

# *Local Law Filing*

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**(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.

County    City    Town    Village  
(select one)

**of Montgomery**

**Local Law No. 4 of the year 2021**

**A LOCAL LAW PROHIBITING SMOKING ON CERTAIN TOWN PROPERTIES**

**Be it enacted by the Town Board of the Town of Montgomery as follows:**

See attached.

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**(If additional space is needed, attach pages the same size as this sheet, and number each.)**

**TOWN OF MONTGOMERY**

**LOCAL LAW NO. 4 OF 2021**

**A LOCAL LAW PROHIBITING SMOKING ON CERTAIN TOWN PROPERTIES**

Be it enacted by the Town Board of the Town of Montgomery, County of Orange, State of New York as follows:

**Section 1. Purpose and Intent.**

The primary purpose of this local law is to reduce the proximate exposure of the public, especially children, to the hazards and annoyance of secondhand tobacco, cannabis and e-cigarette smoke or vapors. This legislation is intended to protect the health, safety and welfare of the public by reducing exposure and contamination from cannabis and tobacco use and vaping in public places where young persons and children are likely to be present.

**Section 2. Definitions.**

As used in this law, the following terms shall have the meanings as indicated below:

CHILDREN means persons under the age of 18 years.

E-CIGARETTE or VAPE means any electronic device composed of a mouthpiece, heating element, battery and/or other electronic circuit that provides a vapor of liquid nicotine, cannabis product and/or other substance that is sometimes mixed with propylene glycol by the user as they simulate smoking. This term shall include all such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes, vapes or under any other product name.

CANNABIS or CANNABIS-RELATED PRODUCT means any product containing marijuana, THC or CBD in any form or as the term is defined by Chapter 7-A of the New York State Consolidated Laws or the New York State Cannabis Law.

PARK means any outdoor recreation area, playground, playing field, pavilion or open-space that has been designated for recreational purposes or activities. All parking areas and lots within such parks shall be included for purposes of this local law.

PAVILION means a structure that is at least partially unenclosed and that is intended for public use.

PLAYGROUND means an outdoor recreation area that is designed and intended for use by children and for the purposes of this chapter, a playground that is fenced or otherwise physically demarcated shall be deemed to include all of the area inside such fence or demarcation; a playground that is not fenced or otherwise demarcated shall be deemed to include all open space that is associated with or adjacent to it.

PLAYING FIELD means that portion of an outdoor recreation area that is set up and marked in some way for the playing of one or more specific games and/or sports and for the purposes of this local law, a playing field that is fenced or the outside perimeter of which is otherwise

physically demarcated shall be deemed to include all of the area inside such fence or demarcation, together with any bleachers or other designated viewing area; a playing field that is not fenced or otherwise demarcated (as to its outside perimeter) shall be deemed to include all of the area customarily required for playing the game or sport for which it is being used, together with any bleacher and other designated viewing area.

SMOKE means the emission produced by the burning of a tobacco product or tobacco-related product, cannabis product or cannabis-related product or the heating of an e-cigarette which creates a vapor.

SMOKING means the burning of a tobacco or cannabis product or related product or the heating or ignition of an e-cigarette which creates a vapor.

TOBACCO or TOBACCO-RELATED PRODUCT means any manufactured product containing tobacco or nicotine, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, snus, shisha, powered and/or dissolvable tobacco products, liquid nicotine and electronic cigarette cartridges, whether packaged or not; any packaging that indicates it might contain any substance containing tobacco or nicotine; or any object utilized for the purpose of smoking or inhaling tobacco or nicotine products.

### **Section 3. Outdoor smoking prohibited in certain public places.**

1. Smoking and/or use of any cannabis or cannabis-related product, tobacco or tobacco-related product or any e-cigarette shall not be permitted, and no person shall smoke and/or use any cannabis or cannabis-related product, tobacco or tobacco-related product, vape or ignite an e-cigarette in the following outdoor areas:

All Town of Montgomery Parks, including Benedict Farm Park, Berea Park, Rail Trail Park, Riverfront Park and Twin Islands Fishing Park. This shall include all sections of the aforementioned parks, including, but not limited to, any Pavilion, Playground and/or Playing Field.

2. Any licensee or permit holder for an outdoor recreation area, Park, Pavilion, Playground and/or Playing Field shall be required to inform members of the public of applicable restrictions on smoking or use of the products listed in the preceding paragraph.

### **Section 4. Penalties for offenses.**

Any person found to be in violation of any provision of this local law by smoking or using tobacco or a tobacco-related product in an area where outdoor smoking is hereby prohibited shall be guilty, upon conviction, of an offense punishable by a fine of not less than \$50.00 for the first violation; not more than \$100.00 for a second violation; and not more than \$250.00 for the third and each subsequent violation. Each event on any single day or each day on which a violation occurs shall be considered a separate and distinct violation.

### **Section 5. Severability.**

The provisions of this local law are declared severable, and if any section or subsection of this local law is held to be invalid, such invalidity shall not affect the other provisions of this local

law that can be given effect without the invalidated provision.

**Section 6. Repeal.**

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

**Section 7. Effective Date.**

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

(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 No. 4 of 2021 of the (County)(City)(Town)(Village) of Montgomery was duly passed by the Town Board of the Town of Montgomery on July 15, 2021, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage 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 the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_ in accordance with the applicable provisions of law.

(Name of Legislative body)

(Elective Chief Executive Officer\*)

**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 \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.

(Name of Legislative body)

(Elective Chief Executive Officer\*)

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) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.

(Name of Legislative body)

(Elective Chief Executive Officer\*)

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.

\* 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.

**5. (City local law concerning Charter revision proposed by petition.)** \_\_\_\_\_

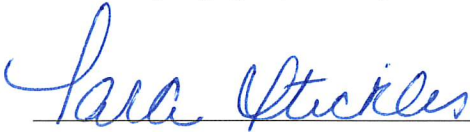
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority 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 \_\_\_\_\_ 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 towns of said county considered as a unit voting at said general election, became operative.

**(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 therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

  
\_\_\_\_\_

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

(Seal)

Date: 7/19/2021