

ORDINANCE NO. 038-2023

AN ORDINANCE ENACTING CHAPTER 1139 TOBACCO AND VAPE STORES OF THE MAUMEE CODIFIED ORDINANCES, TO STIPULATE REGULATIONS FOR TOBACCO AND VAPE STORES, AND DECLARING AN EMERGENCY

WHEREAS, the City of Maumee Administrator has proposed text changes to Codified Ordinance Section 1125.11 which is part of the City of Maumee Zoning Code;

WHEREAS, the Planning Commission conducted a public hearing on said proposed modifications as required by section 1105.08 of the Maumee Codified Ordinances;

WHEREAS, Maumee has previously adopted supplemental regulations for real property located in the City of Maumee;

WHEREAS, in order to provide regulations for Tobacco and Vape Stores located within the City of Maumee, Chapter 1139 of the Codified Ordinances should be adopted to include the following revisions, additions and deletion;

WHEREAS, all applicable provisions for adoption of this ordinance have been complied with prior to passage.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Maumee, Ohio, that:

SECTION 1. Chapter 1139 of the Maumee Codified Ordinances be, and the same hereby is enacted as follows:

Chapter 1139 Tobacco and Vape Stores

1139.01 PURPOSE AND DEFINITIONS

(a) *Purpose.* The regulations of this section are established to regulate the location of tobacco and vape stores for the purpose of protecting residents from the proliferation of potentially harmful products, including young adults and also to protect neighborhoods from negative secondary effects created by the concentration or clustering of such businesses. Furthermore, the regulations are established to avoid and reduce over-concentration and to maintain cleanliness for the health and safety of residents within our neighborhoods.

(b) *Definitions.* For purposes of this section:

(1) "Tobacco and Vape Stores" means a retail store of between two hundred (200) and fifteen thousand (15,000) square feet that dedicates more than thirty percent (30%) of shelf space or retail space to smoking related products including but not limited to tobacco, cigars, smokeless tobacco, electronic smoking devices or supplies, products containing nicotine, alternative nicotine products as defined by Ohio Revised Code section 2927.02 and/or vape products, or tobacco, cigar, or smoking related products or vape related merchandise directly to the consumer and/or stores where sales of tobacco, cigars, smoking related products, electronic smoking products, smokeless tobacco or vape product exceeds twenty percent (20%) of their gross sales. Sale of marijuana, marijuana related products or oils,

hemp or hemp related products, related to any of the foregoing CBD, marijuana infused products, or synthetic substances shall be prohibited in all tobacco and vape stores, or within the area stipulated in 1139.02(a) below.

(c) *Exclusions.* For purposes of this section, "Tobacco and vape" does not include retail stores that dedicate less than five percent (5%) of shelf space or storage space to tobacco or vape products or sell gasoline or diesel fuel as their primary business.

1139.02 LOCATION OF TOBACCO AND VAPE STORES

(a) *Spacing.* No tobacco or vape store shall be established on a lot or lots within Maumee that are within ten thousand five hundred and sixty (10,560) feet (two (2) miles) of another lot, or lots containing an existing tobacco or vape store, marijuana dispensary or medical marijuana dispensary. No two (2) tobacco and/or vape retail stores, nor shall a medical marijuana or marijuana retail store be located in the same building or on the same lot. Such distance shall be measured in a geometrically straight line which represents the shortest distance between the lot, or lots accommodating the proposed tobacco and vape store and the lot or lots from which the existing tobacco or vape store is located. Such measurement shall be made using a scaled map, or a survey if deemed necessary, and shall be made without regard to intervening structures, objects, uses, the street grid, landforms or any other topographic feature.

(b) *Maps Maintained.* The Urban Planning Manager shall maintain a map of existing Tobacco or Vape store locations and other information necessary to determine compliance with the spacing regulations under division (c) of this section.

(c) *Floor and Shelf Plan Required.* For any Tobacco and Vape Store, a Floor and Shelf Plan shall be submitted as part of its Building Permit application. The plan shall include a site drawing locating the curbs and distances as well as material to provide compatibility with surrounding uses and a rendering or picture of the proposed facade. In addition to any other required plans and information, and shall contain each of the following:

- (1) The amount of shelf space dedicated to tobacco and vape products and the amount of shelf space dedicated to non-tobacco and vape products; and
- (2) The types of goods, products, or merchandise to be sold and the general cost of such items.
- (3) Registers that are visible from the exterior of the store
- (4) Aisles that are perpendicular to the front of the store and are visible from the exterior of the store
- (5) Fenestration requirements that include clear glass at the front of the store

(d) *Maintenance and other requirements.* The owner and/or operator of a tobacco or vape store shall comply with applicable provisions the Maumee Codified Ordinances regarding the premises and shall comply with the following:

- (1) Keep the exterior of the site including the sidewalks and tree lawns abutting the property free of litter and debris; and
- (2) Provide one (1) or more solid waste containers located directly outside the primary entrance for the placement of paper, wrappers, and other items by customers and others. Such containers shall be maintained in good condition and be of suitable capacity to sufficiently contain litter and debris between scheduled waste collections.
- (3) Tobacco or Vape Stores shall not be located within 1000 feet from a school (public or private), family day care home, childcare facility, youth center, community center, recreational facility, park, church or religious institution, hospital, or other similar uses

where children regularly gather. Such distance shall be measured in a geometrically straight line which represents the shortest distance between the lot, or lots accommodating the proposed tobacco and vape store and the lot or lots from which the existing tobacco or vape store is located. Such measurement shall be made using a scaled map, or a survey if deemed necessary, and shall be made without regard to intervening structures, objects, uses, the street grid, landforms or any other topographic feature.

(4) It is unlawful for a tobacco or vape 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 and tobacco store.

(5) Tobacco and vape stores 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 smoke shop and tobacco store. It shall be unlawful for a smoke shop and tobacco store to fail to display and maintain, or fail to cause to be displayed or maintained, such signage.

(6) Comply with Ohio law as to sales to individuals under the age of 21.

(7) Comply with all other requirements of the Maumee zoning code and building codes.

(8) All exterior infrastructure on or adjoining the rental site shall be repaired or replaced according to Maumee Code, including sidewalks, curbs and landscaping prior to being granted an occupancy permit.

(e) *Exception.* The spacing requirements set forth in Section 1139.02 (a) shall not apply to any tobacco or vape store as defined in herein currently in operation or those entities with an approved development agreement prior to the effective date of this section. If a tobacco or vape store not currently subject to these regulations becomes subject to the nonconforming use provisions as set forth in Chapter 1130 of the Maumee Codified Ordinances after the effective date of this ordinance, said tobacco or vape store shall be required to comply with the regulations set forth herein.

1139.03 CIVIL REMEDIES.

If any structure is erected, constructed, reconstructed, relocated, altered, repaired, converted or maintained, or if any structure or land is used in violation of this chapter, the City, in addition to any other remedies provided for herein, may institute such action or proceedings as are authorized by law to prevent and enjoin such unlawful erection, construction, reconstruction, relocation, alteration, conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of such structure or land.

1139.99 CRIMINAL PENALTIES.


(a) Whoever violates any of the provisions of this Chapter shall be guilty of a misdemeanor of the fourth degree. If the offender has previously been convicted of or pleaded guilty to a violation of the Maumee Zoning Code, then the offender is guilty of a misdemeanor of the third degree.

(b) Each calendar day such violation shall be permitted to continue or exist shall constitute a separate and distinct offense.

SECTION 2. Any ordinances, parts of ordinances or the Chapters of the Maumee Municipal Code in conflict herewith are hereby amended and repealed in part to reflect the foregoing changes;

CERTIFICATE OF POSTING

I, Clerk of Council of the Municipality of Maumee, Ohio, do hereby certify that Ordinance/Resolution No. 038-2023 was duly posted on 10-5-23 and remained posted for a period of fifteen days thereafter, in not less than five of the most public places in the municipality as determined by the Council of said Municipality.


Clerk of Council

Date: Oct. 20, 2023