

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 Guilford

Local Law No. 3 of the year 20 15

A local law Tobacco Use and Smoking in Specified Outdoor Areas
(Insert Title)
in the Town of Guilford

Be it enacted by the Guilford Town Board of the
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Guilford as follows:

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

(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. 3 of 2015 of the ~~(County)(City)(Town)(Village)~~ of Guilford was duly passed by the Guilford Town Board on Sept. 9 2015, 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.)

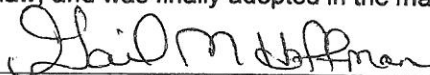
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified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

(Seal)

Date: September 23, 2015

LOCAL LAW #1 of 2015

Tobacco Use and Smoking in Specified Outdoor Areas in the Town of Guilford

The Town Board of the Town of Guilford hereby finds and declares as follows:

Tobacco use causes death and disease and continues to be an urgent public health challenge, as evidenced by the following:

- Tobacco-related illness is the leading cause of preventable death in the United States, accounting for about 443,000 deaths each year;
- In New York State there are 25,500 deaths every year from causes attributable to smoking; and
- Tobacco use can cause chronic lung disease, coronary heart disease, and stroke, in addition to cancer of the lungs, larynx, esophagus, and mouth;

Secondhand smoke has been repeatedly identified as a health hazard, as evidenced by the following:

- The U.S. Surgeon General concluded that there is no risk-free level of exposure to secondhand smoke;
- Secondhand smoke exposure causes as many as 300,000 children in the United States to suffer from lower respiratory tract infections, such as pneumonia and bronchitis, exacerbates childhood asthma, and increases the risk of acute, chronic, middle ear infection in children;
- Secondhand smoke has been designated as a known human carcinogen by the Environmental Protection Agency and the Public Health Service's National Toxicology Report;
- The 2006 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;

Smokeless tobacco is not a safe alternative to smoking and also causes death and disease, as evidenced by the following;

- Smokeless tobacco use causes leukoplakia, a disease causing white patches to form in the user's mouth that can become cancerous;
- Smokeless tobacco products are known to cause lung, larynx, esophageal, and oral cancer; and
- The regular use of snuff doubles the user's risk of cardiovascular disease and death;

Exposure to secondhand smoke anywhere has negative health impacts, and exposure to secondhand smoke occurs at significant levels outdoors, as evidenced by the following:

- Irritation from secondhand smoke begins at levels as low as 4 micrograms per cubic meter, and in some outdoor situations this level can be found as far away as 13 feet from a burning cigarette;
- To be completely free from exposure to secondhand smoke in outdoor places, a person may have to move nearly 25 feet away from the source of the smoke, about the width of a two lane road; and
- A 2006 study by the California Air Resources Board found that at typical outdoor locations, persons may be exposed to tobacco smoke levels as high as indoor secondhand smoke concentrations;

Cigarette butts are a major and persistent source of litter, as evidenced by the following:

- Over two billion cigarette butts are discarded every day worldwide, and Americans alone discard more than 175 million pounds of cigarette butts every year;
- Cigarette filters have been found in the stomachs of fish, birds, and other animals that mistake them for food, thus swallowing harmful plastic and toxic chemicals; and
- Cigarette filters and plastic wraps from cigarette packages are not biodegradable and tobacco-related waste discarded in parks, along sidewalks, and in street gutters makes its way through storm drains into creeks and rivers, leaking dangerous chemicals into our watershed;

Cigarette butts pose a health threat to young children, as evidenced by the following:

- In 2004, American poison control centers received nearly 8,000 reports of children poisoned by the ingestion of cigarettes, cigarette butts, and other tobacco products; and
- Children who ingest cigarette butts can experience vomiting, nausea, lethargy, and gagging;

Children are currently unprotected from tobacco smoke in outdoor areas where they are likely to be present, such as our town's playgrounds;

Each day more than 4,000 youth nationwide try smoking for the first time, and another 2,000 youth become regular daily smokers;

Creating smoke free zones in certain public spaces where children and adults are likely to congregate and/or where persons cannot readily escape from exposure to tobacco smoke will protect the health, safety and welfare of the residents of our community;

NOW THEREFORE, it is the intent of the Guilford Town Board, in enacting this ordinance, to provide for the public health, safety, and welfare by protecting the public and the environment from tobacco-related litter; by discouraging the inherently dangerous behavior of smoking around non-tobacco users, especially children; by protecting the public from exposure to secondhand smoke where people play, exercise, and relax; by reducing the potential for children to wrongly associate tobacco use with

the healthy lifestyle; and by affirming and promoting a healthy environment in and around the Town's recreational areas.

SECTION 2: DEFINITIONS

As used in this Chapter, the following terms shall have the meanings indicated:

- (A) Beach means any outdoor area along the shoreline of Guilford Lake and extending one hundred (100) feet from the shoreline that is owned or operated by the Town or that is open to the general public, regardless of any fee or age requirement.
- (B) Entrances and Exits means the passageways by which persons may enter a building, typically consisting of a door or doorway. For the purposes of this chapter, this includes the stoop, steps, or ramp leading from the sidewalk or pavement to such a door or doorway.
- (C) Person means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity except the Town.
- (D) Playing Field means that portion of an outdoor Recreational Area that is set up and marked in some way for the playing of one or more specific games or sports (such as baseball, football, or soccer), and that is owned or operated by the Town and open to the general public. For the purposes of this chapter, a playing field that is fenced or the outside perimeter of which is otherwise physically demarcated shall be deemed to include all of the area inside such fence or demarcation, together with any bleachers or other designated viewing area; a playing field that is not fenced or otherwise demarcated (as to its outside perimeter) shall be deemed to include all of the area customarily required for playing the game for which it is being used, together with any bleachers or other designated viewing area.
- (E) Recreational Area means any outdoor area that is owned or operated by the Town and open to the general public for recreational purposes, regardless of any fee or age requirement. The term "Recreational Area" includes but is not limited to Playing Fields, playgrounds, parks, picnic areas, golf courses, walking paths, gardens, hiking trails, bike paths, horseback riding trails, swimming pools, roller- and ice-skating rinks, skateboard parks, and amusement parks. The term "Recreational Area" is not intended to include streets and sidewalks unless they are located within a demarcated Recreational Area such as a park.
- (F) 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.
- (G) 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 purpose.

SECTION 3: PROHIBITION OF TOBACCO PRODUCT USE IN OUTDOOR AREAS AND COMMON AREAS OF MULTI-UNIT HOUSING

- (A) The use of Tobacco Products is prohibited in all of the following places within the Town:
 - a. Beaches;
 - b. Recreational Areas;
 - c. All outdoor areas of property owned or leased by the Town for official government use.
- (B) Smoking is further prohibited in the following places within the Town:
 - a. Within 20 feet of Entrances and Exits to buildings within which smoking is prohibited by Article 13-E of the New York Public Health Law;
- (C) Smoking is further prohibited in all vehicles owned by the Town.
- (D) The prohibitions in Section 3(B) shall not apply to outdoor areas of private residential properties that are not Multi-Unit Common Areas.
- (E) Nothing in this Chapter prohibits any Person with legal control over any property from prohibiting Smoking and Tobacco Product use on any part of such property, even if Smoking or the use of Tobacco Products is not otherwise prohibited in that area.

SECTION 4: OTHER REQUIREMENTS AND PROHIBITIONS

- (A) No ash can, ashtray, or other smoking waste receptacle shall be placed in any area in which smoking is prohibited by this Chapter.
- (B) No person shall permit smoking or the use of Tobacco Products in an area under the Person's control in which Smoking or the use of Tobacco Products is prohibited by this Chapter;
- (C) The Town of Guilford shall issue requirements about the content and placement of signage advising the public of the restriction of Tobacco Products usage and/or Smoking in the designated areas.
- (D) The presence of Smoking waste receptacles in violation of subsection (A) above and the absence of signs required by subsection (C) above shall not be a defense to a violation of any provision of this Chapter.
- (E) No Person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this Chapter or reports or attempts to report a violation of this Chapter.

SECTION 5: PENALTIES AND ENFORCEMENT

- (A) The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

- (B) Each instance of Smoking or Tobacco Products use in violation of this Chapter shall constitute a separate violation. For violations other than Smoking or Tobacco Product use, each day of a continuing violation of this Chapter shall constitute a separate violation.
- (C) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Chapter shall also constitute a violation of this Chapter.
- (D) Each violation of this Chapter constitutes an infraction subject to a one hundred dollar (\$100) fine.
- (E) Enforcement of this Chapter shall be the responsibility of the Town Supervisor. Complaints will be in writing and filed with the Town Clerk. In addition, any peace officer or code enforcement official may enforce this Chapter.
- (F) Any violation of this Chapter is hereby declared to be a nuisance.
- (G) In addition to other remedies provided by this Chapter or by other law, any violation of this Chapter may be remedied by a civil action brought by the Town's Attorney, including, but not limited to, administrative or judicial nuisance abatement proceedings, code enforcement proceedings, and suits for injunctive relief.
- (H) Nothing in this Chapter shall create a right of action in any Person against the Town or its agents to compel public enforcement of this Chapter against private parties.
- (I) Any Person may bring a civil action to enjoin a violation of this Chapter by a business or to enjoin repeat violations of this Chapter by an individual.

SECTION 6: STATUTORY CONSTRUCTION & SEVERABILITY

The provisions of this Chapter are declared to be severable, and if any section of this Chapter is held to be invalid, such invalidity shall not affect the other provisions of this Chapter than can be given effect without the invalidated provision.

SECTION 7: EFFECTIVE DATE

The effective date of this ordinance shall be sixty (60) days from the date of its enactment.