

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one:)

of Oneonta

Local Law No. 2 of the year 20<sup>23</sup>

A local law Town of Oneonta Electronic Cigarette Dispensary Law  
(Insert Title)

Be it enacted by the Town Board of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one:)

of Oneonta as follows:

## Definitions.

As used in this chapter, the following terms, phrases, words, and their derivatives shall have the meanings given:

### ELECTRONIC CIGARETTE OR E-CIGARETTE

“Electronic cigarette” or “e-cigarette” means an electronic device that delivers vapor which is inhaled by an individual user, and shall which includes: any refill, cartridge, reservoir, or pod which holds a liquid solution containing nicotine; flavorings or other chemicals; a heating element; a power source; a mouthpiece used to facilitate inhalation; and any other component of such a device.

### VAPOR PRODUCTS

any noncombustible liquid or gel, regardless of the presence of nicotine therein, that is manufactured into a finished product for use in an electronic cigarette, including any device that contains such noncombustible liquid or gel.”  
N.Y. Pub. Health Law § 1399-aa(17) (2022)

### LIQUID NICOTINE (ELECTRONIC LIQUID OR E-LIQUID)

“a liquid composed of nicotine and other chemicals, and which is sold as a product that may be used in an electronic cigarette.”  
N.Y. Pub. Health Law § 1399-cc(1)(e) (2022)

(continued)

(If additional space is needed, attach pages the same size as this sheet, and number each.)

## **VAPING**

“the use of an electronic cigarette.”

N.Y. Pub. Health Law § 1399-n (9) (2022)

### Section 1. Title

This local law shall be known as the “Electronic Cigarette Retail Dispensary Law of the Town of Oneonta.”

### Section 2. Legislative Intent and Purpose

It is the intent and purpose of this local law to provide a comprehensive zoning plan to govern, regulate, and control Electronic Cigarette Retail Dispensary establishments within the Town of Oneonta in accordance with the zoning ordinance amendments hereinafter set forth.

### Section 3. Electronic Cigarette Dispensary

#### A. Purpose

The purpose of this Section is to provide zoning district locations and regulations governing electronic cigarette retail dispensary establishments in accordance with New York State’s Electronic Cigarette Regulations, as amended or changed. It is the express purpose and intent of this section to minimize the adverse impacts that electronic cigarette retail dispensaries may have on adjacent properties and to provide standards for the placement, design, siting, safety, security, monitoring, modification, and discontinuance of electronic cigarette retail dispensaries. This section outlines reasonable conditions that will protect the public health, safety, and welfare of the Town of Oneonta community. This section is intended to encourage appropriate land use and reasonable safeguards to govern the time, place, and manner of electronic cigarette retail dispensary operations.

The local law applies to electronic cigarette retail establishments whose primary source of revenue is derived from the sales of vape products and/or electronic cigarettes.

#### B. Approved Products

An electronic cigarette retail dispensary shall only dispense approved products in accordance with the applicable laws of New York State.

#### C. Buffer and Landscaping

A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential and/or retail use. No recreational activities, parking, and/or structures shall be allowed within this buffer.

#### D. Building Requirements

1. An electronic cigarette retail dispensary shall operate within a permanently constructed, fixed structure. It is prohibited to operate from a vehicle or within a nonpermanent structure.
2. An electronic cigarette retail dispensary shall have its means of egress independent from any other use and shall directly discharge to a public way. For the purposes of this section, “means of egress” and “public way” are defined by the Uniform Code.
3. An electronic cigarette retail dispensary shall only dispense approved products in an indoor, enclosed, secure facility.

#### E. Licenses and/or Permits

An electronic cigarette retail dispensary shall submit evidence that all necessary licenses and/or permits have been obtained from the State of New York and the Town of Oneonta. Said licenses and/or permits shall be posted in a conspicuous place, to wit, near the main exit or exit access doorway.

#### F. Location Restriction(s).

An electronic cigarette retail establishments may be permitted only in the overlay district, the Highway Development District, as defined as beginning at the intersection of Route 28 and Main Street/Hwy 7B heading east to Route 23 and the Town line (i.e., “Southside Drive”).

#### G. Changes in Operator or Site.

Changes in owner or operator of an existing electronic cigarette retail dispensary or minor building or site modifications of a legally existing electronic cigarette retail dispensary must be reviewed by the Building and Zoning Department, which may administratively approve and issue a revised conditional use permit as appropriate. However, if it is determined that the change in operator will result in a substantial change in operation or site plan, the application must be referred to the board having jurisdiction for a revised conditional use permit and/or revised site plan approval, subject to a public hearing as required by law or at the discretion of the board having jurisdiction.

#### H. Electronic Cigarette Retail Dispensary Standards, Requirements, and Considerations.

In addition to the standards set forth, the following standards, requirements, and considerations shall be addressed in any application for conditional use permit and/or site plan approval associated with a retail electronic cigarette dispensary:

1. **Minimum Distances.** For the purposes of this law, distance shall be measured on a straight line from the nearest boundary line(s) of the specified use or zoning district to

the nearest point of the building footprint or tenant space footprint of the proposed electronic cigarette retail dispensary.

- a. An electronic cigarette retail dispensary shall not be located within 500 feet of any residential zoning district.
  - b. An electronic cigarette retail dispensary shall not be located within 1,000 feet of any recreational facility, school, place of worship, park, public playground, child-care facility, children's camp, or similar use(s), as determined by the Code Enforcement Officer.
  - c. An electronic cigarette retail dispensary shall not be located within 1,500 feet of any other Cannabis or Electronic Cigarette retail dispensary.
2. Hours of Operation. Electronic cigarette retail dispensaries may set their own hours of operation. The hours of operation must be within the parameters of 8:00 AM and 10:00 PM Monday through Saturday and between the hours of 12:00 PM and 8:00 PM on Sunday. Hours of operation must be provided in the application submission to the Town.
  3. The electronic cigarette retail dispensary shall provide for adequate and proper security at the premises to deter and prevent illegal activities from taking place on or near the applicant's premises and avoid conduct that has an adverse effect on the health, safety, and welfare of the surrounding neighborhood. Additionally, an electronic cigarette retail dispensary shall utilize a security system to prevent and detect diversion, theft, or loss of products, using commercial grade equipment.
  4. All dispensaries permitted under this section shall comply with all state and local laws, rules and regulations governing the smoking of tobacco.
  5. No drive-through service shall be permitted at an electronic cigarette retail dispensary.
  6. Any conditional use permit issued under this Section shall contain a condition that the electronic cigarette retail dispensary shall not operate, and the conditional use permit shall not be valid, until the applicant has obtained all required licenses and permits issued by the State of New York and any of its agencies.
  7. In case of conflict between any of the provisions contained within and any other law, rule or regulation, the stricter, more restrictive provision shall govern and apply.
  8. Subject to applicable law, the conditional use permit application to the board having jurisdiction must include a copy of all information submitted to the State of New York in application for a license to operate under the New York State Electronic Cigarette Regulations, as amended or changed.

**(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)**

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2023 of the ~~(County)(City)(Town)(Village)~~ of Oneonta was duly passed by the Town Board on January 11 2023, in accordance with the applicable *(Name of Legislative Body)* provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* on \_\_\_\_\_ 20  , in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. *(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local *(Elective Chief Executive Officer\*)* law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

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\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_ above.

\_\_\_\_\_  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: \_\_\_\_\_