

LOCAL LAW NO. 4-13  
CHAUTAUQUA COUNTY  
(Print 2)

A LOCAL LAW PROHIBITING THE USE OF TOBACCO, TOBACCO PRODUCTS,  
ELECTRONIC CIGARETTES, AND HERBAL CIGARETTES ON ALL REAL PROPERTY  
OWNED OR LEASED BY THE COUNTY OF CHAUTAUQUA

BE IT ENACTED, by the County Legislature of the County of Chautauqua, New York,  
as follows:

Section 1. Purpose.

The use of tobacco, tobacco products, electronic cigarettes, and herbal cigarettes on real property owned or leased by the County of Chautauqua is prohibited in order to:

- a. protect the public health, safety and general welfare by eliminating exposure to secondhand smoke;
- b. acknowledge the need of non-smokers, especially children, to breathe smoke-free air, and eliminate the danger to public health which secondhand smoke causes;
- c. recognize that the need to breathe air free of disease-causing toxins in secondhand smoke and chemicals emitted from electronic cigarettes and herbal cigarettes should have priority over the desire and convenience of smoking on real property owned or leased by the County of Chautauqua;
- d. recognize the right and benefit to County residents and visitors to be free from unwelcome toxins and residue from tobacco, tobacco products, electronic cigarettes, and herbal cigarettes while on real property owned or leased by the County of Chautauqua;
- e. combat the chemically addictive effects of tobacco, tobacco products, electronic cigarettes, and herbal cigarettes upon the public in an effort to improve public wellness and reduce health insurance expenditures; and
- f. protect County residents and visitors from the unregulated and unknown effects of electronic cigarettes and herbal cigarettes.

Section 2. Definitions.

- a. Real property – all real property owned or leased by the County of Chautauqua, including real estate, lands and any structures, buildings or facilities located upon said real estate and lands. The term real property shall not include roadways within the County road system established under section 115 of the New York State Highway Law, and shall not include County park and forest lands, except inside roofed structures and within 100 feet of such structures on such park and forest lands.
- b. Tobacco and tobacco products – broad terms that include products containing tobacco such as cigarettes, cigars, pipes, chewing tobacco, snuff, and/or any other substance capable of being burned, ingested and inhaled.
- c. Electronic Cigarettes – an electronic cigarette is an electronic device that converts nicotine liquid into water vapor, and includes e-cigarettes, e-cigars, e-pipes or any other similar device.

d. Herbal Cigarettes (also called tobacco-free cigarettes or nicotine-free cigarettes) – any product made primarily of an herb or combination of herbs, and intended to be smoked in any of the methods that tobacco is smoked, including, but not limited to, as a cigarette, cigar, or pipe filler.

e. Enforcement Officer – the County of Chautauqua Board of Health or its designee.

### Section 3. Policy.

The use of tobacco, tobacco products, electronic cigarettes, and herbal cigarettes shall be prohibited on all real property owned or leased by the County of Chautauqua.

### Section 4. Posting of Signs.

Signs informing the public of the conduct prohibited by this Local Law shall be prominently and conspicuously displayed and posted at the entrance to all real property where use of tobacco, tobacco products, electronic cigarettes, and herbal cigarettes is regulated by this Local Law. Signs shall be protected from tampering, damage, removal or concealment.

### Section 5. Enforcement.

a. The County of Chautauqua Board of Health is designated the enforcement officer to ensure compliance with this Local Law. The enforcement officer may issue and serve upon the person complained against a written notice, together with a copy of the complaint made against him or her, 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 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 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 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.

e. 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 use tobacco, tobacco products, electronic cigarettes, and herbal cigarettes as defined in this Local Law, on any real property owned or leased by the County of Chautauqua.

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 two thousand dollars (\$2,000.00).

Section 7. Other Applicable Laws.

This Local Law shall not be interpreted or construed to permit the use of tobacco, tobacco products, electronic cigarettes, and herbal cigarettes where 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.

This local law shall become effective November 21, 2013.

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