

LEGAL NOTICE
PUBLIC HEARING
City of Oneida

PLEASE TAKE NOTICE that a **PUBLIC HEARING** will be held at 6:30 pm on Tuesday, October 18, 2022 on a proposed Local Law to impose a six (6) month moratorium on Smoke Shop uses within the City of Oneida.

PLEASE TAKE FURTHER NOTICE that the complete text of the Proposed Local Law may be viewed on the City's website www.oneidacityny.gov under Legal Notices and in the City Clerk's lobby.

PLEASE TAKE FURTHER NOTICE that any or all persons opposing said proposed Local Law may file a written notice thereto, with the City Clerk before such hearing or attend said hearing at the time and place specified.

PLEASE TAKE FURTHER NOTICE that any persons with special needs should contact the City Clerk one week prior to the hearing.

**A LOCAL LAW IMPOSING A SIX (6) MONTH MORATORIUM
ON SMOKE SHOP USES WITHIN THE CITY OF ONEIDA**

Be it enacted by the Common Council of the City of Oneida, as follows:

SECTION 1. Intent.

It is the intent of the Common Council of the City of Oneida to impose a six (6) month moratorium on the establishment, creation, maintenance, advertisement and/or operation of new smoke shop uses within the City of Oneida because of the exponential increase of the same within the City of Oneida.

SECTION 2. Legislative Purpose.

Pursuant to the statutory powers vested in the City of Oneida to regulate and control land use, and to protect the health, safety and welfare of its residents, the Common Council of the City of Oneida hereby declares a temporary moratorium on the establishment, creation, maintenance, advertisement and/or operation of new smoke shop uses within the City of Oneida.

Because of the exponential increase of smoke shop uses within the City of Oneida, the Common Council of the City of Oneida desires to address, in a careful manner, the issues raised by smoke shops on a comprehensive basis, rather than on an ad hoc basis, with the goal of adopting appropriate zoning or other land use laws or by amending its current laws to properly regulate the same.

SECTION 3. Definitions.

SMOKE SHOP – This term includes any premises dedicated to the display, sale distribution, delivery, offering, furnishing or marketing of tobacco and/or cannabis, tobacco and/or cannabis products,

and/or tobacco and/or cannabis paraphernalia; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells tobacco and/or cannabis as an ancillary sale shall not be defined as a “smoke shop.”

SECTION 4. Moratorium.

A. Unless permitted pursuant to Section 5 hereafter, from and after the date of this Local Law, no application for a permit, zoning permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other City-level approval of any nature shall be accepted, processed, entertained, approved, approved conditionally, or issued by any board, employee, official agent of the City of Oneida, for the construction, establishment, use, creation, maintenance, advertisement and/or operation of any land, building or structure within the City of Oneida for any new smoke shop use, as defined above.

B. This moratorium shall be in effect for a period of six (6) months from the effective date of this Local Law and shall expire on the earlier of: (i) the date six (6) months from said effective date of this Local Law, unless renewed; or (ii) the enactment by the Common Council of a resolution indicating the Common Council is satisfied that the need for the moratorium no longer exists.

C. This moratorium shall apply to all zoning districts and all real property within the City of Oneida.

D. Under no circumstances shall the failure of the Common Council of the City of Oneida, the Planning Department, the Planning Commission/Zoning Board of Appeals, or the Code Enforcement Office for the City of Oneida to take any action upon any application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other City-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

SECTION 5. Relief from provisions of this Local Law.

A. The Common Council of the City of Oneida reserves to itself the power to vary or adapt the strict application of the requirements of this Local Law in the case of unusual hardship which would deprive the owner of all reasonable use of the lands involved.

B. Application for relief shall be filed in triplicate with the Planning Department together with a filing fee of \$250.00. The application shall specifically identify the property involved, recite the circumstances pursuant to which the relief is sought and the reasons for which the relief is claimed. Any costs, including expert consulting fees or attorney’s fees, incurred by the City, shall be reimbursed to the City by the Applicant. The Common Council shall apply Use Variance criteria as set forth in the New York State General City Law, Section 81-b in reviewing any application for relief.

C. The Common Council of the City of Oneida may refer any applications for relief herein to the City of Oneida Planning Commission/Zoning Board of Appeals for its advice and recommendations, but all decisions on granting or denying such relief shall be made solely by the Common Council after determining whether the requested relief is compatible with any contemplated

amendments to the Zoning Law. Unless completely satisfied that the proposed relief is compatible, the Common Council shall deny the application.

D. The Common Council shall conduct a public hearing on any request for relief within forty-five (45) days of receipt by the Planning Department and shall issue its final decision on requests for relief within thirty (30) days from the date of the public hearing.

SECTION 6. Penalties.

Any individual, partnership, firm or corporation that shall establish, construct, reconstruct, relocate, enlarge or modify any site to be used for a smoke shop use in violation of the provisions of this Local Law, shall be subject to:

A. A fine not to exceed One Thousand and 00/100 Dollars (\$1,000.00) or imprisonment for a term not to exceed fifteen (15) days, or both. Each day a violation continues shall be considered a new violation.

B. A civil action inclusive of injunctive relief in favor of the City to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any constructions, improvements, or related items or byproducts which may have taken place in violation of this Local Law.

SECTION 7. Enforcement.

This Local Law shall be enforced by the City of Oneida Code Enforcement Office or such other zoning enforcement individual(s) as designated by the Common Council. It shall be the duty of the enforcement individual(s) to advise the Common Council of all matters pertaining to the enforcement of this Local Law.

SECTION 8. Validity and severability.

If any section or part of this Local Law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section of this Local Law.

SECTION 9. Effective date.

This Local Law shall be effective upon filing with the office of the Secretary of State.