

EAST GREENVILLE BOROUGH

MONTGOMERY COUNTY, PENNSYLVANIA

ORDINANCE NO. 2024-04

AN ORDINANCE OF THE BOROUGH OF EAST GREENVILLE, MONTGOMERY COUNTY, PENNSYLVANIA, AMENDING THE BOROUGH'S CODE OF ORDINANCES BY MAKING OMNIBUS AMENDMENTS TO THE PROVISIONS OF CHAPTER 95 ZONING; REPEALING ALL PRIOR INCONSISTENT ORDINANCES OR PARTS OF ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Borough Council of the Borough of East Greenville is duly empowered by the Borough Code, 8 Pa.C.S. § 101, *et seq.*, to enact certain regulations relating to the public health, safety and welfare of the citizens of the community of the Borough of East Greenville;

WHEREAS, the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101, *et seq.*, authorizes the Borough of East Greenville to enact a zoning ordinance for the Borough;

WHEREAS, the Borough of East Greenville has adopted the East Greenville Zoning Ordinance of 2022, codified at Chapter 95 Zoning of the Borough's Code of Ordinances;

WHEREAS, the Planning Commission and Borough Planner for the Borough of East Greenville have recommended certain amendments to the East Greenville Zoning Ordinance of 2022 and have recommended that Borough Council adopt same; and

WHEREAS, the Borough Council of the Borough of East Greenville desires, and believes it to be in the best interest of the Borough, to amend the East Greenville Zoning Ordinance of 2022 as set forth herein.

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of East Greenville as follows:

SECTION 1.

Chapter 95 *Zoning* of the Code of Ordinances of the Borough of East Greenville, Article II *Terminology*, section 95-11 *Definitions* is hereby amended by repealing the definitions of "ADULT USE" and "FAMILY" in their entirety.

SECTION 2.

Chapter 95 *Zoning* of the Code of Ordinances of the Borough of East Greenville, Article II *Terminology*, section 95-11 *Definitions* is hereby amended by adding the following new definitions:

ADULT USE

An age-regulated use. Adult use shall include the following:

A. ADULT BOOKSTORE

An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, films for sale or viewing on premises by use of motion-picture devices or any other coin-operated means and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section devoted to the sale or display of such material.

B. ADULT MOTION-PICTURE THEATER

An enclosed building used regularly and routinely for presenting material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting,

describing or relating to specified sexual activities or specified anatomical areas, for observation by patrons therein.

C. ADULT ENTERTAINMENT CABARET

A public or private establishment which is licensed to serve food and/or alcoholic beverages, which features topless dancers, strippers, male or female impersonators or similar entertainers.

D. MASSAGE PARLORS

Any place of business where any person, partnership, firm, association or corporation engages in or carries on or permits to be engaged in or carried on any method of pressure on, friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, stimulating parts of the body with the hands or with the aid of any mechanical apparatus or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, oil or other such item.

E. OTHER ADULT USES

Any business, activity or use similar to or of the same general nature as the uses listed above. This section shall include but shall not be limited to rap centers, nude wrestling studios, sensitivity centers and escort bureaus, all of which exclude minors by virtue of age as patrons thereof.

F. SPECIFIED SEXUAL ACTIVITIES:

The term "specified sexual activities" shall include:

- (1) Human genitals in a state of sexual stimulation or arousal.
- (2) Acts of human masturbation, sexual intercourse or sodomy.
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

G. SPECIFIED ANATOMICAL AREAS: The term "specified anatomical areas" shall include:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola.
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

AGE-REGULATED USE

Shall include the following uses as defined by this chapter: Adult Use, Bail Bond Agency, Check Cashing Business, Gun Shop, Hookah Bar, Pawnshop, Payday Lender, Shooting Range, and Smoke Shop. Any Store or Restaurant that sells or offers products containing *Delta-8* THC (tetrahydrocannabinol) or Kratom, and any business that permits or sanctions off-track betting or gambling on horse racing outside a racetrack shall also be considered an age-regulated use. These enumerated uses have statutory limitations that allow patronage only

by individuals 18 years of age or older; however, a minor individual may accompany an adult under certain circumstances (e.g., an individual under 16 years of age may not use a shooting range unless accompanied by a person 18 years of age or older, pursuant to 58 Pa. Code § 135.181).

BAIL BOND AGENCY

A business that charges a fee or premium to effectuate the release of an accused defendant or detainee from jail, detention, or incarceration, sells or issues surety bail bonds, or otherwise requests financial security in the form of money or personal or real property to ensure the appearance of a criminal defendant before the courts.

CHECK CASHING BUSINESS

A business entity that engages in the cashing of checks for a fee. The Commonwealth Department of Banking and Securities requires all check cashing businesses to maintain a Check Casher license.

FAMILY

Any number of individuals living together as a single housekeeping unit and doing their cooking on the premises, when said individuals are related by blood, marriage or adoption, including any number of foster children under the care of the same; or no more than five unrelated individuals living together as a single, nonprofit housekeeping unit and doing their cooking on the premises, except when an application for a special exception to enable a greater number of unrelated individuals to occupy a dwelling unit is reviewed and approved by the Zoning

Hearing Board, as provided for in this chapter. Notwithstanding anything herein contained, family shall also be deemed to include any number of mentally or physically handicapped persons occupying a dwelling unit as a single housekeeping unit, if such occupants are handicapped persons as defined in Title VII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, in which instance such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as herein defined.

GUN SHOP

A retail store that is engaged in the selling, leasing, purchasing, or lending of any firearms or ammunition. The Pennsylvania State Police requires all gun shops to maintain a License to Sell Firearms.

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 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 device used for on-premises smoking. The term "hookah bar" includes, but is not limited to, establishments variously known as hookah parlors, hookah cafes, and hookah lounges.

PAWNSHOP

A pawnshop is an individual or business that loans money to individuals who use their personal property as collateral, or who purchases personal property with an

understanding to sell it back at a later time at a specified price. The Commonwealth Department of Banking and Securities requires all such individuals or businesses to maintain a Pawnbroker's License. Furthermore, a pawnshop includes any individual or business involved in the direct purchasing and resale of an individual's personal property and the purchasing of precious metals by or on behalf of a "Cash for Gold" or similar operation.

PAYDAY LENDER

A business where a lender will extend, or will negotiate, arrange, aid or assist a consumer in procuring a "payday loan", "cash advance loan," "check advance loan," or otherwise offer or assist with a short-term credit or a cash advance secured or facilitated by a consumer's personal check that is held for future deposit or by electronic access to the consumer's bank account. The term includes any form of such lending, notwithstanding the presence of some other element introduced to disguise the true nature of the transaction, such as the sale or provision of a good, service or commodity incidental to the advance of funds and notwithstanding the fact that the transaction is conducted in person, by mail, Internet or telephone, or through any other means. The term shall not include loans made by the customer's employer or an agent of such employer or by a federally or Commonwealth-chartered bank, thrift or credit union.

SHOOTING RANGE

A place that is designed or intended for the safe discharge, on a regular and structured basis, of firearms for the purpose of target practice or target shooting competitions. A

shooting range must comply with 58 Pa. Code § 135.181, Rifle and Handgun Ranges.

SMOKE SHOP

A retail sales or wholesale establishment primarily engaged or marketed as selling tobacco, tobacco products/accessories, and/or vaping products and accessories. A retail business that maintains 50% or more of its total merchandise as tobacco, tobacco products/accessories, and/or vaping products or accessories shall be considered a smoke shop for the purposes of this Chapter. For the purposes of this Chapter, a retail or wholesale establishment that holds itself out as, or otherwise promotes or markets itself as, a "tobacco store," a "smoke shop," a "vape shop," a "cigar shop" or a similar establishment, shall also be considered a smoke shop for the purposes of this Chapter. Examples of vaping products and accessories referred to in this Chapter include, without limitation, e-cigarette or vape cartridges or refills, 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 and accessories as referred to in this Chapter shall include, without limitation, any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco, matches, lighters, grinders, hookahs, pipes, chewing tobacco, cigarette rolling machines or papers, ashtrays, pipe tools, pipe supplies and pipe accessories.

SECTION 3.

Chapter 95 Zoning of the Code of Ordinances of the Borough of East Greenville, Article IV Use Regulations, section 95-29 Categories of permitted uses, subsection D Commercial Uses is hereby amended by repealing the provisions of subsection (1) Use D-1: adult use in their entirety and replacing them with the following provisions:

- (1) **Use D-1: age-regulated use.** An age-regulated use shall include the following uses as defined in § 95-11: Adult Use, Bail Bond Agency, Check Cashing Business, Gun Shop, Hookah Bar, Pawnshop, Payday Lender, Shooting Range, and Smoke Shop. Any business that sells or offers products containing *Delta-8* THC (tetrahydrocannabinol) or Kratom, and any business that permits or sanctions off-track betting or gambling on horse racing outside a racetrack shall also be considered an age-regulated use. These enumerated uses have statutory limitations that allow patronage only by individuals 18 years of age or older; however, a minor individual may accompany an adult under certain circumstances (e.g., an individual under 16 years of age may not use a shooting range unless accompanied by a person 18 years of age or older, pursuant to 58 Pa. Code § 135.181). The following additional regulations must be satisfied:
- (a) No age-regulated use shall be located on a lot that directly abuts a lot occupied by an existing residence, place of worship, public or private school, playground, or park.
 - (b) Age-regulated uses shall be housed in completely enclosed buildings, designed and used in a manner which

prevents the viewing of age-restricted activities, products, or materials from outside the building. No exterior display of products or activities shall be permitted, except for a sign that identifies the name of the establishment and its hours of operation, in conformance with the requirements of Article XIV, Signs of this chapter.

- (c) If any portion of a proposed use meets the definition of an age-regulated use, then the use shall be considered an age-regulated use and shall comply with the requirements of **Use D-1: age-regulated use**.

SECTION 4.

Chapter 95 *Zoning* of the Code of Ordinances of the Borough of East Greenville, Article VI *R-2 Medium-Density Residential Districts*, section 95-40 *Declaration of Legislative Intent* is hereby amended by repealing the current provisions in their entirety and replacing them with the following:

§ 95-40 Declaration of legislative intent

In expansion of the declaration of legislative intent and the statement of community development objectives contained in Article I, §§ 95-2 and 95-3, the specific intent of this district is:

- A. To promote the maintenance, stability and continued viability of the Borough's medium-density single-family and two-family residential neighborhoods;
- B. to provide for appropriate infill and new development, along with appropriate redevelopment; and

- C. to ensure that development along the Main Street Corridor is generally consistent with the *Main Street Design Guidelines*, as adopted and amended from time to time by Borough Council.

SECTION 5.

Chapter 95 Zoning of the Code of Ordinances of the Borough of East Greenville, Article IX BC *Borough Commercial Districts*, section 95-70 *Declaration of Legislative Intent* is hereby amended by repealing the current provisions in their entirety and replacing them with the following:

§ 95-70 Declaration of legislative intent.

In the expansion of the declaration of legislative intent contained in Article I, the intent of the Borough Commercial District is to encourage the retention and the future development of traditional Main Street commercial uses and neighborhood services. Furthermore, it is the intent of this article to preserve the existing streetscape of individual blocks through flexible regulations designed to promote existing building setbacks. The specific goals along the Main Street Commercial District are to:

- A. Preserve the historic architecture of the area and encourage the retention of existing buildings by permitting a variety of commercial, office, residential, and mixed uses which are compatible with the existing structural types, lot sizes, and visual and physical characteristics of the Borough Commercial District;
- B. Provide a pedestrian-friendly environment to foster a less vehicular

intensive linkage throughout the Commercial District;

- C. Provide safe and convenient vehicular access and parking;
- D. Provide opportunities and flexible standards for commercial enterprises to assist in the establishment of a viable and flourishing Business District;
- E. Ensure that development along the Main Street Corridor is generally consistent with the Main Street Design Guidelines, as adopted and amended from time to time by Borough Council; and
- F. Prohibit strip-type and highway-oriented commercial appearance, incongruous architectural styles, excessive building or impervious coverage, and nonessential curb cuts.

SECTION 6.

Chapter 95 Zoning of the Code of Ordinances of the Borough of East Greenville, Article X *BR Borough Residential Districts*, section 95-80 *Declaration of Legislative Intent* is hereby amended by repealing the current provisions in their entirety and replacing them with the following:

§ 95-80 Declaration of legislative intent.

In the expansion of the declaration of legislative intent contained in Article I and in conjunction with the goals of the Main Street Commercial District, the intent of the Borough Residential District is to:

- A. Encourage the retention of the village

atmosphere along Main Street by preserving the existing buildings and landscaped areas to the greatest extent possible;

- B. Permit residential uses and conditionally allow limited office and commercial conversions;
- C. Maintain the existing residential streetscape of Main Street through regulations that allow these conversions, provided that facades and porches are preserved or improved;
- D. Provide a pedestrian-friendly environment to foster a less vehicular intensive linkage throughout the commercial area;
- E. Ensure that development along the Main Street Corridor is generally consistent with the Main Street Design Guidelines, as adopted and amended from time to time by Borough Council; and
- F. Prohibit strip-type and highway-oriented commercial appearance, incongruous architectural styles, excessive building or impervious coverage, and nonessential curb cuts.

SECTION 7.

Chapter 95 Zoning of the Code of Ordinances of the Borough of East Greenville, Article XI *Limited Industrial Districts*, section 95-91 *Permitted uses*, is hereby amended by repealing section A.(2) in its entirety and replacing it with the following:

- (2) Use D-1: Age-regulated uses

SECTION 8.

Chapter 95 Zoning of the Code of Ordinances of the Borough of East Greenville, Article XIII *Off-Street Parking and Loading*, section 95-122 *Minimum Required Parking*, Table 13.1 *Minimum Parking Requirements* is hereby amended by repealing the row related to Use D-1 *Adult uses* in its entirety, and replacing it with the following row:

D-1	Age-regulated uses	1 space per 200 SF GFA
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SECTION 9.

Chapter 95 Zoning of the Code of Ordinances of the Borough of East Greenville, Article XVI *Supplemental Provisions*, section 95-165 *Renewal Energy Systems*, section B *General Regulations for solar energy systems*, is hereby amended by repealing subsections (3) and (6) in their entirety, and replacing them with the following new subsections (3) and (6) with the following provisions:

- (3) Setbacks and lot coverage.
 - (a) A roof-mounted solar energy system shall comply with the roof access and pathways requirements of the construction codes then in effect in the

Borough of East Greenville pursuant to the Pennsylvania Uniform Construction Code as shall be properly adopted by Borough Council.

...

- (6) Compliance with other regulations.
 - (a) To the extent applicable, the solar energy system shall comply with the Pennsylvania Uniform Construction Code, Acts 35 and 36 of 2017, as amended, the 2018 International Residential Code, as amended, and the regulations adopted by the Department of Labor and Industry.
 - (b) All installers must be on the official list of registered installers through the Pennsylvania Department of Environmental Protection's Solar Sunshine Program.

SECTION 10. SEVERABILITY CLAUSE

The terms, conditions and provisions of this Ordinance are hereby declared to be severable, and, should any portion, part or provision of this Ordinance be found by a court of competent jurisdiction to be invalid, non-enforceable or unconstitutional, Borough Council hereby declares its intent that the Ordinance shall have been enacted without regard to the invalid, non-enforceable, or unconstitutional portion, part or provision of this Ordinance.

SECTION 11. REPEALER

Any and all other Ordinances or parts of Ordinances in violation or in conflict with the terms, conditions and provisions of this Ordinance are hereby repealed to the extent of such irreconcilable conflict.

SECTION 12. EFFECTIVE DATE.

This Ordinance shall become effective at the earliest time permitted by Pennsylvania law.


ORDAINED and **ENACTED** an ordinance of the Borough of East Greenville this 6th day of May, 2024.

BOROUGH OF EAST GREENVILLE:



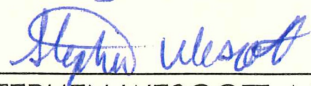
DOUGLAS CRIDDLE, COUNCIL PRESIDENT

ATTEST:



SHARON KACHMAR,
BOROUGH SECRETARY

Approved this 13th day of
May, 2024



STEPHEN WESCOTT, MAYOR