

(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.

of ..... VESTAL, NEW YORK .....  
Town  
Local Law No. \_\_\_\_\_ 4 \_\_\_\_\_ of the year 2017  
LOCAL LAW “\_4\_” OF THE YEAR 2017

A Local law “A local law to prohibit Smoking in all Town Parks”

(Insert Title)

Be it enacted by the ..... TOWN BOARD ..... of the  
(Name of Legislative Body)

Town of ..... VESTAL ..... as follows:

Section 1.

A local law to add Chapter 16 Section 43 to the Code of the Town of Vestal “Prohibiting Smoking in any Town Park”

Section 2.

**WHEREAS**, the Surgeon General of the United States has declared:

- that there is no safe level of secondhand smoke
- Persons who already have heart disease and respiratory conditions are at an especially high risk of suffering adverse effects from breathing secondhand smoke, and should take *special precautions* to avoid even brief exposure;
- Children exposed to secondhand smoke are more likely to have reduced lung function such as Asthma and symptoms of respiratory irritation, like coughing, excess phlegm and wheezing and suffer from Sudden Infant Death Syndrome (SIDS); and

**WHEREAS**, the U.S. Environmental Protection Agency has classified secondhand smoke as a Class A Carcinogen, placing it in the same category as radon, benzene, and asbestos; and

**WHEREAS**, in 2004, American Poison Control Centers received nearly 8,000 reports of children poisoned by ingesting cigarette butts, and children who ingest cigarette butts can experience vomiting, nausea, lethargy, and gagging.

**WHEREAS**, cigarette butts take approximately 15 years to decompose; and are the most littered item in the United States and the world.

**WHEREAS**, The Town of Vestal finds that it is in the public interest to role model non-smoking behavior to children and youth; to provide children and their families with a safe, tobacco-free environment; and

**WHEREAS**, the Town of Vestal believes that it is in the public interest and more specifically the health and welfare interests of children and adolescents to prohibit the use of tobacco products within public places where citizens are likely to congregate, gather, play and/or engage in athletic competitions; and

**WHEREAS**, the Town of Vestal has determined that public parks, playgrounds, ball fields, publicly owned or leased swimming pools and all other recreational areas leased or owned by the town are public places where children congregate, gather, play and/or engage in athletic competitions; and

**WHEREAS**, it is the intent of the Town of Vestal to prohibit the use of tobacco products within public parks, playgrounds, athletic fields, spectator areas, publicly owned or leased swimming pools and all other recreational areas leased or owned by the town; and

**WHEREAS**, it is the intent of the Town of Vestal to refer to these areas as “Tobacco-Free Zones”; and will, therefore, have appropriate, permanent posting of signs; and

**WHEREAS**, the Town of Vestal Council seeks to provide a legal means for official intervention to discourage the use of tobacco products by our youth; and protect the health of our citizens.

NOW THEREFORE, BE IT ORDAINED by the Town Board of the Town of Vestal, Broome County, New York, as follows:

### Section 3.

#### **1. Prohibition Against the use of Tobacco Products**

Use of tobacco products within all publicly owned or leased swimming pools and pool grounds, public parks, playgrounds, ball fields, spectator areas and all other recreational areas leased or owned by the town shall be prohibited within the Town of Vestal, except in any specifically designated “Smoking Area” the location of said area to be determined in accordance with the purposes of this local law.

#### **2. Definitions**

- a) Publicly owned or leased swimming pools and pool grounds, public parks, playgrounds, ball fields, and all other recreational areas leased or owned by the town shall mean any place or area within the Town upon which the public is invited or upon which the public is permitted and where children gather for recreational activities.
- b) Tobacco is defined as all tobacco and tobacco-derived products intended for human consumption, including but not limited to, cigarettes, electronic nicotine delivery systems, cigars, hookah-smoked products, clove cigarettes, bidis, kreteks, smokeless tobacco and snus. This definition does not include any product that has been approved by the U.S. Food and Drug Administration for sale as tobacco use cessation product.

#### **3. Penalties**

Any person who has been found to have violated this Ordinance shall be subject to the following:

- a) For an offense by any, a fine of no less than fifty dollars (\$50) and a maximum of \$1,000 per offense will be issued
- b) Or at the judge’s discretion, the judge may suspend the fine in lieu of attendance by the offender, at his or her own expense, in a smoking cessation program recommended by the local health department including the dangers of smoking, tobacco use and secondhand smoke.

#### **4. Signage**

The town will attach permanent signage indicating “Tobacco-Free Zone” at all such publicly owned or leased playgrounds, athletic fields and spectator areas, swimming pools and pool grounds, and all other public parks and recreation areas leased or owned by the town.

Section 4

**I. REPEAL OF CONFLICTING ORDINANCES**

Any Ordinances of the Town which are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**II. SEVERABILITY**

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereof shall not affect the remaining parts of this Ordinance.

**III. ENFORCEMENT PROVISION**

This Ordinance shall be enforced by the police force and his/her designee. Any citizen may initiate enforcement by registering a complaint with the Police Department or Health Department.

Any citizen may inform any person perceived to be violating this Ordinance of the provisions of this ordinance.

**IV. EFFECTIVE DATE**

This Ordinance shall take effect upon final adoption and publication in accordance with the law.

**Date of Publication: February 15, 2017**  
**Date of Posting: February 15, 2017**  
**Date of Public Hearing: March 8, 2017**  
**Date of Adoption of Local Law: March 8, 2017**  
**Date Local Law Effective:**

(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 4 of the (County)(City)(Town)(Village) of was duly passed by the Town of Vestal Board on March 8, 2017 in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or re-passage 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 (County) (City) (Town) (Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved) (not approved) (repassed after disapproval) by the (Elective Chief Executive Officer\*), 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 \_\_\_\_\_ (Name of Legislative Body) on \_\_\_\_\_ 20\_\_, and was (approved)(not approved) (re-passed after disapproval) by the (Elective Chief Executive Officer\*) 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) \_\_\_\_\_ was duly passed by the (Name of Legislative Body) on \_\_\_\_\_ 20\_\_, and was (approved)(not approved) (re-passed after disapproval) by the (Elective Chief Executive Officer\*) 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.

**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.

\* 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.

**(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 there from and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph, \_\_1\_\_ above.

(Seal)

*Emil J. Biellecki*

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

Date: 3/17/17