

**BOARD OF COUNTY LEGISLATORS  
ONEIDA COUNTY**

*RESOLUTION NO. 301*

*INTRODUCED BY: Messrs. Paparella, Porter, Idzi  
2ND BY: Mr. Joseph*

**LOCAL LAW INTRODUCTORY "D" OF 2016  
LOCAL LAW NO. 3 OF 2016**

**A LOCAL LAW PROHIBITING THE USE OF TOBACCO AND E-CIGARETTES UPON REAL PROPERTY OWNED OR LEASED BY THE COUNTY OF ONEIDA, WITHIN COUNTY OF ONEIDA OWNED VEHICLES OR PRIVATELY OWNED VEHICLES USED FOR A COUNTY OF ONEIDA PURPOSE.**

WHEREAS, the United States Surgeon General has concluded that there is no safe level of exposure to secondhand smoke; and

WHEREAS, it is the intent of the County of Oneida to provide a healthy, clean, and safe environment for all employees, clients, residents, and visitors; now therefore

BE IT ENACTED BY THE BOARD OF COUNTY LEGISLATORS OF THE COUNTY OF ONEIDA AS FOLLOWS:

**SECTION I. TITLE**

This law shall be known as the "Local Law Prohibiting Use of Tobacco and E-Cigarettes upon Real Property Owned or Leased by the County of Oneida, within County of Oneida Owned Vehicles or Privately Owned Vehicles Used for a County of Oneida Purpose."

**SECTION II. LEGISLATIVE INTENT**

This Board of County Legislators of the County of Oneida finds that tobacco and E-cigarette use on real property owned or leased by the County of Oneida, and within County of Oneida owned vehicles and privately owned vehicles used for a County of Oneida purpose, should be prohibited in an effort to provide a healthy, clean, and safe environment for all employees, clients, residents, and visitors.

### **SECTION III. DEFINITIONS**

As used in this Local Law:

A. "Use of tobacco" or "tobacco use" shall mean the burning of a lighted cigar, cigarette, pipe, or any other matter or substance which contains tobacco, and shall also include chewing, holding in the mouth and/or expectorating of chewing tobacco, or any other matter or substance which contains tobacco.

B. "Tobacco products" means one or more cigarettes or cigars, chewing tobacco, powdered tobacco or any other tobacco products.

C. "Electronic cigarette" or "e-cigarette" means an electronic device composed of a mouthpiece, heating element, battery, and electronic circuit that delivers vapor of liquid nicotine and/or other substances mixed with propylene glycol which is inhaled by an individual user as he or she simulates smoking. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes, or any other product name, and shall include any refill, cartridge and any other component of such a device.

D. "Smoking" shall mean to inhale or exhale the smoke or vapor of burning tobacco or tobacco substitute and also to carry burning tobacco or tobacco substitute in the form of a cigarette, cigar, or any other smoke producing product or devices, including pipes and e-cigarettes.

E. "Enforcement Officer" shall mean any "police officer" as the term is defined by section 1.20(34) of the Criminal Procedure Law when said officer is acting pursuant to his or her official duties.

F. "Real Property" shall mean any property owned or leased by the County of Oneida and shall include real estate, lands and any structures, buildings or facilities located upon said real estate or lands.

### **SECTION IV. PROHIBITION**

The use of tobacco, tobacco products and electronic cigarettes use shall be prohibited:

A. Upon all real property owned or leased by the County of Oneida; and

B. Within all County of Oneida owned vehicles or within private vehicles when being used for a County of Oneida purpose except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida purpose if the driver is the sole occupant of the vehicle.

### **SECTION V. EXCEPTIONS**

The provisions of this Local Law shall not apply to:

- A. A privately owned moving motor vehicle which is not engaged in County of Oneida service and which is in the process of exiting or entering real property owned or leased by the County of Oneida, and only when said vehicle's doors and windows are completely closed.
- B. Roadways and rights-of-way located within the County of Oneida road system established under Section 115 of the New York State Highway Law.
- C. County of Oneida Forest Lands.
- D. Real property occupied by and for Mohawk Valley Community College and subject to the State University of New York Board of Trustees Resolution 2007-21 and the Mohawk Valley Community College Tobacco-Free Campus Policy, as the same may from time to time be amended.

#### **SECTION VI. SIGNAGE**

Signs indicating the following or substantially similar language: "THESE GROUNDS WILL BE 100% TOBACCO-FREE," "TOBACCO AND E-CIGARETTE USE IS PROHIBITED," or "NO TOBACCO OR E-CIGARETTES;" and/or signs using the international "no smoking" symbol where applicable, shall be clearly, prominently and conspicuously posted at each entrance to every building, structure, facility or other real property where tobacco and nicotine use is prohibited by this Local Law. Said signs shall be at least 10 inches by 14 inches in size.

#### **SECTION VII. VIOLATIONS AND PENALTIES**

- A. It shall be unlawful for any person to use tobacco, tobacco products or electronic cigarettes in any area where such use is prohibited by the provisions of this Local Law.
- B. Any person who violates any provision of this Local Law shall be guilty of a violation punishable by a civil penalty as follows:
  - 1. Not to exceed \$200.00 for the first offense;
  - 2. Not to exceed \$1,000.00 for a second offense and each and every subsequent offense.
- C. Each violation of this Local Law shall constitute a separate and distinct offense.

## **SECTION VIII. NOTICE AND ENFORCEMENT**

- A. Any citizen may register a complaint under this Local Law to the County of Oneida Department of Public Health, Environmental Health Division or with an Enforcement Officer.
- B. If an Enforcement Officer determines that a violation of this chapter occurred, such Enforcement Officer may prepare, file and serve an appearance ticket in conformance with the New York State Criminal Procedure Law. Said appearance ticket shall be returnable in the local City Court or Justice Court in and for the municipality in which the violation is alleged to have occurred.
- C. The District Attorney for the County of Oneida shall be responsible for prosecution of alleged violations of this Local Law.
- D. If the local City Court or Justice Court determines after a hearing that a violation of this Local Law has occurred, a penalty shall be imposed by the local City Court or Justice Court pursuant to Section VII of this Local Law.
- E. The decision of the local City Court or Justice Court shall be reviewable pursuant to applicable law.
- F. A defendant charged with a violation of any provision of this Local Law may plead guilty to the charge in open court. He or she may also submit to the Judge or Magistrate having jurisdiction, in person, by duly authorized agent, or by registered mail, a statement (1) that he or she waives arraignment in open court and the aid of counsel, (2) that he or she pleads guilty to the offense charged, (3) that he or she elects or requests that the charge be disposed of and the fine or penalty fixed by the Court, (4) of any explanation that he or she desires to make concerning the offense charged, and (5) that he or she makes all statements under penalty of perjury. Thereupon the Judge or Magistrate may proceed as though the defendant had been convicted upon a plea of guilty in open court. If upon receipt of the aforesaid statement the Judge or Magistrate shall deny the same, he or she shall thereupon notify the defendant of this fact, and that he or she is required to appear before the said Judge or Magistrate at a stated time and place to answer the charge which shall thereafter be disposed of pursuant to the applicable provisions of law.

## **SECTION IX. EFFECT ON OTHER LAWS**

This Local Law shall not be interpreted nor construed to permit tobacco or e-cigarette use where it is otherwise restricted by other applicable laws, including but not limited to the New York State Clean Indoor Air Act.

