

C.

LOCAL LAW NO. 10 - 2009

**A LOCAL LAW PROHIBITING SMOKING WITHIN 100 FEET OF THE PERIMETER OF  
PROPERTY OPERATING AS A GENERAL HOSPITAL**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ONONDAGA,  
AS FOLLOWS:**

**Section 1.** This Legislature hereby finds and determines that tobacco use is one of the leading causes of death and that exposure to second hand smoke is detrimental to human health. While Article 13E of the New York State Public Health law prohibits smoking in all general hospitals, the law does not prohibit smoking in the area surrounding hospitals, oftentimes requiring the sick and infirm to traverse areas in which smokers congregate when entering or exiting hospital property. The New York State Clean Indoor Air Act provides at Section 1399-r that municipalities are not restricted from adopting additional legislation that complies with at least the minimum applicable state standards, and this Legislature deems it necessary to further protect the public from exposure to second hand smoke by prohibiting smoking in areas surrounding general hospitals, where those who are suffering from health problems and are among our most vulnerable citizens, would be, but for this legislation, forced to encounter second hand smoke.

**Section 2.** No person shall smoke in any area open to the public that is within one hundred feet of the perimeter of the building or the property on which a general hospital is located, as that term is defined in New York State Public Health Law §2801(10), provided that any such general hospital has voluntarily elected to post a sign at either its building or property line perimeter, at its election, notifying the public that smoking is prohibited, within 100 feet of such sign. Such sign shall be at least a minimum of a 2' x2' in size, contain the International No Smoking symbol, and state that smoking is prohibited as provided for herein. Hospitals may erect signage that exceeds these minimum standards based on individual circumstances and judgment. Such signs shall be placed at regular intervals and shall contain lettering sufficient in size to be visible and legible to persons standing within 100 feet of said sign so as to afford reasonable notice to the public regarding the area in which smoking is prohibited. For purposes of this Local Law "area open to the public" shall mean any public street, sidewalk, parking lot, or parking facility. Nothing contained herein shall be deemed to constitute a regulation or standard for a general hospital under Public Health Law §2812 or to regulate state owned buildings and grounds. Nothing contained herein shall be construed to prohibit smoking in a private automobile, private home or residence, hotel or motel room rented to guests, retail tobacco business, or in any other location where smoking is otherwise permitted pursuant to federal, state or local law, ordinance or regulation. Any hospital that voluntarily participates in this local law shall, at the inception of a violation, use its best efforts to enforce this local law using hospital personnel.

**Section 3. Violation.** It shall be unlawful for any person to smoke in any area where smoking is prohibited under this local law and violation of this local law shall constitute an offense.

**Section 4. Penalty.** Any person who violates any term or provision of this local law shall be liable for a civil penalty not to exceed \$50.00 for every such violation.

**Section 5. Limitation of causes of action.** No person who complies or fails to comply with the provisions of this local law shall be subject to any legal liability or action solely as a result of such compliance or noncompliance, except as specifically provided for herein. Nothing in any other section of

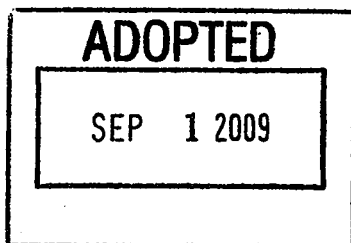
this local law shall be construed to create, impair, alter, limit, modify, enlarge, abrogate or restrict any theory of liability upon which any person may be held liable to any other person for exposure to smoke.

Section 6. Reverse Preemption. 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 Onondaga. The Onondaga County Legislature may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

Section 7. Severability. If any clause, sentence, paragraph, or section of this local law shall be held invalid by any court of competent jurisdiction, or the application of this local law to any person or set of circumstances shall be held invalid, such invalidity or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or operation of this local law directly involved in the controversy in which the judgment shall have been rendered. To further this end, the provisions of this local law are hereby declared to be severable.

Section 8. Effective Date. This local law shall take effect November 1, 2009 and shall be filed pursuant to the provisions of the New York State Municipal Home Rule Law.

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I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF LEGISLATION DULY ADOPTED BY THE COUNTY LEGISLATURE OF ONONDAGA COUNTY ON THE

15<sup>th</sup> DAY OF September, 2009.

*Deborah A. Maturo*

CLERK, COUNTY LEGISLATURE  
ONONDAGA COUNTY, NEW YORK

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ONONDAGA COUNTY  
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