LOCAL LAW NO.: 4 - 2025

LOCAL LAW ESTABLISHING A NEW SECTION 192-69.2 OF CHAPTER 192 OF THE DEWITT TOWN CODE ENTITLED "SMOKE SHOPS" ADOPTING REGULATIONS PERTAINING TO "SMOKE SHOPS" AS HEREIN DEFINED

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

Section 1: The Town of DeWitt Town Zoning Code, being Local Law No. 6 of 2007, as has previously been amended, is hereby further amended to establish a new Section 192-69.2 entitled "Smoke Shops," as follows:

192-69.2 Smoke Shops.

A. Legislative Intent and Purpose. The Town of DeWitt is concerned about the proliferation of Smoke Shops in the Town and their effect on the health, safety and welfare of the Town's residents, and in particular, young residents. It is the purpose of this Legislation to regulate the creation, opening, commencement and/or operation of Smoke Shops, as herein defined, in order to achieve the following:

1. To preserve the character and quality of life in the Town of DeWitt's neighborhoods and commercial areas;

2. To control harmful and adverse secondary effects on surrounding areas, including but not limited to decreased property values, attraction of transients, parking and traffic problems, increased crime, loss of business for surrounding business, and deterioration of neighborhoods;

3. To restrict access by minors;

4. To maintain the general welfare and safety for Town of DeWitt residents, businesses and visitors;

5. To ensure that the adverse effects of smoke shops will not contribute to the blighting or downgrading of the surrounding neighborhoods; and

6. To prevent concentration of these specific uses.

B. Definitions. The following definition shall be added to Section 192-14 entitled "Definitions":

SMOKE SHOP

Any premises dedicated to the display, sale, distribution, delivery, offering, furnishing and/or marketing of tobacco products, herbal cigarettes, electronic cigarettes, liquid nicotine, vapor products, rolling papers and other smoking paraphernalia; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells tobacco and/or tobacco-related products as an ancillary sale shall not be defined as a "smoke shop." To be defined as an ancillary

sale, sales of tobacco and/or tobacco related products may take up no more than five percent (5%) of gross floor area.

Tobacco products include, but are not limited to, cigarettes, cigars, chewing tobacco, powdered tobacco, bidis, gutka, shisha, and any other tobacco product. Herbal cigarettes are made primarily of an herb or combination of herbs and are intended to be used in the same manner as tobacco. Electronic cigarettes are electronic devices that deliver vapor which is inhaled, and include any refill, cartridge and any other component of such device. Liquid nicotine, also known as electric or e-liquid, is a liquid composed of nicotine and other chemicals. Vapor products include noncombustible liquids or gels for use in a vaping device, regardless of the presence of nicotine.

C. Special Uses.

1. Site Plan Review and Approval

a. Site preparation or construction of a Smoke Shop shall not commence, nor shall any existing structure be occupied or used as a Smoke Shop until final site plan approval has been granted by the Planning Board and a special use permit has been granted by the Zoning Board of Appeals.

b. All applicants for site plan approval and a special use permit for a Smoke Shop shall submit the following to the Town of DeWitt Planning and Zoning Department:

i. A completed application on a form to be provided by the Town of DeWitt Planning and Zoning Department and application fee;

ii. A parcel location map;

iii. A drawing, drawn to scale, indicated the portion of the parcel to be developed in the regulated use, as well as all required appurtenances;

iv. A clear and concise description of the proposed use;

v. All plans and documents required for site plan review and approval pursuant to §192-122 of the DeWitt Town Code; and

vi. Subject to applicable law, copies of all information and documentation submitted to the State of New York as part of its application for a Tobacco Retail Dealer License under New York State Law.

2. Regulations applying to Smoke Shops.

a. Permitted Locations within the Town of DeWitt:

i. Smoke Shops shall be allowed as a Specific Permit Use in the Business Zoning District and Industrial Zoning District.

ii. No Smoke Shops shall be allowed or permitted in any zoning district of the Town of DeWitt, except a Business District or Industrial District.

iii. Smoke Shops shall comply with the applicable provisions of the Code, including those relating to structures and uses permitted in the Business District and/or Industrial District.

b. No Smoke Shop shall be allowed within five hundred (500) feet of a property line of a parcel containing a church, synagogue, other place of worship, library, school, nursery school, day-care facility, park, playground or substance abuse treatment site, as measured from the nearest property line of the lot containing the Smoke Shop.

c. No Smoke Shop shall be allowed on the same parcel as another Smoke Shop.

d. No Smoke Shop shall be allowed within fifteen hundred (1500) feet of the property line of another Smoke Shop as measured from the nearest property line of the lot containing the Smoke Shop that is the subject of the application, whether or not such other establishment is located in the Town of DeWitt.

e. No Smoke Shop shall open or conduct any business prior to 9:00 a.m. nor remain open or conduct any business after 9:00 p.m.

f. No Smoke Shop shall operate and no special use permit for a Smoke Shop issued pursuant to this Chapter shall be valid until the applicant has obtained all licenses and permits issued by New York State and/or any of its agencies for it to conduct such business. This shall pertain to any promotions, giveaways and associated propaganda.

g. A special use permit for a Smoke Shop shall have a term limited to the duration of the applicant's ownership and use of the premises as a Smoke Shop. A special use permit may be transferred only with the approval of the Zoning Board of Appeals in the form of an amendment to the special use permit.

h. Any violation of this Section shall be grounds for revocation of a special use permit issued under this Chapter.

i. A revocation of any licenses or permits required by New York State and/or any of its agencies shall be grounds for revocation of the special use permit.

D. Severability Clause. If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence,

paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 2: Local Law No. 6 of 2007 and as amended, remains in full force and effect except as hereinabove amended.

Section 3: This Local Law shall take effect immediately upon posting and publication as required by law and filing with the Secretary of State.