

ORDINANCE NO. 4-15-2025-01

AN ORDINANCE AMENDING CHAPTER NO. 500 ZONING OF THE CODE OF THE BOROUGH OF SOUTH WAVERLY, COUNTY OF BRADFORD, COMMONWEALTH OF PENNSYLVANIA.

The Borough of South Waverly hereby ordains and enacts as follows:

Under Chapter 500 Zoning, Article XVI Amendment 500-112 Regulation of Smoke Shops, Drug Paraphernalia Stores, Tobacco Stores and Drug Marijuana Dispensaries, of the Code of the Borough of South Waverly, hereby adds the following:

Article XXII Regulation of Smoke Shops, Drug Paraphernalia Stores, Tobacco Stores and Drug Marijuana Dispensaries

Section 500-112-1 Purpose

(1) The regulation of smoke shops, tobacco stores and marijuana dispensaries 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 South Waverly Borough ("Borough").

(2) The expansion of smoke shops, tobacco stores and marijuana dispensaries 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, tobacco stores and marijuana dispensaries while providing a reasonable number of locations and zones for such shops/stores to locate within the Borough.

Section 500-112-2 Additional zoning and land use standards for smoke shops, drug paraphernalia stores, tobacco stores and marijuana dispensaries

(a) Smoke shops, drug paraphernalia stores, tobacco stores, medical marijuana dispensaries and/or recreational marijuana dispensaries shall be permitted uses in the Agricultural District and Industrial District.

(b) Smoke shops, drug paraphernalia stores, tobacco stores, medical marijuana dispensaries and/or recreational marijuana dispensaries shall not be located within 1,000 feet, measured property line to property line, from a school (private or public) including a vocational school, family day-care home, child-care facility, youth center, community center, recreational facility, park, public playground, public swimming pool, public library, public building, public offices, church or religious institution, chapels, convents, rectories, hospital, or other similar uses where children regularly gather.

(c) Smoke shops, drug paraphernalia stores, tobacco stores, medical marijuana dispensaries and/or recreational marijuana dispensaries shall not be located within 1,000 feet, measured from property line to property line, from another smoke shop and/or tobacco store and/or drug paraphernalia store.

(d) It is unlawful for a smoke shops, tobacco stores, drug paraphernalia stores, medical marijuana dispensaries and/or recreational marijuana dispensaries 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.

(e) All smoke shops, tobacco stores, drug paraphernalia stores, medical marijuana dispensaries and/or recreational marijuana dispensaries shall provide and maintain a minimum of one garbage can per entryway, locations as approved by the Zoning Officer. 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 rights-of-way within the Borough.

(f) All smoke shops, tobacco stores, drug paraphernalia stores, medical marijuana dispensaries and/or recreational marijuana dispensaries 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.

(g) Violations of the criteria set forth above in this paragraph shall be subject to violations and penalties as listed in Chapter 500, Article XV Administration and Enforcement.

Section 500-112-3 Repealer.

All other ordinances or parts thereof, which are in conflict with this article are hereby repealed or superseded.

Section 500-112-4 Severability.

The provisions of this article are severable, and if any section, clause, sentence, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts, or provisions of this article. It is hereby declared to be the intent of the Borough Council that this article would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision had not been included herein.

Under Chapter 500 Zoning, Article VI Agricultural District, of the Code of the Borough of South Waverly, hereby adds the following

500-11A Permitted uses.

- (45) Drug Paraphernalia Stores
- (46) Smoke Shops and Tobacco Stores
- (47) Medical Marijuana Dispensaries
- (48) Recreational Marijuana Dispensaries

Under Chapter 500 Zoning, Article VIII Industrial District, of the Code of the Borough of South Waverly, hereby adds the following

500-39 Permitted uses.

- (10) Drug Paraphernalia Stores
- (11) Smoke Shops and Tobacco Stores
- (12) Medical Marijuana Dispensaries
- (13) Recreational Marijuana Dispensaries

Under Chapter 500 Zoning, Article II Word Usage and Definitions, Section 500-6 Definitions, of the Code of the Borough of South Waverly, hereby adds the following:

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, 35 P.S. § 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.

MEDICAL MARIJUANA DISPENSARY – Any retail store selling marijuana to be used for medical purposes.

RECREATIONAL MARIJUANA DISPENSARY – Any retail store selling marijuana to be used for recreational purposes

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

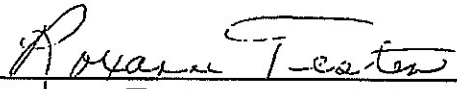
Any paraphernalia, equipment, device, or instrument that is primarily designed or manufactured for the smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body of tobacco, tobacco products, or other controlled substances as defined in the Pennsylvania 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.

THIS ORDINANCE shall become effective upon adoption.

ENACTED AND ORDAINED BY THE BOROUGH OF SOUTH WAVERLY
THIS 15 DAY OF April, 2025.


Roxanne Testen, Council President

ATTEST:


Julie Lewis, Borough Secretary


Timothy Hickey, Mayor