

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 underling to indicate new matter.

County
~~City~~ of Yates
~~Town~~
~~Village~~

LOCAL LAW 1-18 ENTITLED: PROHIBITING THE USE OF TOBACCO, NICOTINE, OR OTHER LIKE SUBSTANCES UPON REAL PROPERTY & VEHICLES OWNED OR LEASED BY THE COUNTY OF YATES

Be it enacted by the Legislature of the

County
~~City~~ of Yates as follows:
~~Town~~
~~Village~~

Section 1: Findings

The Legislature of the County of Yates finds that the use of tobacco, nicotine, or other like substances on real property and vehicles owned or leased by the County of Yates 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 breath smoke-free air, recognizing the danger to public health which secondhand smoke causes;
- C. Recognize that the need to breath air free of the disease-causing toxins in secondhand smoke should have priority over the desire and convenience of Tobacco-Use on real property or vehicles owned or leased by the County of Yates;
- 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 or in a vehicle owned or leased by the County of Yates;
- E. Encourage and will support the cessation of tobacco use by all persons to promote longevity and reduce disease and its costs to society.

Section 2: 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 and/or lighting of a 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 product which contains tobacco, nicotine, or other like substances; or the chewing, holding in the mouth, and/or expectorating of chewing tobacco, nicotine, or other like substances; or the use of any other matter or substance which contains tobacco, nicotine, or other like substances.

Section 3: Prohibition

Use of tobacco, nicotine, or other like substances shall be prohibited upon all real property and vehicles owned or leased by the County of Yates. The term “real property” as used in this Local Law, shall mean and include real estate, lands and any structures, buildings or facilities located upon said real estate and lands.

Section 4: Exceptions

The provisions of this Local Law shall not apply to:

- A. Roadways and right of ways located within the county road system established under section 115 of the New York State Highway Law;
- B. A moving vehicle not owned or leased by the County of Yates which is in the process of exiting or entering real property owned or leased by the County of Yates.

Section 5: Posting of Signs

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

Section 6: Violations and Penalties

It shall be unlawful for any person to use tobacco, nicotine or other like substances in any area where such use is prohibited by the provisions of this Local Law.

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 7: Enforcement

- A. For the purposes of this Local Law the term “enforcement officer” shall mean the Yates County Legislature 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 provision of the 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 Legislature or its designated hearing officer at a time not less than fifteen (15) days after the date of service of the notice.
- B. The Legislature may serve, together with a copy of the complaint, a stipulation 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.
- C. 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 6 of this Local Law. Nothing herein shall be construed to prohibit an enforcement officer from commencing a proceeding for injunction relief to compel compliance with this Local Law.
- D. Any person who desires to register a complaint under this Local Law may do so with any appropriate County official.
- E. The decision of any hearing officer shall be reviewable pursuant to Article seventy-eight of the Civil Practice Law and Rules.
- F. The enforcement officer, subsequent to any final determination, may bring an action to recover the civil penalty provided in Section 6 of this Local Law.
- G. In addition to the above penalties, County employees in violation of this policy may be subject to appropriate disciplinary procedures to be determined by their supervisor and in accordance with all applicable Civil Service Rules and Contract language.
- H. 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 8: Other Applicable Laws

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

Section 9: 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 effect without the valid provision or application, and to this end the provisions of this Local Law are declared to be severable.

Section 9: Effective Date

This Local Law shall take effect on January 1, 2019

(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 of 1 of the (County)~~(City)~~(Village) of Yates was duly passed by the Legislature on May14, 2018 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
(Name of Legislative Body)

disapproval) by the _____ and was deemed duly adopted on _____
(Elective Chief Executive Officer*)
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
(Name of Legislative Body)

disapproval) by the _____ and was deemed duly adopted on _____
(Elective Chief Executive Officer*)
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 No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____20__, and was (approved)(not approved)(repassed after
(Name of Legislative Body)

disapproval) by the _____ and was deemed duly adopted on _____
(Elective Chief Executive Officer*)
20__. Such local law was submitted to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20__, in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a countywide basis or, if there are 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 there from 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

(Seal)

Date: _____

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

County Attorney
Title

County
City of Yates
~~Town~~
~~Village~~

Date: _____