

LOCAL LAW NO. "A" FOR 2017

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK PROHIBITING THE USE OF CIGARETTES, TOBACCO PRODUCTS, LIQUID NICOTINE OR ELECTRONIC CIGARETTES IN PARKS OR RECREATIONAL AREAS OWNED AND OPERATED BY ALBANY COUNTY

Introduced: 2/13/17

By Messrs. Miller, Ward, Commisso, A. Joyce, Mss. McLean Lane, Cunningham, Messrs. Mayo, Higgins, Ms. Lekakis, Messrs. Simpson, Domalewicz, Touchette, Bullock Ms. Willingham, Messrs. R. Joyce, Reinhardt, Feeney, O'Brien, Mss. McKnight, Chapman, Messrs. Smith, Beston, Duncan, Clay, Clenahan, Fein, Mauriello, Drake, Ethier and Signoracci:

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

SECTION 1.

This Legislature finds that cigarettes, tobacco products, liquid nicotine and electronic cigarettes contain nicotine and various carcinogens and toxic chemicals which present a public health risk to residents of Albany County.

This Legislature also finds that due to the health risks associated with such products, the sale and use of such products has previously been restricted throughout the County due to public health and public policy concerns.

Therefore, consistent with the intent of the previous restrictions placed upon the sale and use of such products, it is the purpose of this Local Law to prohibit the use of such products in all County-owned parks and recreation areas.

SECTION 2.

"Electronic Aerosol Delivery System" means an electronic device that, when activated, produces an aerosol that may be inhaled. Electronic Aerosol Delivery System includes any component, part but not accessory, and any liquid or other substance to be aerosolized, whether or not separately sold. Electronic Aerosol Delivery System does not include Prescription drug devices, or combination products authorized for sale by the state or U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

"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.

“Tobacco Products” means any product made or derived from tobacco or which contains nicotine marketed or sold for human consumption, whether consumption occurs through inhalation, or oral or dermal absorption. Tobacco product does not include drugs, devices, or combination products authorized for sale by the state or U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

SECTION 3.

Smoking and the use of Tobacco Products and Electronic Aerosol Delivery Systems shall be prohibited within all County-owned parks and outdoor recreation areas. For purposes of this section, “County-owned” shall mean all parks or outdoor recreation areas owned and operated by the County of Albany.

SECTION 4.

Signage shall be posted as designated by the Commissioner of the Albany County Department of Health in a conspicuous manner, in accordance with applicable rules and regulations, advising persons about the prohibition on the use of such products and the associated fines for violations.

SECTION 5.

Any person who violates any provision of this article shall be subject to the imposition of a civil penalty by the Commissioner of the Albany County Department of Health of \$50.00 for the first violation, and a minimum of \$200.00, but not to exceed \$500.00 for each subsequent violation.

For purposes of enforcing the ban on the use of such products in County-owned areas, all law enforcement agencies having jurisdiction shall be empowered to issue citations in relation to this Local Law.

SECTION 6.

If any clause, sentence, paragraph, section, subdivision or other part of this Local Law or its applications shall be adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or otherwise invalidate the remainder of this Local Law which shall remain in full force and effect except as limited by such order or judgment.

SECTION 7.

This law shall be null and void on the day that Statewide or Federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal Administrative

Agency issues and promulgates regulations preempting such action by the County of Albany. The County Legislature may determine via mere resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions in this section.

SECTION 8.

This County Legislature determines that the adoption of this Local Law constitutes a "Type II action" as said term is defined in the State Environmental Quality Review Act ("SEQRA"), and that no further action with respect to same is required under SEQRA.

SECTION 9.

This Local Law shall be effective 30 days after filing with the Office of the Secretary of State.

Referred to Law and Health Committees – 2/13/17

Favorable Recommendation Law Committee – 4/24/17

Favorable Recommendation Health Committee – 4/26/17