

ORDINANCE 24-10

**AMENDING AND SUPPLEMENTING THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF MATAWAN**

CHAPTER 34 – DEVELOPMENT REGULATIONS

Article I – Title Purpose and Definitions

Section 34-3 – Definitions

Article X – Prohibited Uses

Section 34-61 – Adult Entertainment Use

Article XI – Zone District Regulations

Section 34-67 – GB General Business District

Section 34-69 – DPD Downtown Preservation District

WHEREAS, the Borough of Matawan (the “Borough”) recognizes the importance of public health regulations in protecting and promoting the health, safety, and general welfare of the community; and

WHEREAS, the Borough wishes to adopt land use regulations and other measures that address the location and operation of smoke-related establishments in the Borough in order to promote the health, safety, and general welfare of the community; and

WHEREAS, the Borough desires to amend the current regulations as they pertain to the zoning and operation of establishments related to the manufacture, sale, and distribution of smoke and vape products.

NOW, THEREFORE BE IT ORDAINED, by the Council of the Borough of Matawan, County of Monmouth, State of New Jersey, being the governing body thereof, that Chapter 34 “Development Regulations” of the Borough Code, be amended and supplemented as follows:

Section 1. Chapter 34, Article I “Definitions,” Subsection §34-3, is hereby supplemented and amended by adding the text in bold underlined as follows:

§34-3 DEFINITIONS

ELECTRONIC SMOKING DEVICE

An electronic smoking device is one that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, accessory of such a device, or any other smoking device paraphernalia whether or not sold separately. “Electronic smoking device” includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other produce name or descriptor.

SMOKE SHOP

Shall mean and include any premises dedicated as a principal business to display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, or tobacco paraphernalia, including providing an area for smoking tobacco products, but excluding any grocery store, supermarket, convenience store or similar retail use that sells tobacco products, shall not be included within the definition of smoke shop. An area for "smoking" shall mean the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe, or any other matter of

substance which contains tobacco or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic device.

SMOKING DEVICE PARAPHERNALIA

Cartridges, cartomizers, e-liquid, smoke juice, tips, atomizers, electronic smoking device batteries, electronic smoking device chargers, bongs, pipes, and any other item specifically designed for the preparation, charging, or use of electronic smoking devices.

VAPE SHOP

Vape Shop shall mean any premises dedicated as a principal business to display, sale, distribution, delivery, offering, furnishing or marketing of electronic smoking devices, liquid nicotine containers or vapor product as defined by N.J.S.A. 26:3D-57, N.J.S.A. 2A:170-51.9(a)(2), N.J.S.A. 2A:170-51.9(a)(3) and N.J.S.A. 2A:170-51-9(a)(4), including an area for vaping. An area for "vaping" shall mean inhaling or exhaling of smoke or vapor from any electronic smoking device.

Section 2. Chapter 34 “Development Regulations,” Article X “Prohibited Uses,” Subsection §34-61 is hereby amended by deleting the text in bold strikeout and adding the text in bold underlined as follows:

§34-61(A) ADULT ENTERTAINMENT USE.

An adult entertainment use shall be prohibited in any residential zone and in the downtown preservation district. In addition, an adult entertainment use shall be prohibited in any zone consistent with the following:

- a. Within 300 feet of any residence, residential use and/or residential zone; or
- b. Within 300 feet of the following uses:
 - 1. Churches, monasteries, chapels, synagogues, convents, rectories, religious article or religious apparel stores or any religious use.
 - 2. Schools, both public and private, up to and including the 12th grade, and their adjunct play area.
 - 3. Public playgrounds, public swimming pools, public parks and public libraries.

§34-61(B) SMOKE AND VAPE SHOPS.

A smoke shop or vape shop use shall be prohibited in the Downtown Preservation District and General Business District.

Section 3. Chapter 34 “Development Regulations,” Article XI “Zone District Regulations,” Subsection §34-67 (GB General Business District) is hereby amended by adding the text in bold underlined and deleting the text in bold strikeout, as follows:

d. Prohibited Uses

1. Smoke Shop. See Section 34-61(B).

2. Vape Shop. See Section 34-61(B).

e. Off-Street Parking. See Section 34-43.

f. Signs. See Section 34-44.

g. Lot Area and Yard Requirements. See Section 34-60.

Section 4. Chapter 34 “Development Regulations,” Article XI “Zone District Regulations,” Subsection §34-69 (DPD Downtown Preservation District) is hereby amended by adding the text in bold underlined and deleting the text in bold strikeout, as follows:

d. Prohibited Uses

1. Smoke Shop. See Section 34-61(B).

2. Vape Shop. See Section 34-61(B).

e. Off-Street Parking. See Section 34-43.

f. Signs. See Section 34-44.

g. Lot Area and Yard Requirements. See Section 34-60.

h. Architectural Review; Requirements.

1. Any new building or structure or any extension, addition or alteration or any demolition within the Downtown Preservation District shall require that all architectural design features are in keeping with the existing historic village atmosphere. The Board shall utilize an advisory committee of historians, architects or other disciplines in reaching a decision and shall also be empowered to engage experts as deemed necessary and as permitted by budgetary considerations. The Unified Planning Board and its advisory committee shall give consideration to the following:

(a) The historical or architectural value and significance of the building or structure and its relationship to the historic value of the surrounding area.

(b) The general compatibility of exterior design, arrangement and materials proposed to be used.

(c) Any other factor, including aesthetics, which it deems pertinent.

2. The Unified Planning Board shall not disapprove applications pursuant to this section except in regard to the considerations as set forth in paragraphs g1, 2 and 3 above. It is the intent of this section that alterations or repairs on, and additions to historic and architecturally significant buildings and structures be made in the spirit of their architectural style. Criteria for evaluation of historic buildings and structures shall be those developed by the National Trust for Historic Preservation.

h.i. No conversion from a residential use to an office use shall be permitted unless the applicant can clearly demonstrate that off-street parking will be provided as required in Section 34-43.

BE IT FURTHER ORDAINED, if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, the Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Monmouth County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

BE IT FURTHER ORDAINED, after introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Unified Planning/Zoning Board of Adjustment of the Borough of Matawan (the "Planning Board") for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough Council, within 35 days after referral, a report including identification of any provisions in this Ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Planning Board deems appropriate.

Introduced: April 16, 2024
Passed: April 16, 2024
Adopted: May 7, 2024

(Signature on File)

Council President Deana Gunn

CERTIFICATION OF ORDINANCE

I, Karen Wynne, Municipal Clerk of the Borough of Matawan, County of Monmouth, and State of New Jersey, do hereby certify the foregoing to be a true and correct copy of an Ordinance adopted by the Council of the Borough of Matawan on May 7, 2024.

IN WITNESS WHEREOF, I have hereunder set my hand and seal of the Borough of Matawan this 7 day of May, 2024.

Karen Wynne

Karen Wynne, RMC
Municipal Clerk

***Deleted Text is shown in bold faced strikeout**

***New Text is shown in bold faced and underlined**