



**CHELTENHAM TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2421-21

**AN ORDINANCE AMENDING CHAPTER 295 ENTITLED
“ZONING” OF THE CHELTENHAM TOWNSHIP CODE
RECATEGORYING THE USE TOBACCO STORE/SMOKE
SHOP AS AN INDUSTRIAL USE AND OTHERWISE
AMENDING THE DEFINITION OF THE TOBACCO
STORE/SMOKE SHOP USE**

WHEREAS, despite progress in reducing smoking, tobacco use is still the leading cause of preventable death in the United States; and

WHEREAS, tobacco kills more than 480,000 people in this Country annually – more than AIDS, alcohol, car accidents, illegal drugs, murders, and suicides combined; and

WHEREAS, tobacco use places a huge financial cost on the Nation's healthcare system and constraints on productivity imposed on the Nation's economic system; and

WHEREAS, electronic cigarettes (or “e-cigarettes”) entered the marketplace around 2007 and since 2014 they have been the most commonly-used tobacco products among the youth of the United States, in no small part because e-cigarettes are frequently marketed in a variety of flavors with obvious appeal to youth such as gummy bear, cotton candy and fruit punch; and

WHEREAS, as of 2017, researchers have identified more than 15,500 unique e-cigarette flavors available online; and

WHEREAS, a 2016 Study found that 78.2% of middle and high school students had been exposed to e-cigarette advertisements from at least one (1) source, an increase of 68.9% in only two (2) years prior to that; and

WHEREAS, according to the Centers for Disease Control and Prevention, the number of middle and high school students who reported being current users of tobacco products increased 36% between 2017 and 2018, an increase directly attributable to a nationwide surge in e-cigarette use by adolescents; and

WHEREAS, the Surgeon General has stated: “Most e-cigarettes contain nicotine – the addictive drug in regular cigarettes, cigars and tobacco products. Nicotine exposure during adolescence can harm the developing brain – which continues to develop until about age 25. Nicotine exposure during adolescence can impact learning, memory and attention. Using nicotine in adolescence can also increase risks for future addiction to other drugs. In addition to nicotine, the aerosol that users inhale and exhale from these cigarettes can potentially expose both themselves and bystanders to other harmful substances, including heavy metals, volatile organic compounds, and ultrafine particles that can be inhaled deeply into the lungs.”; and

WHEREAS, while there is some evidence that the use of e-cigarettes by adults may support smoking cessation under certain circumstances, a 2018 National Academy of Sciences, Engineering, and Medicine Report concluded that there was moderate evidence that e-cigarette use in fact increases the frequency and intensity of cigarette smoking in the future; and

WHEREAS, there is a growing body of research concluding that there are significant health risks associated with electronic cigarette use including, but not limited to, the American Lung Association which has warned that the inhalation of harmful chemicals through vaping may cause irreversible lung damage and lung disease; and

WHEREAS, the Centers for Disease Control and Prevention are investigating a National outbreak of e-cigarette, or vaping, product use - associated lung injury; and

WHEREAS, the First Class Township Code authorizes townships of the first class to make such regulations as may be deemed necessary for the health, safety, morals, general welfare, cleanliness, convenience and comfort of the Township and the inhabitants thereof (53 P.S. §56502).

NOW, THEREFORE, the Board of Commissioners of the Township of Cheltenham hereby ordains and enacts as follows:

SECTION I. - Amendment to the Code

Section 295-405 entitled “Categories of Permitted Uses.”, (B. 39) entitled Use B-39: Tobacco Store is deleted in its entirety (deleted text in crossout).

~~B-39: Tobacco Store. A retail or wholesale establishment primarily engaged in selling tobacco and/or tobacco products. A retail or wholesale establishment which engages, or will engage, in sales of tobacco and/or tobacco products of 20% or more of its total merchandise shall be considered a tobacco store for the purposes of this Chapter.~~

- ~~(a) each tobacco store shall be located no closer than 500 feet from any other tobacco store.~~
- ~~(b) there shall be one (1) off street parking space required for each 150 feet of gross floor area or fraction thereof.~~

SECTION II. - Amendment to the Code

Section 295-405 entitled “Categories of Permitted Uses.”, Subsection C. entitled “Industrial Uses.”, is amended to add the following (new text underlined):

(24) Use C-24: Tobacco Store/Smoke Shop. A retail sales or wholesale establishment primarily engaged in selling tobacco and/or tobacco products and/or vaping products. A retail sales or wholesale establishment which maintains 20% or more of its total merchandise as tobacco and/or tobacco products and/or vaping products shall be considered a tobacco store/smoke shop for the purposes of this Chapter. For the purposes of this Chapter, a retail or wholesale establishment which holds itself out as a “tobacco store”, a “smoke shop”, a “vape shop” or a similar establishment, shall also be considered a tobacco store/smoke shop for the purposes of this Chapter. Examples of vaping products referred to in this Chapter include, without limitation, 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 as referred to in this Chapter shall include, without limitation, matches, lighters, hookahs, pipes, chewing tobacco, cigarette rolling machines, ashtrays, pipe tools, pipe supplies and pipe accessories. For the purposes of this Chapter, cannabidiol products, also known as “CBD” products, shall be excluded when counting the total merchandise of such a retail sales or wholesale establishment.

(a) Each tobacco store/smoke shop shall be located no closer than 500 feet from any other tobacco store/smoke shop.

(b) There shall be one (1) off-street parking space required for each 150 feet of gross floor area or fraction thereof.

SECTION III. - Amendment to the Code

Section 295-1601 entitled “Permitted Uses”, Subsection A.33, entitled “Uses Permitted by special exception”, is amended to delete and add the following (new text underlined, deleted text crossed out):

~~(d) Use B-39: Tobacco Stores~~

~~(e) Use C-2: Bus Terminal~~

~~(f) Use C-6: Fuel Storage Facility~~

~~(g) Use C-12: Radio or Television Transmission Tower~~

~~(h) Use C-16: Truck Terminal~~

(d) Use C-2: Bus Terminal

(e) Use C-6: Fuel Storage Facility

(f) Use C-12: Radio or Television Transmission Tower

(g) Use C-16: Truck Terminal

(h) Use C-24: Tobacco Store/Smoke Shop

SECTION IV. - Disclaimer

Nothing in this Ordinance shall limit, in any manner whatsoever, the Township's right to enforce any ordinance or law of Cheltenham Township, Montgomery County or Commonwealth of Pennsylvania. Nothing in this Ordinance shall be a defense of any citation issued by any municipal corporation or the Commonwealth pursuant to any other law or ordinance.

SECTION V. - Severability

The provisions of this Ordinance are severable, and if any Section, sentence, clause or phrase shall be held by a court of competent jurisdiction to be illegal, invalid, or unconstitutional, the remaining portions of this Ordinance shall not be affected or impaired thereby.

SECTION VI. - Repealer

Any ordinance or part of any Ordinance conflicting with the provisions of this Ordinance shall be deemed and the same are hereby repealed to the extent of such conflict.

SECTION VII. - Failure to Enforce Not a Waiver

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

SECTION VIII. - Effective Date

This Ordinance shall take effect and be in force as soon after adoption as is permitted by law.

DULY ORDAINED AND ENACTED this 17th day of **February 2021**, by the Board of Commissioners of Cheltenham Township, Montgomery County, Pennsylvania, in lawful session duly assembled.

ATTEST:

**TOWNSHIP OF CHELTENHAM
BOARD OF COMMISSIONERS**



Robert A. Zienkowski
Township Manager and Secretary

By: 
Daniel B. Norris, President