

# 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 Mendon \_\_\_\_\_

Local Law No. 1 \_\_\_\_\_ of the year 20<sup>24</sup> \_\_\_\_\_

A local law Temporary Moratorium relative to smoke shops.  
(Insert Title)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

County  City  Town  Village  
(Select one:)

of Mendon \_\_\_\_\_ as follows:

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

(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. 1 of 2024 of the (County)(City)(Town)(Village) of Mendon was duly passed by the Town Board on May 13 2024, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**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) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

**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) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.  
*(Name of Legislative Body)*  
*(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) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local 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.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

\* 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 1 above.

(Seal)

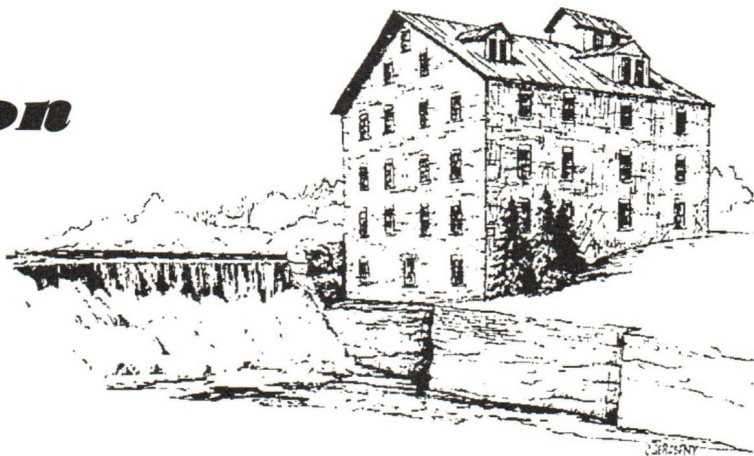
*Michele Booth*

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

Date: May 15, 2024

# ***Town of Mendon***

*Preserving the Past...  
Protecting the Present...  
Promoting the Future*



## **LOCAL LAW NO. 24-01 – A TEMPORARY MORATORIUM RELATIVE TO SMOKE SHOPS**

***(Resolution 24-151)***

A motion was made by Mr. Rosiek, seconded by Mrs. Carroll, to adopt the following local law:

WHEREAS, the Mendon Town Board finds and hereby determines that its current regulations, including, specifically, its zoning regulations, do not specifically or otherwise adequately address smoke shops, and, as such, the Town should conduct a review, assessment, and evaluation for the purpose of considering possible amendments to its Town Code to address smoke shops; and

WHEREAS, while the Town engages in the review and the development of local legislation to regulate smoke shops, the Town Board finds that any development or establishment of new smoke shops should be prohibited for a temporary period of time until completion of the same in order to protect the health, safety, and welfare of the Town of Mendon.

WHEREAS, the Town Board has before it a local law to implement such a moratorium, on file with the Mendon Town Clerk, where it has been available for review by the public, said moratorium local law being attached hereto and made a part hereof; and

WHEREAS, the Mendon Town Board duly advertised and held a public hearing on the proposed moratorium local law in order to solicit and consider public input on the same; and WHEREAS, the Mendon Town Board referred the moratorium local law to the Monroe County Planning Board, more than 30 days have since passed, and no comments have been received; and

WHEREAS, this matter is a Type II action pursuant to SEQR, and not subject to review thereunder.

NOW, THEREFORE, BE IT RESOLVED, that upon consideration of such moratorium local law and any comments thereon, the Town Board finds and determines it to be in the Town's best interest to approve such moratorium local law for the reasons set forth above and therein; and, be it further

RESOLVED, that the Town Board hereby adopts and approves Local Law No. 1 of 2024 to Implement a Temporary Moratorium Relative to Smoke Shops, said moratorium local law being attached hereto; and, be it further

RESOLVED, that the Mendon Town Clerk be and hereby is directed to enter said Local Law into the minutes of this meeting and to give due notice of the adoption of said Local Law to the Secretary of State of the State of New York.

BE IT ENACTED, by the Town Board of the Town of Mendon, Monroe County, State of New York, as follows:

Section I. Authorization

The adoption of this Local Law is in accordance with Section 10 of New York's Municipal Home Rule Law. It is the intent of this Local Law to supersede any statutes or regulations which may be inconsistent with the provisions herein, all pursuant to the Town's municipal home rule powers under Municipal Home Rule Law.

Section II. Title and Purpose

This law shall be known as and may be cited as Local Law No. \_-2024 of the Town of Mendon to Implement a Temporary Moratorium Relative to Smoke Shops.

The purpose of this local law is to enact a moratorium in the Town of Mendon in order to temporarily prohibit, for a period of six months, establishment of new "Smoke Shops", as defined herein, within the Town of Mendon, while the Town examines and studies the impacts of Smoke Shops and considers and/or develops and implements local legislation to address the same.

Section III. Legislative Findings

The Mendon Town Board finds that its current regulations, including, specifically, its zoning regulations, do not specifically or otherwise adequately address Smoke Shops. Therefore, it does not appear that there has been an evaluation of their proper location, suitability for different districts, or otherwise appropriate regulations to accommodate their presence within the Town. The Town Board finds that it should consider amendments to its Town Code to adequately address Smoke Shops, including appropriate locations and conditions under which they may be allowed to operate in the Town. Therefore, the Town

seeks to conduct a review, assessment and evaluation for the purpose of considering possible amendments to its Town Code, including to address the various issues/impacts concerning Smoke Shops.

It is the intention of the Town Board to preserve the status quo during this period of review and development of regulations, and thus to preclude the establishment of any new Smoke Shops within the Town before appropriate legislation is enacted or it is determined that no further legislation is needed. Therefore, the Town Board has determined that there is a critical and compelling need, and that it is in the best interest of the government, protection, order, conduct, safety, health and well-being of the persons and property in the Town of Mendon, to impose a temporary moratorium on new Smoke Shops in the Town of Mendon.

#### Section IV. Moratorium Provisions

##### A. Definitions:

###### SMOKE SHOP:

Any retail shop or business which offers for sale or consideration, as a substantial or significant portion of its business, merchandise and/or stock-in-trade, whether intended for smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body, the following ("Smoke Shop Products"):

- a. tobacco, tobacco products, or tobacco/smoking paraphernalia, including but not limited to cigarettes, cigars, pipes, hookahs, etc. and/or
- b. electronic cigarettes (e.g., electronic nicotine delivery systems), vape pens, vapors, e-liquids, e-vaporizers, or other like substances, and/or
- c. CBD (cannabidiol) products (not including products containing THC), including but not limited to CBD gummies and/or CBD oil, for example. Smoke Shops do not include cannabis retail dispensaries (which are not permitted in the Town of Mendon).

Factors of Significance: For purposes of this definition, "substantial or significant" may be determined using the following considerations:

- a. The amount of sales floor area used for the sale of Smoke Shop Products, including as compared to the total sales floor area used for the sale of other products; and/or
- b. The amount of Smoke Shop Products accessible to customers, generally, including as compared to other products accessible to customers; and/or
- c. Revenues (or expected revenues) derived from Smoke Shop Products, including as compared to total revenues; and/or

- d. Advertising/marketing devoted to Smoke Shop Products, including as compared to advertising/marketing otherwise, and including the name of the business; and/or
- e. The use of the establishment for Smoke Shop Products, including as compared to total use thereof.

**Conclusive Determination:** Notwithstanding the above considerations (which above considerations may nonetheless be utilized even where the below does not apply),

the following shall be conclusive in determining a "substantial or significant portion:"

- a. Thirty-three percent (33%) or more of the sales floor area is used for the sale of Smoke Shop Products, and/or
- b. Thirty-three percent (33%) or more of the establishment's stock-in-trade comprises Smoke Shop Products, and/or
- c. Thirty-three percent (33%) or more of the establishment's gross income (or expected gross income) is derived from Smoke Shop Products; and/or
- d. Thirty-three percent (33%) or more of the establishment's advertising/marketing is devoted to Smoke Shop Products, and/or the public-facing name of the business indicates that it is a Smoke Shop.

**Grocery/Supermarket/Convenience Stores:** Any grocery store, supermarket, convenience store or similar retail use that sells conventional cigars, cigarettes or tobacco as ancillary sales (i.e., Smoke Shop Products are not a "substantial or significant" portion of business) shall not be defined as a Smoke Shop.

**B. Moratorium**

For a period of six months (or less, if the Town Board so determines and repeals this moratorium) following the approval of this Local Law, except as otherwise provided herein, there shall be a moratorium on new Smoke Shops in the Town of Mendon, which includes:

- 1. The prohibition on accepting, reviewing, processing or approving applications for new Smoke Shops (including applications submitted prior to approval of this Local Law), including, but not limited to, applications for building permits, certificates of occupancy, certificates of compliance, site plan approvals, subdivisions, special use permits and/or other use permits, or rezoning; and
- 2. The prohibition on the construction, operation or establishment of new Smoke Shops in the Town of Mendon; and
- 3. The prohibition on the expansion of or addition to existing Smoke Shops in the Town of Mendon.

Notwithstanding the foregoing, the length of this Moratorium may be modified by the subsequent repeal or amendment of this law.

**C. Application for Relief**

Any party considering itself aggrieved by this local law may apply to the Zoning Board of Appeals for a use variance from the limitations in this local law, all pursuant to those regulations governing use variances.

D. Penalties

Any person, firm, company or corporation that violates this Local Law shall be subject to penalties and enforcement provisions as set forth at Article XVI of Chapter 260, entitled "Zoning," of the Mendon Town Code.

Section V. Validity and Severability

Should any word, section, clause, paragraph, sentence, part or provision of this Local Law be declared invalid by a Court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.

Section VI. Repeal, Amendment and Supersession of Other Laws

All other Ordinances or Local Laws of the Town of Mendon which are in conflict with the provisions of this Local Law are hereby superseded or repealed to the extent necessary to give this Local Law force and effect during its effective period.

Section VII. Effective Date

This Local Law, after its adoption by the Town Board of the Town of Mendon, shall take effect immediately upon its filing with the Secretary of State of NY. Adopted: Mrs. Carroll, Aye; Mr. Dubois, Aye; Mrs. Roberts, Aye; Mr. Rosiek, Aye; Mr. Moffitt, Aye

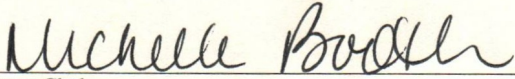
STATE OF NEW YORK }  
COUNTY OF MONROE } SS:  
TOWN OF MENDON }

(SEAL)

I, Michelle Booth, Town Clerk of the Town of Mendon, Monroe County, New York, DO HEREBY CERTIFY, that I have compared the foregoing with the original resolutions adopted by the Town Board of the Town of Mendon at a meeting of said Board on the 13th day of May, 2024, and that the foregoing is a true and correct transcript of said original resolution and the whole thereof, and that said original is on file in my office.

I DO FURTHER CERTIFY that each of the members of said Town Board had due notice of said meeting, and that John D. Moffitt, Supervisor, and Cynthia Caroll, Thomas Dubois, Karen Jenkins, and Brent Rosiek, Town Board Members, were present at such meeting, and no one was absent.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Town of Mendon, this 15<sup>th</sup> day of May, 2024.

  
\_\_\_\_\_  
Town Clerk