

BE IT ORDAINED AND ENACTED OCTOBER 25, 2023 BY THE TOWN OF CICERO,
COUNTY OF ONONDAGA, STATE OF NEW YORK, AS FOLLOWS:

LOCAL LAW FILING – Town of Cicero

Local Law No. 12 of the year 2023

A local law adopting a resolution approving the final form to implement special use permits to regulate smoke shops and tobacco retailers, §210-56 of the Town of Cicero Zoning Code.
Cicero Town Board approved on October 25, 2023.

Be it enacted by the Town Board of the Town of Cicero as follows:

1. Local Law 12 of 2023

Motion was made by Supervisor Aregano.

Move for the adoption of a resolution to approve Local Law #12 of 2023 in final form to regulate Smoke Shops and Tobacco Retailers, §210-56 of the Town of Cicero Zoning Code.

TOWN OF CICERO ZONING CODE UPDATE

§ 210-56 SMOKE SHOPS AND TOBACCO RETAILERS

A. Purpose. In accordance with New York State Public Health Law § 1399-ii, the Town of Cicero intends to limit the further concentration of smoke shops and tobacco retailers within the Town. The regulations herein are intended to further the goals of New York State's tobacco use prevention and control program, due to the known adverse impacts of tobacco use. In furtherance of the state's goals, the Town finds that:

1. Smoke shop and tobacco retailer density is associated with higher rates of tobacco use in both youth and adult populations; and
2. Adolescent brains are vulnerable to the effects of nicotine and to nicotine dependency; and
3. Tobacco use leads to preventable death and disease in New York State; thus
4. The restriction of increasing smoke shop and tobacco retailer density will reduce the availability of nicotine products to residents, and in particular young residents, thus reducing risk to the public's health, safety, and wellbeing.

B. Consistency with NYS Laws, Rules, and Regulations.

1. All smoke shops and tobacco retailers within the Town of Cicero shall comply with the applicable NYS laws, rules, and regulations in addition to those contained herein.
2. Where the regulations of this Section may be in conflict with a state law, rule, or regulation the more restrictive shall apply, unless such local regulation is otherwise preempted by state law.

C. Definitions.

1. **Smoke Shop and/or Tobacco Retailer** – a sole proprietorship, corporation, limited liability company, partnership or other enterprise in which the primary activity is the sale, manufacture or promotion of tobacco, tobacco products and accessories, either at wholesale or retail, and in which the sale, manufacture or promotion of other products is merely incidental.

D. Permit Required.

1. All smoke shops and tobacco retailers within the Town of Cicero after the effective date of this chapter must obtain a special use permit and site plan approval in accordance with Article VII (Site Plan Approval) and Article XIV (Special Use Permits) of this chapter.

2. A special use permit for a smoke shop or tobacco retailer shall be valid for a period of 24 months from the date of issue and must be renewed prior to expiration for the property to continue to be used for such purposes.
3. The renewal of a permit for existing smoke shops or tobacco retailers with no changed conditions shall be reviewed and approved by the Code Enforcement Officer.
4. The renewal of a permit for existing smoke shops or tobacco retailers with changed conditions shall be reviewed and approved by the Town Board.
5. A special use permit issued for a smoke shop or tobacco retailer is not transferable to a new owner. The new owner of the smoke shop or tobacco retailer must file a new application in accordance with the terms of this Section and Article XIV if such property is to continue to be used as a smoke shop or tobacco retail operation.
6. After three verified complaints and/or violations of this Zoning Law or any violation of relevant federal or state laws, a special permit shall be revoked. Appeals may be made to the Zoning Board of Appeals.

E. General Regulations

1. It is unlawful for a smoke shop and tobacco retailer 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.
2. Smoke shops and tobacco retailers shall post clear signage stating that minors may not enter the premises unless accompanied by a parent or legal guardian. Said signage shall be placed in a conspicuous location near each public entrance to the smoke shop and tobacco retail operation. It shall be unlawful for smoke shop and tobacco retailers to fail to display and maintain, or fail to cause to be displayed or maintained, said signage.
3. Exterior attention-getting devices including, but not limited to, LED signs, flashing lights, rope lighting, flags, and banners shall be prohibited. Attention-getting devices located within the building shall not be readily visible from the public right-of-way.
4. All smoke shops and tobacco retailers must comply with the sign regulations contained within §210-18 of this Chapter.
5. Business hours shall be permitted to occur between the hours of 8:00 AM and 8:00 PM.

F. Location.

1. Smoke shops and tobacco retailers may be eligible for a special use permit in, and only in, any zoning district of Chapter 210 of the Code of the Town of Cicero that allows for retail establishments or retail sales and service uses, provided that:
 - a. Any part of the property line of the smoke shop or tobacco retailer is not located within 1,500 feet from the nearest point of the property line of one or more existing licensed smoke shop or tobacco retailer; and
 - b. Any part of the property line of the smoke shop or tobacco retailer is not located within 1,500 feet from the nearest point of the property line of a school, playground, child-care facility, public library, place of worship, or municipal park.

G. Existing Smoke Shops and Tobacco Retailers.

1. Smoke shops and tobacco retailers that are legally existing on the effective date of this section may continue to operate as legal nonconforming uses and shall not be required to obtain a special use permit.
2. Any change or expansion of the legal nonconforming use, or change in ownership shall require the owner or agent to obtain a special use permit.
3. Any nonconforming sign or attention getting device, the appraised value of which is less than two hundred (\$200) dollars shall be removed or altered to comply with the provisions of this section not later than ninety (90) days subsequent to the effective date of this section.

H. Penalties for Offenses. Any violation of the provisions of this Article shall be subject to penalties as established in §210-35.

II. Effective Date

This Local Law shall take effect upon filing with the Secretary of State.

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Ad Content Proof

PLEASE TAKE NOTICE that the Town of Cicero Town Board will hold a Public Hearing on Wednesday, October 25, 2023, at 6:30 p.m. to be held at 8236 Brewerton Rd., to consider enacting a new Local Law to regulate smoke shops and implement special permit requirements. If you would like to view the meeting virtually from your computer, tablet, or smartphone go to: <http://www.youtube.com/c/TownofCiceroNY13039> By the Cicero Town Board

Dated – 10/17/2023
TOWN BOARD TOWN OF CICERO
COUNTY OF ONONDAGA, NEW YORK

Tracy Cosilmon
Cicero Town Clerk