

## City of Latrobe: Proposed Amendments to City Code

**Executive Summary:** The proposed content is to amend the City Code to limit and regulate Vape Shops along with Hookah Bars, Smoke Shops, Tobacco Stores, and Neighborhood Convenience stores.

**Description of Intent:** The reason for the proposed changes to the City Code is to further the purpose of the zoning regulations. The City, through its planning and zoning regulations, wishes to provide for its citizens and tourists the atmosphere that is both safe, healthy and aesthetically pleasing and one that fosters activities appropriate for residents and visitors of all ages within the downtown area, the commercial corridors, and adjacent neighborhoods.

It is further to promote the health, safety and general welfare of the citizens of the City and to establish reasonable regulations. The proposed changes to the City Code have neither the purpose nor the effect of imposing a limitation or restriction on access to tobacco, tobacco products, or tobacco paraphernalia including e-cigarettes and e-cigarette accessories.

The proposed content is based on existing ordinances adopted by the Boroughs of Pottstown, Darby, and Mataromas. All three boroughs are municipalities within the Commonwealth of Pennsylvania.

**Ordinance Description:** An ordinance of the members of Council of the City of Latrobe amending various sections of the City of Latrobe City Code. Specifically, amending Part III: Land Use and Development Administration and Regulation, Chapter 166: Zoning, and Articles III, V, and VII to create certain additional definitions, criteria, and regulation to provide for hookah bars, smoke shops, tobacco stores, and neighborhood convenience stores by conditional use in certain zoning districts.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Mayor and members of Council of the City of Latrobe, Westmoreland County, Pennsylvania, and it is hereby ENACTED and ORDAINED by the authority of the same as follows:

AMENDMENT 1: The existing table of permitted uses established in §166-16 Permitted uses, A. Land Use Table of Article III: General Requirements and General Uses, of Chapter 166: Zoning, of Part III: Land Use and Development Administration and Regulation of the Code of Ordinances of the City of Latrobe, as amended, is hereby amended to include the following uses as part of the Commercial Use section:

USE	C-1	C-2	C-3	C-4
Hookah Bar	C	C	C	C
Smoke Shop/Tobacco Store	C	C	C	C
Neighborhood Convenience	C	C	C	C

AMENDMENT 2: The listing and description of conditional uses established in §166-23 Special Exceptions and Conditional Uses, B. Conditional Uses of Article V: Commercial Zoning District, of Chapter 166: Zoning, of Part III: Land Use and Development Administration and Regulation of the Code of Ordinances of the City of Latrobe, as amended, is hereby amended to include the following conditional uses as part of the Special Exceptions and Conditional Uses section:

(2) Hookah Bar

A. Location. Each hookah bar shall be located no closer than 1,200 feet, measured property line to property line, from any other hookah bar, tobacco store/smoke shop, and/or neighborhood convenience store.

Each hookah bar shall be located no closer than 1,200 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. Minor. It is unlawful for a hookah bar to knowingly allow or permit a minor to enter or remain within any hookah bar. In the Commonwealth of Pennsylvania, a person under the age of 18-years is considered a minor.

C. Signage. Each hookah bar shall post clear signage stating that minors may not enter the premises. At least one such sign shall be placed in a conspicuous location near each public entrance to the space occupied by the business.

D. Sales. No sales may be solicited or conducted on the premises by minors. No self-service tobacco shall be permitted. No distribution of free or low-cost tobacco, as well as coupons for tobacco products or tobacco paraphernalia, shall be permitted.

E. Sales License. Each hookah bar selling a tobacco product shall post near the entrance or near the cash register in an unobstructed location the valid Tobacco Sales license issued by the Pennsylvania Department of Revenue.

F. Hours of Operation. Hookah bars shall not be permitted to operate within the hours of 12:00 am to 8:00 am.

G. Ventilation. Any establishment that will allow any sort of smoking on site shall provide adequate ventilation. The requirements imposed by the Code Enforcement Department may be more comprehensive than current building codes to prevent negative health and nuisance impacts on neighboring properties, including a requirement for a separate system to prevent smoke and vapors from migrating to adjoining suites or buildings. The ventilation shall, at a minimum, prevent smoke

and vapors from migrating into adjacent buildings and/or suites and to outdoor public areas. A mechanical exhaust hood system shall be required if an establishment permits indoor smoking.

H. Compliance. Each hookah bar shall comply with all current Federal, Commonwealth, and local laws including, but not limited to the Clean Indoor Air Act. Failure to comply with these listed expectations and regulations in §166-23 Special Exceptions and Conditional Uses, B. Conditional Uses shall result in rejection of an occupancy permit, suspension of an occupancy permit, or termination of an occupancy permit.

I. Nonconforming Use. Each hookah bar 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 and a violation of all current Federal, Commonwealth, and local laws shall require compliance with this chapter and a conditional use permit.

J. Violations and Penalties. Each hookah bar found by the Code Enforcement Department to be in violation of any City Code is subject to violations and penalties as listed in §166-67 Violations and Penalties.

K. Definition. HOOKAH – A substance typically smoked through a water pipe with a smoke chamber, a bowl, a pipe and a hose, commonly referred to as a “hookah,” and also known as “narghile,” “argileh,” “shisha,” “hubble-bubble,” and “goza,” or any similar substance.

HOOKAH BAR – Any establishment that is devoted to, marketed as, or designed for, whether as its primary use or as an accessory use, the on-premises use of smoking hookah. The term “hookah bar” includes, but is not limited to, establishments variously known as “hookah parlors,” “hookah cafes,” and “hookah lounges”.

### (3) Smoke Shop / Tobacco Store

A. Location. Each smoke shop / tobacco store shall be located no closer than 1,200 feet, measured property line to property line, from any other hookah bar, smoke shop/tobacco store, and/or neighborhood convenience store.

Each smoke shop / tobacco store shall be located no closer than 1,200 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. Minor. It is unlawful for a smoke shop / 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. In the Commonwealth of Pennsylvania, a person under the age of 18-years is considered a minor.

C. Signage. Each smoke shop / tobacco store 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 the space occupied by the business.

D. Sales. No sales may be solicited or conducted on the premises by minors. No self-service tobacco shall be permitted. No distribution of free or low-cost tobacco, as well as coupons for tobacco products or tobacco paraphernalia, shall be permitted.

E. Sales License. Each smoke shop / tobacco store shall post near the entrance or near the cash register in an unobstructed location the valid Tobacco Sales license issued by the Pennsylvania Department of Revenue.

F. Hours of Operation. Smoke Shop / Tobacco Store shall not be permitted to operate within the hours of 12:00 am to 8:00 am.

G. Ventilation. Any establishment that will allow any sort of smoking on site shall provide adequate ventilation. The requirements imposed by the Code Enforcement Department may be more comprehensive than current building codes to prevent negative health and nuisance impacts on neighboring properties, including a requirement for a separate system to prevent smoke and vapors from migrating to adjoining suites or buildings. The ventilation shall, at a minimum, prevent smoke and vapors from migrating into adjacent buildings and/or suites and to outdoor public areas. A mechanical exhaust hood system shall be required if an establishment permits indoor smoking.

H. Compliance. Each smoke shop / tobacco store shall comply with all current Federal, Commonwealth, and local laws including, but not limited to the Clean Indoor Air Act. Failure to comply with these listed expectations and regulations in §166-23 Special Exceptions and Conditional Uses, B. Conditional Uses shall result in rejection of an occupancy permit, suspension of an occupancy permit, or termination of an occupancy permit.

I. Nonconforming Use. Each smoke shop / tobacco store 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 and a violation of all current Federal, Commonwealth, and local laws shall require compliance with this chapter and a conditional use permit.

J. Violations and Penalties. Each smoke shop / tobacco store found by the Code Enforcement Department to be in violation of any City Code is subject to violations and penalties as listed in §166-67 Violations and Penalties.

K. Definition. SMOKE SHOP / TOBACCO STORE - A retail sales or wholesale establishment primarily engaged in selling tobacco, tobacco products, and/or vaping products. A retail or wholesale establishment which holds itself out as a “tobacco store”, a “smoke shop”, a “vape shop” or similar establishment, shall also be considered a “smoke shop/tobacco store” for the purposes of this Chapter.

VAPING PRODUCTS – Vaping products shall include, without limitation, a device, liquid, or component of a device, vaporizers, vape pens, vapor products, hookah pens, electronic cigarettes, e-cigarettes, e-cigs, e-pipes and any other electronic nicotine delivery systems (“ENDS”) are examples of vaping products referred to in this Chapter.

ELECTRONIC NICOTINE DELIVERY SYSTEMS – Electronic nicotine delivery system (ENDS) shall be devices and components used to consume noncombustible tobacco products.

**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.

**(4) Neighborhood Convenience**

**A. Location.** Each neighborhood convenience operation shall be located no closer than 1,200 feet, measured property line to property line, from any other hookah bar, tobacco store/smoke shop, and/or neighborhood convenience store.

Each neighborhood convenience operation shall be located no closer than 1,200 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. Sales.** No sales may be solicited or conducted on the premises by minors. No self-service tobacco shall be permitted. No distribution of free or low-cost tobacco, as well as coupons for tobacco products or tobacco paraphernalia, shall be permitted. In the Commonwealth of Pennsylvania, a person under the age of 18-years is considered a minor.

**C. Sales License.** Each neighborhood convenience operation selling a tobacco product shall post near the entrance or near the cash register in an unobstructed location the valid Tobacco Sales license issued by the Pennsylvania Department of Revenue.

**D. Hours of Operation.** Neighborhood convenience operation shall not be permitted to operate within the hours of 2:00 am to 6:00 am.

**E. Compliance.** Each neighborhood convenience shall comply with all current Federal, Commonwealth, and local laws including, but not limited to the Clean Indoor Air Act. Failure to comply with these listed expectations and regulations in §166-23 Special Exceptions and Conditional Uses, B. Conditional Uses shall result in rejection of an occupancy permit, suspension of an occupancy permit, or termination of an occupancy permit.

**F. Nonconforming Use.** Each neighborhood convenience 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 and a violation of all current Federal, Commonwealth, and local laws shall require compliance with this chapter and a conditional use permit.

**G. Violations and Penalties.** Each hookah bar found by the Code Enforcement Department to be in violation of any City Code is subject to violations and penalties as listed in §166-67 Violations and Penalties.

**H. Definitions. NEIGHBORHOOD CONVENIENCE** - A neighborhood convenience is a direct retail store with a floor area of 3,000 square feet or less which generally sells for off-site consumption and/or use any combination of (1) food and/or beverages; (2) over-the-counter drugs; (3) reading materials; (4) household supplies; and/or (5) tobacco products.

AMENDMENT 3: The listing and description of parking requirement within the off-street parking standards table established in §166-31 Parking requirements; off-street loading, A. Number of Spaces, (6) Off-street parking standards table, of Article VII: Supplemental Regulations, of Chapter 166: Zoning, of Part III: Land Use and Development Administration and Regulation of the Code of Ordinances of the City of Latrobe, as amended, is hereby amended to include the following listing and description of parking requirement of the Parking requirements; off-street loading section:

USE	NUMBER OF SPACES
Hookah Bar	1 for each 4 occupants at its highest peak.
Smoke Shop/Tobacco Store	1 for each 300 square feet of gross floor area.
Neighborhood Convenience	1 for each 500 square feet of gross floor area.