



STATE OF NEW YORK  
DEPARTMENT OF STATE  
ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001

ANDREW M. CUOMO  
GOVERNOR

CESAR A. PERALES  
SECRETARY OF STATE

August 19, 2013

Madison County Board of Supervisors  
138 N Court St  
PO Box 635  
Wampsville NY 13163

**RE: County of Madison, Local Law #5 & #6. 2013, filed on 8/16/13**

Dear Sir/Madam:

The above referenced material was received and filed by this office as indicated. Additional local law filing forms can be obtained from our website, [www.dos.state.ny.us](http://www.dos.state.ny.us).

Sincerely,  
Linda Lasch  
Principal Clerk  
State Records and Law Bureau  
(518) 474-2755

# 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 Madison \_\_\_\_\_

Local Law No. 5 of the year 2013

A local law Amending Local Law No. 4 of 2012 Prohibiting the Use of Tobacco Upon Real Property  
*(Insert Title)*  
Owned or Leased by Madison County.

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

County    City    Town    Village

*(Select one:)*

of Madison \_\_\_\_\_ as follows:

See Attached Pages

COUNTY OF MADISON  
2013 – LOCAL LAW

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.

(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. 5 of 2013 of the (County)(City)(Town)(Village) of Madison was duly passed by the Board of Supervisors on August 13, 2013, 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 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.

**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 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.

\* 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 \_\_\_\_\_<sup>1</sup> above.

*Candy Hart, Clerk*

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

Date:

*August 14, 2013*

(Seal)