

Local Law Number 9 Of 2008

County Of Ulster

A Local Law Prohibiting Smoking Upon All Real Property Owned Or Leased By The County Of Ulster

BE IT ENACTED, by the Legislature of the County of Ulster, as follows:

SECTION 1: FINDINGS.

The Legislature of the County of Ulster finds that smoking shall be prohibited upon all real property owned or leased by the County of Ulster in order to:

1. Protect the public health, safety and general welfare by eliminating exposure to secondhand smoke.
2. Acknowledge the need of nonsmokers, especially children, to breathe smoke-free air, recognizing the danger to public health which secondhand smoke causes.
3. 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 of Ulster.
4. Recognize the right and benefit to municipal residents and visitors to be free from unwelcome secondhand smoke while on real property owned or leased by the County of Ulster.

SECTION 2: APPLICATION OF ARTICLE TO COUNTY-OWNED AND LEASED REAL PROPERTY.

All real property owned or leased by the County of Ulster shall be subject to the provisions of this Local Law. The term “real property” shall include real estate, lands and any structures, buildings or facilities located upon said real estate and lands. The term “real property” shall not include roadways and right of ways located within the County road system established under Section 115 of the New York State Highway Law.

SECTION 3: REGULATION AND PROHIBITION OF SMOKING UPON COUNTY-OWNED AND LEASED REAL PROPERTY.

“Smoking” shall mean inhaling of, exhaling of, burning of, or carrying of any lighted cigar, cigarette, pipe, weed, or other plant in any manner or any form.

Smoking shall be prohibited upon all real property owned or leased by the County of Ulster as set forth herein, except when located within a moving motor vehicle

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which is in the process of exiting or entering real property owned or leased by the County of Ulster.

SECTION 4: POSTING OF SIGNS.

Signs, clearly stating “Smoking is Prohibited” or “No Smoking” and/or signs consisting of the universal pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be predominantly and conspicuously posted upon the entrance to all real property where smoking is regulated by this Article.

SECTION 5: ENFORCEMENT.

- A. For the purpose of this Local Law, the term “enforcement officer” shall mean the Ulster 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 service of notice.

The Board of Health may serve, together with a copy of 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 6 of this Local Law. Nothing herein shall be construed to prohibit an enforcement

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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 78 of the Civil Practice Law and Rules.
- D. The enforcement officer, subsequent to any appeal having been finally determined, may bring an action to recover the civil penalty provided in Section 6 of this Local Law.

SECTION 6: VIOLATIONS AND PENALTIES.

- A. It shall be unlawful for any person to smoke in any area where smoking 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 five hundred dollars (\$500.00).

SECTION 7: OTHER APPLICABLE LAWS.

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

SECTION 8: 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.

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SECTION 9. 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 June 1, 2009.

Adopted: November 12, 2008