

STRICKEN AS OF 3/3/2021

Intro. Res. No. 1015-2020
Introduced by Legislators Gonzalez and Richberg

Laid on Table 1/2/2020

**RESOLUTION NO. -2020, ADOPTING LOCAL LAW
NO. -2020, A LOCAL LAW TO PROHIBIT SMOKING WITHIN
MULTIPLE DWELLING UNITS**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on January 2, 2020, a proposed local law entitled, "**LOCAL LAW TO PROHIBIT SMOKING WITHIN MULTIPLE DWELLING UNITS**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2020, SUFFOLK COUNTY, NEW YORK

**LOCAL LAW TO PROHIBIT SMOKING WITHIN MULTIPLE
DWELLING UNITS**

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that Suffolk County is dedicated to protecting the health, safety, and welfare of its residents.

This Legislature also finds and determines that breathing in second hand smoke has harmful effects, including, but not limited to, cancer and lung disease.

This Legislature further finds and determines that secondhand smoke travels through lighting fixtures, cracks in walls, around plumbing, under doors, and in shared heating and ventilation.

This Legislature finds that people who choose to smoke in their individual units inadvertently spread second-hand smoke from their unit to other units within the building, even when they take measures to prevent the spread of smoke.

This Legislature determines that individuals in Suffolk County should have the right to live in their own homes without breathing in second hand smoke from sources they cannot control.

This Legislature also finds that other jurisdictions in the nation have completely eliminated the ability to smoke anywhere within a multiple dwelling unit in order to limit the number of individuals exposed to the adverse effects of second-hand smoke, including 63 different regions in California such as: Beverly Hills, Pasadena, Laguna Beach, Sonoma County, and Santa Clara County.

This Legislature further finds that Suffolk County previously restricted a person's ability to smoke in and around multiple dwelling buildings through enacting Local Law No. 37-2015 and Local Law No. 34-2016, codified in Chapter 754 of the SUFFOLK COUNTY CODE.

This Legislature also determines that in order to fully protect residents of multiple dwelling units from breathing in second hand smoke and the negative health impacts associated therewith, Suffolk County should amend Chapter 754 of the SUFFOLK COUNTY CODE to prohibit all smoking in a multiple dwelling building.

Therefore, the purpose of this law is to amend Chapter 754 of the SUFFOLK COUNTY CODE to prohibit smoking in multiple dwelling buildings.

Section 2. Amendments.

Chapter 754 of the SUFFOLK COUNTY CODE is hereby amended as follows:

CHAPTER 754. SMOKING

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§ 754-2. Definitions.

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MULTIPLE-DWELLING BUILDING - Any property containing [10 or more] 4 or more attached dwelling units, including, but not limited to, apartment buildings, condominium complexes, senior and assisted-living facilities, other home owners' associations governing attached residences, and long-term health-care facilities.

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§ 754-3. Limitations and restrictions.

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U. Smoking is prohibited in multiple-dwelling buildings, indoor common areas of multiple-dwelling buildings, the portion of outdoor common areas containing recreational facilities and structures, including, but not limited to, pools, gazebos, tennis courts, basketball courts, mail areas, clubhouses, gyms, playgrounds, and outdoor common areas from the building or structure edge to [within] 50 feet [of a] from the multiple-dwelling building's building or structure. The owner(s) and/or manager(s) of a multiple-dwelling building shall be required to do the following in furtherance of this paragraph:

1. The owner(s) and/or manager(s) of a multiple-dwelling building shall establish a designated smoking area for residents to use in compliance with this law, when feasible. The owner(s) and/or manager(s) shall provide receptacles for discarded cigarette fragments within the established smoking area, where applicable.
2. The owner(s) and/or manager(s) of a multiple dwelling building shall post signs in conspicuous areas on the exterior of any multiple dwelling building, in interior common hallways of a multiple dwelling building, where applicable, and at the front entrance of the building. Such signs shall conform to the regulations set forth in §754-5 of this chapter, shall note the location of the designated smoking area, where

applicable, and will provide contact information for the Department of Health Services' Smoking Cessation Program.

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§ 754-6. Penalties for offenses.

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D. Violations related to smoking in multiple dwelling buildings.

1. Upon receipt of an initial complaint, the owner(s) and/or manager(s) of a multiple dwelling building shall address the complaint in the same manner as he or she would for a quality of life complaint made against a resident.

2. If the owner(s) and/or manager(s) is unable to resolve the issue and/or the prohibited smoking continues, he or she shall submit a formal complaint to the Department of Health Services ("the Department"). Individuals may also submit complaints alleging violations of this law to the Department independent of any building owner(s) and/or manager(s). Thereafter, the Department shall serve upon such person, either personally or by certified mail, an official warning notice that contains a brief description of the violation and information on smoking cessation.

3. Upon receipt of a violation of this law by an individual who previously received a written warning, the Department shall serve upon such person, either personally or by certified mail, an official Notice of Violation and Hearing ("NOV"). Such NOV shall contain a concise statement of the facts constituting the alleged violation or violations, as well as the date, time, and place the hearing will be held. The NOV shall state the fine of \$250 per day for each day the violation(s) occurred or continues, as established in paragraph (A) of this section. The person against whom the charges are pending has the right to be heard in his or her defense and to be represented by counsel or have counsel appear on his or her behalf, and such person or the attorney for such person shall have the right to call witnesses and produce evidence on behalf of such person. The owner(s) and/or manager(s) of the multiple dwelling building where the individual receiving the NOV resides shall be provided a copy of the NOV by the Department and may appear and testify during the hearing.

4. The remedies set forth in paragraph (D) of this section are in addition to any remedies the owner(s) and/or manager(s) may have pursuant to any lease or other governing documents of the community.

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Section 3. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or

circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(26) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as routine or continuing administration and management not including new programs or major reordering of priorities that may affect the environment. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 6. Effective Date.

This law shall take effect on January 1, 2021.

[] Brackets denote deletion of existing language
___ Underlining denotes addition of new language

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: