

RESOLUTION NO. 198-13

**ACKNOWLEDGING INTRODUCTION OF PROPOSED LOCAL LAW NO. 4
FOR THE YEAR 2013 AND CALLING FOR A PUBLIC HEARING**

WHEREAS, Supervisor Salka has duly introduced proposed Local Law No.4 for the year 2013, entitled "A LOCAL LAW AMENDING LOCAL LAW NO. 4 OF 2012 PROHIBITING THE USE OF TOBACCO UPON REAL PROPERTY OWNED OR LEASED BY MADISON COUNTY"; and

WHEREAS, a copy of said proposed local law has been furnished to each Supervisor;

NOW, THEREFORE BE IT RESOLVED, that a public hearing be held on the proposed Local Law in the Chambers of the Board of Supervisors at the Madison County Office Building in Wampsville, New York on Tuesday, August 13, 2013 @ 2:15 p.m.; and

BE IT FURTHER RESOLVED, that the Clerk of the Board duly publish a notice of this hearing in the official newspapers of the County at least five days prior to the scheduled hearing date.

Dated: July 9, 2013



John Salka, Chairman
Public Health Services Committee

COUNTY OF MADISON
LOCAL LAW NO. 4 - 2013

**A LOCAL LAW AMENDING LOCAL LAW NO.4 OF 2012
PROHIBITING THE USE OF TOBACCO UPON REAL PROPERTY OWNED OR LEASED
BY MADISON COUNTY**

Be it enacted by the Madison County Board of Supervisors as follows:

Section 1: Title: This law shall be known as the "Local Law Prohibiting Use of Tobacco Upon Real Property Owned or Leased by Madison County."

Section 2: Declaration of Intent:

The Board of Supervisors of the County of Madison finds that tobacco use 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 second hand tobacco smoke and tobacco residue;
- (B) Acknowledge the need of non-smokers, 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 tobacco residue while on real property owned or leased by the County.
- (E) Encourage the cessation of tobacco 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" or "tobacco use" shall mean the burning of a lighted cigar, cigarette, pipe, or any other matter or substance which contains tobacco, and chewing, holding in the mouth and/or expectorating of chewing tobacco, or any other matter or substance which contains tobacco.

Section 4: Prohibition

Tobacco use shall be prohibited upon all real property owned or leased by the County of Madison, 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 Madison.
- (B) Roadways and rights of ways located within the County road system established under Section 115 of the New York State Highway Law.
- (C) Madison County Parks
- (D) Madison County Forest Lands
- (E) Designated area located in NE secure area of the Madison County Public Safety Building

Section 6: Posting of Signs

"TOBACCO USE IS PROHIBITED", or "NO TOBACCO" 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 use shall be unlawful in any area where tobacco 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 purposes of this Local Law the term "enforcement officer" shall mean the Madison 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 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. 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 the appropriate enforcement officer.
- (D) The decision of the hearing officer shall be reviewable pursuant to Article 78 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) Madison County Policy entitled "No Smoking or Tobacco Use in the Workplace" adopted in April 1990 and subsequently modified thereafter 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 position 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 immediately upon filing with the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

RESOLUTION NO. 201-13

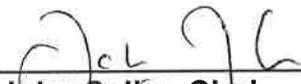
ADOPTING LOCAL LAW NO. 4 FOR THE YEAR 2013

WHEREAS, there has been duly introduced Local Law No. 4 for the year 2013 entitled "A LOCAL LAW AMENDING LOCAL LAW NO. 4 OF 2012 PROHIBITING THE USE OF TOBACCO UPON REAL PROPERTY OWNED OR LEASED BY MADISON COUNTY"; and

WHEREAS, a public hearing on said local law was duly held by the Board of Supervisors of the County of Madison on August 13, 2013;

NOW, THEREFORE BE IT RESOLVED, that Local Law No.4 for the year 2013 be and the same is hereby adopted.

Dated: August 13, 2013



John Salka, Chairman
Public Health Services Committee