

Local Law Filing

(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** of Ontario _____
- Town**
- Village**

Local Law No. 4 of the year 20 09

A local law AMENDMENT TO LOCAL LAW NO. 1 OF 2009 PROHIBITING THE CONSUMPTION
(Insert Title)
OF ALCOHOLIC BEVERAGES AND/OR ILLEGAL DRUGS BY MINORS
ON PRIVATE PREMISES IN ONTARIO COUNTY

Be it enacted by the Board of Supervisors of the
(Name of Legislative Body)

- County**
- City** of Ontario _____ **as follows:**
- Town**
- Village**

Section 1: Title.

This law shall be known as the "Social Host Law to Prohibit the Consumption of Alcoholic Beverages and/or Illegal Drugs by Minors on Private Premises in Ontario County".

Section 2. Declaration of intent.

The New York State Legislature has acted to proscribe the unlawful giving, selling and possessing of alcoholic beverages and/or illegal drugs in relation to minors. (Penal Law Section 30.00(1)). However, the Legislature has not regulated the situation where a person age sixteen (16) or over knowingly permits the consumption of alcohol by a minor in his or her home, or on premises under his or her control. The purpose of this law is to protect the public interest, welfare, health and safety of our citizens by prohibiting the consumption of alcoholic beverages or illegal drugs by persons under the age of twenty-one (21) at or on private premises located in Ontario County, and to give law enforcement a viable recourse against anyone who permits such conduct.

The underage consumption of alcoholic beverages often leads to behaviors requiring the intervention of local law enforcement, and threatening the well being of the citizenry. This Local Law will serve to limit the availability of alcoholic beverages to minors by holding those persons who permit underage drinking on their property responsible.

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

Section 3. Definitions

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

- A) “Minor” shall mean any person under the age of twenty-one (21).
- B) “Private premises” shall mean any home, apartment, condominium, co-operative unit or other dwelling unit of any kind, including yards, open areas adjacent thereto, vacant land or farmland, and accessory structures.
- C) “Knowingly” shall mean aware of, or having reason to be aware of.
- D) “Alcoholic beverage” shall mean liquor, wine, beer, spirits, cider or other liquid, or solid composed of, or containing alcohol or spirits, whether or not brewed, fermented or distilled, and capable of being consumed by a person, except that confectionary containing alcohol as provided by subdivision twelve of section two hundred (200) of the Agriculture and Markets Law shall not be regarded as an alcoholic beverage within the meaning of this section.
- E) “Illegal drugs” shall mean and includes any substance listed in section 3306 of the Public Health Law and not prescribed by a physician.
- F) “Social gathering” means a party or gathering at a residence or other private premises of two or more persons, at least one of whom is not related by blood to the others in attendance and is a minor.
- G) “Control” means the actual or apparent authority and ability to regulate, direct or dominate private premises, including, but not limited to the control exercised by tenants, lessees, owners and/or landlords who have notice of underage drinking on their premises.

Section 4. Prohibition.

It shall be unlawful for any person age sixteen (16) or over who owns, rents, or otherwise controls private premises, to knowingly host, permit or allow a gathering at which he allows the consumption of alcoholic beverages or illegal drugs by any minor on such premises or fails to take reasonable corrective action upon learning of the possession or consumption of alcoholic beverages or illegal drugs by any minor on such premises. Reasonable corrective action shall include, but not be limited to:

- A. verifying the age of the persons attending the social gathering by inspecting drivers licenses or other government-issued identification cards;

- B. making a prompt demand that such minor either forfeit the alcoholic beverages or illegal drugs and refrain from the consumption of such or depart from the premises;
- C. if such minor does not comply with such request, either promptly reporting such underage consumption of alcohol 1) to the local law enforcement agency or 2) to any other person having a greater degree of authority over the conduct of such minor.

Section 5. Exceptions

The provisions of this section shall not apply to:

- A. The possession or consumption of an alcoholic beverage by persons lawfully permitted to do so pursuant to section 65-c of the Alcohol Beverage Control Law, or any applicable law; or
- B. The possession or consumption of a drug for which the individual has a current, valid prescription or as otherwise permitted by any other applicable law; or
- C. The possession or consumption of alcohol or alcoholic beverages by a minor for legitimate religious purposes.

Section 6. Penalties.

Each offense shall be punishable as follows:

- A. First Offense: Any person who violates Section 4 of this local law shall be punished by a fine of two hundred fifty dollars (\$250), or imprisonment for a period not exceeding fifteen (15) days or a combination of both, where such violation constitutes the person's first offense in violation of this provision. In addition, for each offense, successful completion of a court-approved alcohol and drug awareness program is required. A first offense shall constitute a Violation.
- B. Second Offense: Any person who violates Section 4 of this local law shall be punished by a fine of five hundred dollars (\$500) or imprisonment of sixty (60) days minimum or a combination of such fine and imprisonment as shall be ordered by the court, where such violation constitutes the person's second offense in violation of this provision. In addition, for each offense, successful completion of a court-approved alcohol and drug awareness program is required. A second offense shall constitute an Unclassified Misdemeanor.

- C. Third and Subsequent Offenses: Any person who violates Section 4 of this local law shall be punished by either a fine of one thousand dollars (\$1,000), a term of imprisonment not to exceed one (1) year, or both a fine of one thousand dollars (\$1,000) and a term of imprisonment not to exceed one (1) year, where such violation constitutes the person's third offense in violation of this provision. In addition, for each offense, successful completion of a court-approved alcohol and drug awareness program is required. A third or subsequent offense shall constitute an Unclassified Misdemeanor.

Section 7. Effect on Other Laws.

The provisions of Section 4 of this local law shall not in any way affect the application of any other law, where appropriate, including, but not limited to, Penal Law Section 260.10 (endangering the welfare of a minor) and Section 260.20(2) (unlawfully dealing with a child).

Section 8. Severability.

If any section, subsection, sentence, clause, phrase or other portion of this local law is for any reason declared unconstitutional, or invalid or in whole or in part by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidation shall not affect the validity of the remaining portions of this law which remaining portions shall remain in full force and effect.

Section 9. Effective date.

This local law shall take effect thirty days after filing in the Office of the Secretary Of State pursuant to 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 20 09 of the (County)(~~City~~)(~~Town~~)(~~Village~~) of Ontario was duly passed by the Board of Supervisors on September 17 20 09, 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) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) 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 _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____ (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) (Name of Legislative Body) (repassed after disapproval) by the _____ 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.

* 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 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.

(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.

Karen R DeMay

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

(Seal)

Date: September 21, 2009

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Ontario

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature
County Attorney
Title

County
~~City~~ of Ontario
~~Town~~
~~Village~~

Date: 9/21/09