

COHEN, WARREN, MEYER & GITTER, P.C.

- Memorandum -

TO: Board Members

FROM: Caryn L. Meyer, Esq.

RE: Suffolk County Local Law Regarding Smoking Ban in Common Areas

DATE: March 24, 2016

The Suffolk County Legislature recently approved an amendment to Chapter 754 of the Suffolk County Code on December 7, 2015 which prohibits smoking in common areas of the building. The new law will become effective April 9, 2016. A copy of the Local Law is attached.

Section 754-3 provides that smoking is prohibited in common areas of multiple dwelling buildings and within a fifty-foot radius of all entrances, exits and ventilation intakes to a building.

Common areas is defined as every enclosed or unenclosed area of a multiple dwelling building that residents of more than one unit are entitled to enter or use, including but not limited to, halls, pathways, lobbies, courtyards, elevators, stairs, community rooms, playgrounds, gym facilities, swimming pools, parking garages, parking lots, grassy or landscaped areas, restrooms, laundry rooms, cooking area, eating areas and meeting rooms.

The Board should review its House Rules for consistency with the new law. Please let me know if I can assist the Board in this regard or if you would like to discuss any aspect of the new law.

Intro. Res. No. 1713-2015
Introduced by Legislators Martinez, Spencer and Calarco

Laid on Table 9/9/2015

**RESOLUTION NO. 931 -2015, ADOPTING LOCAL LAW
NO. -2015, A LOCAL LAW TO REGULATE SMOKING
AT MULTIPLE DWELLING BUILDINGS**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on September 9, 2015 a proposed local law entitled, "A LOCAL LAW TO REGULATE SMOKING AT MULTIPLE DWELLING BUILDINGS;" now, therefore be it

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

LOCAL LAW NO. -2015, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO REGULATE SMOKING AT MULTIPLE
DWELLING BUILDINGS

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 the County of Suffolk was one of the first municipalities in the nation to adopt a law restricting smoking in certain indoor areas, including health care facilities, places of public assembly and movie theaters.

This Legislature also finds that pursuant to a 2006 report, the United States Surgeon General has determined that there is no risk-free level of exposure to second hand smoke.

This Legislature further finds that public awareness of the dangerous effects of smoking and second hand smoke, and the enormous costs associated with treating diseases caused by smoking, continues to grow.

This Legislature also finds that the risks of second hand smoke are greatly enhanced for persons living in close proximity to smokers in and around multiple dwelling buildings as secondhand smoke is often involuntarily inhaled by nonsmokers.

Therefore, the purpose of this local law is to regulate smoking in common areas of multiple dwelling buildings and in proximity of entrances and ventilation intake units serving multiple dwelling buildings.

Section 2. Amendment.

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

Chapter 754: Smoking

§ 754-2. Definitions.

BAR or TAVERN

Any indoor area open to the public devoted to the sale and service of alcoholic beverages for on-premises consumption regardless of the quantity of food served to patrons for on-premises consumption.

COMMON AREAS

Every enclosed or unenclosed area of a multiple dwelling building that residents of more than one unit are entitled to enter or use, including but not limited to halls, pathways, lobbies, courtyards, elevators, stairs, community rooms, playgrounds, gym facilities, swimming pools, parking garages, parking lots, grassy or landscaped areas, restrooms, laundry rooms, cooking area, eating areas and meeting rooms.

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MOTION-PICTURE THEATRE

Any theater engaged in the business of exhibiting motion pictures.

MULTIPLE DWELLING BUILDING

Any property containing ten (10) or more dwelling units, including but not limited to, apartment buildings, condominium complexes, senior and assisted living facilities and long-term health care facilities.

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§ 754-3. Limitations and restrictions.

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U. Smoking is prohibited in common areas of multiple dwelling buildings and within a fifty-foot radius of all entrances and exits of such buildings and within fifty-feet of any ventilation intake that serves an enclosed area of a multiple dwelling building.

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Section 3. Applicability.

This law shall apply to 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)(20), (21), and/or (27) 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 a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. 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 will take effect within one hundred and twenty (120) days after its filing in the Office of the Secretary of State.

___ Underlining denotes addition of new language.

DATED: November 17, 2015

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: December 7, 2015