

ORDINANCE NO. ____ - 2026

BOROUGH OF WEST CHESTER

CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE BOROUGH OF WEST CHESTER, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE BOROUGH OF WEST CHESTER, CHAPTER 112 TITLED “ZONING” TO AMEND SECTION 112-202 TO AMEND THE DEFINITION FOR RETAIL STORE OR SHOP AND TO ADD A DEFINITION FOR TOBACCO STORE/SMOKE SHOP; SECTION 112-304.C TO ADD A TOBACCO STORE/SMOKE SHOP AS A USE PERMITTED BY CONDITIONAL USE IN THE TC TOWN CENTER AND CS COMMERCIAL SERVICE DISTRICTS; AND TO ADD A NEW SECTION 112-917 TO ADOPT REGULATIONS FOR TOBACCO STORE/SMOKE SHOPS.

BE IT ENACTED AND ORDAINED and it is hereby enacted by authority of the Council of the Borough of West Chester that Chapter 112 of the Code of the Borough of West Chester, titled “Zoning” shall be amended as follows:

SECTION 1. Section 112-202, titled “Definitions”, shall be amended to amend the following definition:

RETAIL STORE OR SHOP

An enterprise engaged in the sale of goods or merchandise to the general public, and the rendering of services incidental to such sale, for items such as antiques, books, beverages, confections, dry goods, flowers and plants, foodstuffs, gifts, garden supplies, hardware, household appliances, jewelry, notions, paint, periodicals, stationary, or wearing apparel, including a dispensary. A retail store or shop which maintains 20% or more of its total display area for the sale of tobacco, tobacco products, Delta (8, 9, 10) or THC products, kratom, ingestible CBD products or materials, or vaping products shall be considered a tobacco store/smoke shop for the purposes of this Chapter.

SECTION 2. Section 112-202, titled “Definitions”, shall be amended to add the following definition:

TOBACCO STORE/SMOKE SHOP- A retail store or shop primarily engaged in selling tobacco and/or tobacco products, CBD, THC, kratom, and/or vaping products. A retail store or shop which maintains 20% or more of its total display area for the sale of tobacco and/or tobacco products and vaping products shall be considered a tobacco store/smoke shop for the purposes of this Chapter. A retail store or shop which holds itself out as a “tobacco store”, a “smoke shop”, a “vape shop” or 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 systems (“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.

SECTION 3. Section 112-304.C and the table of uses permitted by conditional use in the TC Town Center and CS Commercial Service District shall be amended to add the following use:

8. Tobacco Store/Smoke Shop.

SECTION 4. A new Section 112-917 titled, “Standards for tobacco store/smoke shop” shall be added and provide as follows:

“§112-917. Standards for tobacco store/smoke shop.

- A. In addition to the requirements in § ~~112-1008~~ that apply to all uses permitted by conditional use, tobacco stores/smoke shops shall also comply with the standards and criteria in this section.
- B. The following standards shall apply to a tobacco store/smoke shop which is permitted by conditional use in the TC Town Center and CS Commercial Service District.
 - (1) A tobacco store/smoke shop shall be located a minimum of 500 feet from another lot where there is a building or structure used as a tobacco store/smoke shop, as measured from the property line.
 - (2) A tobacco store/smoke shop shall be located a minimum of 500 feet from another lot where there is a building or structure or a lot that is used as a school, religious use, public recreation facility, day care center, school bus stop or library, as measured from the property line.
 - (3) A tobacco store/smoke shop shall not be permitted on a lot or within a building that is improved with a residential dwelling or dwellings.
 - (4) Persons under the age of 18 shall not be permitted to enter a tobacco store/smoke shop without a parent or legal guardian. Businesses shall be responsible for verifying the age of consumers. Exterior signage shall be provided stating that minors are prohibited from entering the facility without a parent or legal guardian.
 - (5) Tobacco stores/smoke shops shall not employ persons under the age of 18.

- (6) The sale of tobacco and vape products through self-service displays in a tobacco store/smoke shop shall be prohibited.
- (7) Food sales shall be prohibited within a tobacco store/smoke shop.

SECTION 5. SEVERABILITY. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts hereof. It is hereby declared as the intent of Council of the Borough of West Chester that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

SECTION 6. REPEALER. All Ordinances or parts of Ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

SECTION 7. EFFECTIVE DATE. This Ordinance shall become effective upon enactment as provided by law.

ENACTED AND ORDAINED THIS _____ DAY OF _____, 2026.

ATTEST:

**COUNCIL FOR THE BOROUGH
OF WEST CHESTER**

Sean Metrick, Secretary

By: _____
Nicole Scimone, President

APPROVED THIS _____ DAY OF _____, 2026.

Lillian L. DeBaptiste, Mayor