, and then only upon a finding by the Zoning Hearing Board that such use:
 - (1) Is in general harmony with the immediate vicinity;
 - (2) does not create an atmosphere of enticement for minors; and
 - (3) will not be detrimental to the public health, safety, or general welfare of the Borough."

SECTION 5. Amendment to Use Regulation Table

The Use Regulation Table attached to the Code as Section 160 Attachment 1 is hereby amended to conform with Sections 2 and 3 of this Ordinance.

SECTION 6. Repealer

All ordinances or parts of ordinances that are inconsistent with this Ordinance are hereby repealed.

SECTION 7. Severability

If any part of this Ordinance is for any reason held invalid, illegal, or unconstitutional by any court of competent jurisdiction, such provision shall be separate, distinct and independent, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 8. Effective Date

This Ordinance shall become effective immediately.

ORDAINED and **ENACTED** this 11th day of December, 2023, by Sellersville Borough Council.

ATTEST:

BOROUGH OF SELLERSVILLE

Eileen M. Bradley
Secretary of Borough Council

Lois A. Dodson
President of Borough Council

APPROVED this 11th day of December, **2023.**

Thomas C. Hufnagle, Mayor