
(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 of Ontario

City
Town
Village

Local Law No. 2 (Two) of the year 2016.

A Local Law, Amending Local Law 4 of 2011 to Prohibit the Use of Tobacco, Nicotine or other like Substances Upon Real Property Owned or Leased By Ontario County

(Insert Title)

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

(Insert Title)

County of Ontario

City
Town
Village

as follows:

Section 1: Title

This law shall be known as the “Local Law Amending Local Law 4 of 2011, to Prohibit the Use of Tobacco, Nicotine, or other like Substances upon Real Property Owned or Leased by Ontario County.”

Section 2: Declaration of Intent

The Board of Supervisors of the County of Ontario finds that the use of tobacco, nicotine or other like substances on real property owned or leased by the County should be prohibited in order to:

- (A) Protect the public health, safety and general welfare by eliminating exposure to secondhand smoke and residue produced as the result of the use of tobacco, nicotine, and other like substances;
- (B) Acknowledge the need of nonsmokers, especially children, to breathe smoke-free air; recognizing the danger to public health which secondhand smoke causes.
- (C) Recognize that the need to breathe air free of the disease-causing toxins in secondhand smoke should have priority over the desire and convenience of smoking on real property owned or leased by the County.
- (D) Recognize the right and benefit to municipal residents and visitors to be free from unwelcome secondhand smoke and residue from tobacco, nicotine, and other like substances while on real property owned or leased by the County.

- (E) Encourage the cessation of tobacco, nicotine and other like substances use by all persons, to promote longevity and reduce disease and its cost to society.

Section 3: Definitions

As used in this Local Law, “use of tobacco, nicotine or other like substances” or “tobacco, nicotine or other like substances use” shall mean and include, but not be limited to, the burning of a lighted cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, vape pen, any cartridge or other component of the device or related product or any other matter or substance which contains tobacco, nicotine or other like products, and chewing, holding in the mouth, and/or expectorating of chewing tobacco, nicotine or other like products, or any other matter or substance which contains tobacco, nicotine or other like substances.

Section 4: Prohibition

Use of tobacco, nicotine or other like substances shall be prohibited upon all real property owned or leased by the County of Ontario, and within all County-owned vehicles, except as provided in Section 5 of this Local Law.

Section 5: Exceptions

The provisions of this Local Law shall not apply to:

- (A) A privately owned moving motor vehicle which is not engaged in county service and which is in the process of exiting or entering real property owned or leased by the County of Ontario.
- (B) Roadways and rights of way located within the County road system established under Section 115 of the New York State Highway Law.
- (C) Residents of the Ontario County Health Facility in designated areas.
- (D) Real property occupied by and for Finger Lakes Community College and subject to State University of New York Board of Trustees Resolution 2007-21 and the Smoking Policy of Finger Lakes Community College, as the same may from time to time be amended.
- (E) Ontario County Parks, except within designated playground areas and covered shelters, and extending one hundred feet therefrom.

Section 6: Posting of Signs

“TOBACCO, NICOTINE, OR OTHER LIKE SUBSTANCES USE IS PROHIBITED”, or “NO USE OF TOBACCO, NICOTINE OR OTHER LIKE SUBSTANCES” signs, using international symbols (where possible) shall be prominently and conspicuously posted upon the entrance to all real property where tobacco use is regulated by this Local Law. Said signs shall be protected from tampering, damage, removal or concealment.

Section 7: Violations and Penalties

- (A) Tobacco, nicotine and other like substances use shall be unlawful in any area where said 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 not to exceed one thousand dollars (\$1,000.00).

Section 8: Enforcement

- (A) For the purpose of this Local Law the term “enforcement officer” shall mean the Ontario County Board of Health, or its designee. The enforcement officer may cause to have issued and served upon the person complained against a written notice, together with a copy of the complaint made against him, which shall specify the provisions of this Local Law of which such person is said to be in violation and a statement of the manner in which that person is said to violate it and shall require the person so complained against to answer the charges of such complaint at a public hearing before the Board of Health or its designated hearing officer at a time not less than fifteen (15) days after the date of the service of notice.

The Board of Health may serve, together with a copy of the complaint, a stipulation offer to the person complained against. The stipulation offer shall allow the person complained against to enter into a stipulation under the terms and conditions as set forth in the stipulation offer. The person complained against shall have the option of entering into the stipulation or proceeding with a formal hearing.

- (B) If the enforcement officer determines after a hearing that a violation of this Local Law has occurred, a civil penalty may be imposed by the enforcement officer pursuant to Section 7 of this Local Law. Nothing herein shall be construed to prohibit an enforcement officer from commencing a proceeding for injunctive relief to compel compliance with this Local Law.
- (C) Any person who desires to register a complaint under this Local Law may do so with any appropriate enforcement officer.
- (D) The decision of any hearing officer shall be reviewable pursuant to Article seventy-eight of the Civil Practice Law and Rules.
- (E) The enforcement officer, subsequent to any appeal having been finally determined, may bring an action to recover the civil penalty provided in Section 7 of this Local Law.

Section 9: Effect on Other Laws

- (A) This Local Law shall not be interpreted nor construed to permit tobacco use where it is otherwise restricted by other applicable laws, including but not limited to the Indoor Clean Air Act.
- (B) Local Law 8 of 1987, entitled “A Local Law to Regulate Smoking in Public Places and Worksites,” is hereby repealed.

Section 10: Severability

If any section, subsection, sentence, clause, phrase or other portion of this Local Law is for any reason declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidation shall not affect the validity of the remaining portions of this law, which shall remain in full force and effect.

Section 11: Effective Date

This Local Law shall take effect twenty (20) days after it shall finally have been adopted, pursuant to §27 of the Municipal Home Rule Law.

(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 (Two) of 2016 of the County of Ontario was duly passed by the Board of Supervisors on April 21, 2016, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer¹.)

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.

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__. 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 _____ of _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, _____. 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 _____, in accordance with the applicable provisions of law.

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

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.

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the _____ of _____ 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 **One (1)**, above.

(Seal)

Karen R DeMay
Clerk of the County Legislative Body
Date: April 22, 2016