

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 CLINTON

Local Law No. 4 of the year 2012

A local law REGULATING THE USE OF TOBACCO PRODUCTS UPON REAL PROPERTY OWNED
(Insert Title)
OR LEASED BY CLINTON COUNTY

Be it enacted by the LEGISLATURE of the
(Name of Legislative Body)

County City Town Village
(Select one:)

of CLINTON as follows:

BE IT ENACTED, by the Clinton County Legislature as follows:

SECTION 1: FINDINGS

1. The Clinton County Legislature finds that the health of employees and the public is seriously threatened by exposure to environmental tobacco smoke, also known as "secondhand smoke," and other types of tobacco products. This finding is supported by the United States Environmental Protection Agency and reliable studies of the impacts and effects of environmental tobacco smoke, as well as the U.S. Surgeon General's Report on the Health Consequences of Smoking and the Health Consequences of Smokeless Tobacco Use.

2. The U.S. Surgeon General has concluded that there is no risk-free level of exposure to secondhand smoke; and the 2012 U.S. Surgeon General's Report on Involuntary Exposure to Secondhand Smoke concludes that even brief exposures to secondhand smoke may increase the severity of asthma attacks and lower respiratory tract infections, especially in children and have adverse effects on the heart; and secondhand smoke is responsible for approximately 47,400 deaths among nonsmokers each year in the United States.

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

3. The Clinton County Legislature recognizes the value and benefits resulting from eliminating the exposure of County employees and the general public to unwelcome secondhand smoke from tobacco products on County properties.
4. The Clinton County Legislature finds that the need to breathe air free of the disease-causing toxins present in secondhand smoke should have priority over the desire and convenience of smoking on real property owned or leased by the County of Clinton.
5. The Clinton County Legislature recognizes the value in providing a safe, healthful and productive work environment for all employees and visitors to County properties, and to comply with existing State and Federal laws and regulations governing tobacco product use.

SECTION 2: DEFINITIONS

1. County Property – any real property owned, leased or operated by the County of Clinton, including: 1) land/buildings owned and operated by the County of Clinton; 2) land/buildings leased by the County and utilized for County purposes; and 3) vehicles owned by the County of Clinton. County Property shall not include: 1) the Clinton County Fairgrounds; 2) the Clinton Community College; 3) the Clinton County Landfill; 4) roadways and right-of-ways located within the County road system; and 5) privately-owned vehicles parked on County-owned or operated property.
2. Tobacco Product - means any manufactured product containing tobacco or nicotine, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, snus, dissolvable tobacco products, and electronic cigarette cartridges. However, “Tobacco Product” does not include any product that has been approved by the U.S. Food and Drug Administration, pursuant to its authority over drugs and devices, for sale as a tobacco use cessation product or for other medical purposes and is being marketed and sold solely for that approved use.
3. Smoking – means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form.

SECTION 3: TOBACCO PRODUCT USE PROHIBITIONS

1. The use of Tobacco Products is prohibited in and on all County Property except for those County properties specifically excluded as set forth above.
2. Notwithstanding the foregoing prohibition, the Plattsburgh International Airport Manager, upon approval by the Plattsburgh International Airport Committee, may designate a tobacco use area outside the Airport Terminal Building which must be at least 100 feet distant from any public entrance to the facility.
3. Nothing in this Section prohibits any person with legal control over any property from prohibiting Tobacco Product use on any part of such property, even if the use of Tobacco Products is not otherwise prohibited in that area.

SECTION 4: POSTING OF SIGNS

1. The Clinton County Board of Health, or its designee, shall issue requirements about the content and placement of signs advising the public of the restriction of Tobacco Product usage and/or smoking in the designated areas.

SECTION 5: PENALTIES AND ENFORCEMENT

1. The remedies provided by this Local Law are cumulative and in addition to any other remedies available at law or in equity.
2. Each instance of Smoking or Tobacco Product use in violation of this Law shall constitute a separate violation.
3. Each violation of this Local Law constitutes an infraction subject to a civil penalty not to exceed Five Hundred Dollars (\$500).
4. Any peace officer or code enforcement official may enforce this Law. For the purpose of this Local Law, the term "enforcement officer" shall mean a peace officer or code enforcement official.
5. In addition to other remedies provided by this Local Law, any violation of this Local Law may be remedied by a civil action brought by the County Attorney, including but not limited to: administrative or judicial nuisance abatement proceedings, code enforcement proceedings and suits for injunctive relief.
6. The enforcement officer, or his/her designee, 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/her, which shall specify the provisions of this Local Law which the person is said to be in violation, 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 service of the 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.
7. If the Board of Health determines after a hearing that a violation of this Local Law has occurred, a civil penalty may be imposed by the Board of Health, or its designee, pursuant to Section 3 of this Local Law. Nothing herein shall be construed to prohibit an enforcement officer or the Board of Health from commencing a proceeding for injunctive relief to compel compliance with this Law.
8. Any person who desires to register a complaint under this Local Law may do so with any appropriate County official.
9. The decision of the Board of Health may be reviewable pursuant to a special proceeding brought under Article 78 of the New York State Civil Practice Law and Rules.

10. The enforcement officer, subsequent to any final determination, may bring an action to recover the civil penalty provided in Section 3 of this Local Law.
11. In addition to above penalties, County employees in violation of this policy may be subject to appropriate disciplinary procedures to be administered by the supervisor of the affected department.
12. Nothing in this Local Law shall create a right of action in any person against the County or its agents to compel enforcement of this Local Law against private parties.

SECTION 6: OTHER APPLICABLE LAWS

This Local Law shall not be interpreted or construed to permit tobacco use or smoking where it is otherwise restricted by other applicable laws.

SECTION 7: SEVERABILITY

If any provision, clause, sentence, or paragraph of this Local Law or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Local Law which can be given without the valid provision or application and to this end, the provisions of this Local Law are declared to be severable.

SECTION 8: EFFECTIVE DATE

This Local Law shall take effect upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and become operative on July 1, 2013.

(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. 4 _____ of 20¹² of the (County)(City)(Town)(Village) of CLINTON _____ was duly passed by the CLINTON COUNTY LEGISLATURE _____ on DECEMBER 12 20¹², 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.)

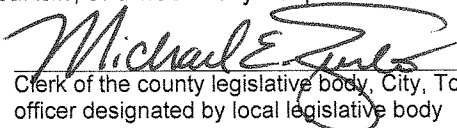
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 ____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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.



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

Date: 12/13/12

(Seal)