

**BOROUGH OF NORTH EAST
ORDINANCE NO. 943**

**AN ORDINANCE OF THE BOROUGH OF NORTH
EAST AMENDING ORDINANCE 903, ZONING, TO
PROVIDE FOR REGULATION OF TOBACCO
STORES/SMOKE SHOPS AND REPEALING ALL
ORDINANCES INCONSISTENT HEREWITH**

PREAMBLE

WHEREAS, on September 4, 2018, the Borough of North East adopted the Zoning Ordinance pursuant to Ordinance 903; and

WHEREAS, the Zoning Ordinance did not provide for specific regulations related to tobacco stores/smoke shops within the Borough; and

WHEREAS, the Borough Council has determined that the Zoning Ordinances needs to be amended in order to provide for the regulation of tobacco stores/smoke shops within the Borough.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY the corporate authorities of the Borough of North East, County of Erie, and Commonwealth of Pennsylvania and it is hereby enacted by the authority of the same as follows:

Section 1. Preamble. The caption and Preamble of this Ordinance set forth above are incorporated herein by reference.

Section 2. Amendment. Ordinance 903 is hereby amended as set forth below. All deletions are shown as struck through; all additions are underlined.

Section 3. Section 201, General Definitions, of Ordinance 903 is amended as follows:

Tobacco Store/Smoke Shop – A retail sales or wholesale establishment primarily engaged in selling cannabidiol product and/or tobacco and/or 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 “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, ecigarettes, 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. For the purposes of this Chapter, cannabidiol products, also known as “CBD” products, shall be included.

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 substance 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. This the purposes of this section, the term “Tobacco Products” 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 purposes.

Retail Business Establishment - Any enterprise which primarily offers products for sale to the general public. A Retail Business Establishment does not include a Tobacco Store/Smoke Shop.

Section 4. Section 405, Permitted Uses and Special Exception Use Table, of Ordinance 903 is amended as follows:

USE	DISTRICT			
	R-A	R-B	C-1	M-1
<u>Tobacco Store/Smoke Shop</u>	<u>—</u>	<u>—</u>	<u>SE</u>	<u>SE</u>

Section 5. Section 705, Criteria for Special Exception Uses, of Ordinance 903 is amended as follows:

- K. Tobacco Store/Smoke Shop - Tobacco Stores/Smoke Shops are subject to the following express standards and criteria:
- a. Outdoor sales and product displays shall be prohibited.
 - b. No such establishment shall be situated or located nearer than 1,000 feet from the nearest property line of any church, day-care facility, nursing home,

parochial school or college, personal care/assisted living facility, private school or academy, or public grounds.

- c. No such establishment shall be situated or located nearer than 1,000 feet from the nearest property line of another Tobacco Store/Smoke Shop.
- d. Any electronic signs and lights located inside the Tobacco Store/Smoke Shop and visible from the outside, except those lit for the sole purposes of providing the minimum necessary illumination for security purposes, shall be extinguished outside the hours of operation.
- e. Permanently or temporarily placed statuary, inflatable figures, or other devices used as advertising to attract the attention of passers-by, including by not limited to those known by the trade name Air Dancers, feather flags, and similar, are prohibited.
- f. Except as provided above, signage and window advertising must comply with Section 509¹ of the Zoning Ordinance.
- g. Hours of operation shall be limited to between 8:00 a.m. and 9:00 p.m.
- h. Tobacco Stores/Smoke Shops must comply with all current Federal, Commonwealth of Pennsylvania, and local laws and regulations, including, but not limited to any licensing requirements.
- i. Except as set forth below, Tobacco Stores/Smoke Shops must comply with all parking, lighting, and screening requirements of the Zoning Ordinance.
- j. Any lot line abutting a residential use or district shall provide appropriate screening. Such screening shall be at least six feet wide.

Section 6. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person(s) or circumstances is for any reason held to be invalid or unconstitutional by any court, such holding(s) shall not be construed to affect the validity of any of the remaining provisions of the Ordinance. It is hereby declared the legislative intent that this Ordinance would have been adopted had such invalid or unconstitutional provision or its application not be included herein.

Section 7. Repealer. Any other Ordinance or parts thereof inconsistent with this Ordinance shall be and are hereby expressly repealed.

Section 8. Effective Date. This ordinance shall become effective immediately.

¹ Note, Section 509 of Ordinance 903 is codified as Section 500-25 of the North East Borough Code.

ENACTED INTO AN ORDINANCE THIS 6th DAY OF APRIL 2026.

BOROUGH OF NORTH EAST

Amber Belson
President of Borough Council

ATTEST:

PATRICK J. GEHRLEIN
Borough Manager

APPROVED THIS 6th DAY OF APRIL 2026

Bobbi Jo Morey
Mayor