

**LEGAL NOTICE
CITY OF ONEIDA
LOCAL LAW NO. 11 of 2021**

The Common Council of the City of Oneida, Madison County, State of New York, pursuant to the authority vested in it by law does hereby ordain and enact Local Law No. 11 of 2021 to impose a twelve (12) month moratorium on boarding house and/or rooming house uses within the City of Oneida as follows:

**A LOCAL LAW IMPOSING A TWELVE (12) MONTH MORATORIUM ON
BOARDING HOUSE AND/ OR ROOMING HOUSE 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 twelve (12) month moratorium on the use, establishment, creation, construction, reconstruction, relocation, enlargement, modification, advertisement and/ or operation of any new boardinghouse and/ or rooming house use within the City of Oneida, pending the development and adoption of a local law designed to regulate and govern such uses. This Local Law is enacted under the authority of Section 10 of the New York Municipal Home Rule Law.

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 use, establishment, creation, construction, reconstruction, relocation, enlargement, modification, advertisement and/ or operation of any new boardinghouse and/ or rooming house use within the City of Oneida, pending the development and adoption of a local law designed to regulate and govern such uses. The Common Council has become aware of the need to fully review and analyze the current state of boardinghouse and rooming house uses and the potential impact of such uses within the City. Noise, parking, visual impacts, and impacts on neighborhood character are issues common to boardinghouses and rooming house uses. It is specifically acknowledged that while boardinghouses and rooming houses are often converted single family houses located in residential neighborhoods, boardinghouses and rooming houses may be located in commercial districts. It is the concern of the Common Council that although such boardinghouse and rooming house uses may provide housing and economic benefits to some individuals and businesses in the area, they may also have a negative impact on the quality of life for the citizens and residential districts, as well as commercial activity in the City.

The Common Council of the City of Oneida desires to address, in a careful manner, the issues raised by such uses 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. With the enactment of this Local Law, the Common Council will commence the process of considering various options relating to this issue. The Common Council finds and determines that it needs this period of time to study the entire issue, and draft proposed amendments to the local Zoning Regulations, make

appropriate changes to the draft of any proposed Zoning change, schedule and hold the required public hearings on such changes, perform an appropriate environmental review for such changes and comply with applicable provisions of law regarding the adoption of a Zoning modification.

Unless reasonable measures are taken for an interim period to protect the public interest pending the completion of necessary surveys, studies, meetings and required public hearings, building and land development may occur within the City that may thereby:

- (1) Preclude or otherwise undermine consideration and implementation of appropriate and salutary planning measures, including the amendment of the Zoning Regulations, environmental review procedures, and other development regulations;
- (2) Permit significant variations in neighborhoods where the City may wish to implement changes in the existing Zoning Regulations and such variations may impede or destroy the integrity of changes which may be proposed; and
- (3) Create conditions, or worsen existing conditions, which the Common Council hereby finds to be detrimental to the public health, safety, and general welfare.

It is the finding of the Common Council that the completion of a review of the Zoning Regulations and Zoning Map is necessary to determine how to best regulate boardinghouse and rooming house uses without adversely impacting residential and commercial district and the community character in general, and that the completion of such review as envisioned by this Local Law is necessary to protect the future health, safety, and welfare of present and future residents of the City of Oneida.

SECTION 3. DEFINITIONS.

For purposes of this Local Law, the terms used herein shall have the following meanings:

BOARDING HOUSE – This term includes the use of any land, facility, dwelling unit, or structure for temporary occupancy purposes by two or more individuals not constituting a family or functional family unit who normally pay based on a share of total expenses of the facility, dwelling unit, or structure. The term does not include a motel, hotel, inn, or bed-and-breakfast.

DWELLING UNITY – A building or portion thereof containing cooking area(s), bathroom, dining, sleeping, and related facilities necessary and/or incidental to human habitation, designed and intended as a self-contained household unit for a single individual or family.

FAMILY – One person residing in a dwelling unit; two or more persons related by blood, marriage or adoption, living, sleeping, cooking, and eating in and otherwise occupying one dwelling unit as a single unit; or two or more persons not necessarily related by blood, marriage or adoption occupying a single dwelling unit as a single housekeeping unit and constituting a “functional family unit” as defined herein, which in either event shall be distinguished from two or more persons occupying a dwelling unit and simply sharing rent, utility expenses and other similar expenses of occupying the dwelling unit, and also to be distinguished from occupying a boardinghouse or rooming house.

FUNCTIONAL FAMILY UNIT – A group of two or more persons not necessarily related by blood, marriage, or adoption, living, sleeping, cooking, and eating in and otherwise occupying one

dwelling unit as a single unit and who function as a family with respect to those characteristics that are consistent with the purposes of zoning and use restrictions in residential neighborhoods.

- A. A functional family unit is distinguished from two or more persons occupying a boardinghouse or rooming house.
- B. For a group of two or more unrelated persons to operate as a functional family, they must regularly share the common dwelling areas, including dining areas, cooking areas, and social spaces, and they must do so with a measure of stability characteristic of the Family Residential District.
- C. Such stability is presumed present if at least four (4) of the following conditions are met:
 - (1) The presence of one or two adults residing in the unit with either or both acting as a head of household.
 - (2) The presence of one or more minor children regularly residing in the household as dependent(s) of one or more adult occupant(s) of the household.
 - (3) Sharing of expenses for food, rent or ownership costs, utilities, and other household expenses.
 - (4) Common use or ownership of furniture, appliances and other household furnishings and supplies among the members of the household.
 - (5) Employment of members of the household in the region, or active pursuit of such employment.
 - (6) Use of the address of the dwelling by adult members of the functional family for purposes of voter registration, or driver's license, or motor vehicle registration, or state or federal income tax filings.
 - (7) A showing that all members of the household have been living together as a single housekeeping unit for a year or more, whether in the current dwelling unit or in one or more other dwelling units.
 - (8) Any other factor that, in the judgment of Department of Codes Enforcement, reasonably demonstrates that the group of persons are occupying the dwelling unit as a single unit in a manner consistent with the purposes of zoning and use restrictions in the Family Residential District.
- D. A group of individuals living in the same dwelling unit shall be presumed not to be a functional family unit, as defined in this section, if such dwelling unit contains no head of household.

ROOMING HOUSE – A dwelling unit in which individuals pay by the room, with or without meals, for temporary, seasonal, or ongoing occupancy. The term does not include a motel, hotel, inn, or bed-and-breakfast.

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, conditional use permit, 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 use, establishment, creation, construction, reconstruction, relocation, enlargement, modification, advertisement and/ or operation of any land, building or structure within the City of Oneida for any new boardinghouse and/or rooming house use, as defined above.

B. This moratorium shall be in effect for a period of twelve (12) months from the effective date of this Local Law and shall expire on the earlier of: (i) the date twelve (12) 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.

D. Under no circumstances shall the failure of the Common Council of the City of Oneida, the Oneida City Planning Commission/ Zoning Board of Appeals, or the Department of Code Enforcement for the City of Oneida, to take any action upon any application for a permit, zoning permit, conditional use 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 Department of Code Enforcement 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 (3) 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 City of Oneida Zoning Regulations. 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 Department of Code Enforcement 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 use, establish, create, advertise, construct, reconstruct, relocate, operate, enlarge, or modify any site to be used for a boardinghouse and/or rooming house 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 Department of Code Enforcement 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 affect any other section of this Local Law.

SECTION 9. EFFECTIVE DATE.

This Local Law shall take effect immediately upon passage and thereafter shall be filed with the New York State Department of State and shall remain in force and effect for a period of twelve (12) months from the date of passage.

Sandra LaPera
City Clerk
Adopted November 16, 2021