

## LOCAL LAW NO. 1 OF 2002

**A LOCAL LAW REGULATING SMOKING IN ORANGE COUNTY.**

**BE IT ENACTED** by the County Legislature of the County of Orange of the State of New York, as follows:

**SECTION ONE. LEGISLATIVE FINDINGS:** We, the Orange County Legislature, hereby find and determine that the health of the public is seriously threatened by exposure to environmental tobacco smoke (ETS).

This Legislature further finds that primary tobacco use is a major cause of mortality and morbidity, causing an estimated 434,000 deaths in the United States of America each year -more deaths than are caused by the use of all other legal or illegal substances combined. Further, studies have shown that more than an estimated 50,000 deaths annually are attributable to the effects of second hand smoke in the United States.

This Legislature further finds that exposure to ETS can pose substantial health risks to children and is associated with, among other things, increases in the prevalence of childhood respiratory illnesses, increases in the prevalence of fluid in the middle ear of children, and a statistically significant reduction in the lung function of children.

It is the purpose of this Legislature to limit smoking in eating establishments throughout the County of Orange in order to protect the people of the County from the potential health risks of the smoking of others.

**SECTION TWO. DEFINITIONS:** When used in this Local Law, the following definitions apply:

- a. The "Commissioner" means the Orange County (NY) Commissioner of Health, the departmental head of the Orange County (NY) Department of Health.
- b. "Eating Establishment" means any indoor area open to the public, or portion thereof, in which its business is the sale of food for on-premises consumption, including, but not limited to, restaurants, cafeterias, coffee shops, food service operations in social activity centers, diners, sandwich shops, or short order cafes.
- c. "Bar or Tavern" means any indoor area, open to the public, devoted to the sale and service of alcoholic beverages for on-premises consumption, and where the service of food is only incidental to the consumption of such beverages. Service of food shall be considered incidental if the service of food generates less than 40% of total gross annual sales. Any Bar or Tavern that generates more than 40% of the total annual gross sales from the sale of food for on-premises consumption shall be considered an Eating Establishment hereunder.
- d. "Bar" insofar as such term in a given context shall not apply to the entire establishment, the term Bar shall mean a long counter, surface or other furnishing or fixture expressly used for the primary purpose of serving beverages and in particular alcoholic beverages, with or without food, to patrons who are sitting or standing at such bar. For

the purposes of this Local Law, the term "Bar" shall not refer to or include any table or other area except the immediate bar itself and seating exclusively appurtenant thereto.

- e. "Enclosed Area" means any Area which is physically separated from the remainder of the operation of the establishment dedicated to the on-premises consumption of food by a solid floor to ceiling wall or ceiling to floor partition with appropriate hinged door openings for egress and ingress.
- f. "Club" means any eating establishment owned and/or managed by a private group or organization made up of dues paying members, where the sale of food and beverages is restricted to such members and their invited guests, and not available to the general public.
- g. "Smoking" means to inhale or exhale the smoke of burning tobacco or tobacco substitute, or carrying, holding, or setting down burning tobacco or burning tobacco substitute in the form of a cigarette, cigar, pipe or any other similar smoke-producing device.

### **SECTION THREE. REGULATION OF SMOKING IN EATING ESTABLISHMENTS:**

Smoking shall be prohibited in all eating establishments as defined herein within the County of Orange, unless otherwise provided by this Local Law.

### **SECTION FOUR. SMOKING PERMITTED:**

Smoking may be permitted in the following areas, locations and circumstances:

- a. Restaurants with Enclosed Areas.

Restaurants with Enclosed Areas may allow smoking in the Enclosed Areas of the restaurant only as defined in Section 2.d of this law. Seating at tables within the Enclosed Area shall not exceed forty percent (40%) of the overall seating capacity of the establishment, excluding bar stools at a bar or bars that may be within the Enclosed Areas.

- b. At a Bar within an Eating Establishment.

Within an eating establishment, only immediately at a bar and only if in the immediate bar area there is a ventilation system directly providing and maintaining negative air pressure to such bar with respect to adjacent areas such that tobacco smoke may not escape or migrate to any other area of such establishment.

- c. Bars and Taverns.
- d. Clubs, except at such times as the sale of food and/or beverages is for sale to the general public.

- e. Eating Establishment premises privately leased for a single function not open to the general public upon the decision of the parties to the lease and only for the duration of said function.
- f. Any contiguous seating in outdoor areas of Eating Establishments serving food and/or beverages outdoors.

#### **SECTION FIVE. OPTION TO DECLARE ESTABLISHMENT "SMOKE FREE":**

Notwithstanding any other provision of this Local Law, any owner, operator, manager, or other person who controls any establishment described herein may declare the entire establishment as a non-smoking establishment.

#### **SECTION SIX. POSTING OF SIGNS:**

Clearly legible and readable signs indicating "No Smoking" or the international "no smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly, sufficiently, and conspicuously posted at each entrance to every Eating Establishment where and when smoking is prohibited by this Local Law.

#### **SECTION SEVEN. NOTICE AND ENFORCEMENT:**

- a. Any owner, manager, operator or employee of any Eating Establishment regulated by this Local Law, shall inform persons violating this Local Law of the appropriate provisions hereof.
- b. Any citizen may register a complaint under this Local Law with the Orange County Department of Health, Environmental Health Section.
- c. Police officers within their jurisdiction, deputy sheriffs, and designees of the Orange County Department of Health shall be charged with the enforcement of this Local Law and are authorized to issue appearance tickets for violation of this Local Law.
- d. Upon issuance of an appearance ticket for a violation of any provision of this Local Law, or of the rules and regulations promulgated hereunder, the Commissioner shall cause a hearing to be held in accordance with the Orange County Sanitary Code.

#### **SECTION EIGHT. VIOLATIONS AND PENALTIES:**

- a. It shall be a violation for any person who owns, manages, and operates, or otherwise controls the use of any premises subject to regulation under this Local Law to fail to request compliance with any of its provisions.
- b. It shall be a violation for any person to smoke in any area where smoking is prohibited by the provisions of this Local Law.
- c. Any person who violates any provision of this Local Law shall be guilty of a violation punishable by a civil penalty not to exceed five hundred dollars (\$500.00).

**SECTION NINE. RULES AND REGULATIONS:**

The Commissioner may promulgate such rules and regulations as necessary to carry out the purposes of this Local Law.

**SECTION TEN. SEVERABILITY:**

If any provision, clause, sentence, or paragraph of this Local Law or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Local Law, which can be given effect without the invalid provision or application.

**SECTION ELEVEN. INTERPRETATION:**

Nothing in this Local Law shall be construed to create a private cause of action by one person against another person for violation of any provision of this Local Law.

**SECTION TWELVE. EFFECTIVE DATE:**

This Local Law shall take effect January 1, 2003, as provided by the Municipal Home Rule Law of the State of New York.

Local Law No. 1 of 2002 was passed May 10, 2002 by the following roll call vote:

Ayes:	15
Noes:	6
Absent:	0

Approved by the County Executive: June 11, 2002

Effective: June 17, 2002

**LOCAL LAW NO. 2 OF 2002****A LOCAL LAW REVISING LOCAL LAW NO. 1 OF 2000 ADOPTING RULES AND REGULATIONS FOR THE ORANGE COUNTY VETERANS MEMORIAL CEMETERY.**

**BE IT ENACTED**, by the Legislature of the County of Orange as follows:

**Section 1. LOCAL LAW NO. 1 OF 2000 REVISED**

Local Law No. 1 of 2000, being a Local Law which established the Rules and Regulations for the Orange County Veterans Memorial Cemetery, is hereby revised as follows:

a. Added to Section 1. Definitions is the following, inserted in alphabetical order:

“Burial Rights” means all services, use of facilities and other obligations of the County provided to purchasers and eligible persons in connection with the Cemetery, including but not

limited to perpetual care, maintenance, landscaping and such other and further services which the County from time to time may provide.

b. Section 3. thereof is deleted in its entirety and a new Section 3. is substituted therefor as follows:

### **Section 3. BURIAL RIGHTS**

Burial rights may be purchased in the Cemetery for the interment of the bodies of eligible persons. Burial rights purchased from the County may be transferred and/or conveyed to purchasers by the County by such documentation as the County may provide and so indicate on the books and records of the County. Such conveyance shall become effective upon receipt of the County of the full purchase price and such rights are secured to the purchasers and their heirs in perpetuity, subject to all applicable laws, rules and regulations including those enacted and/or adopted from time to time by the County of Orange. No burial rights shall be sold or conveyed by the County until the County shall have determined the availability and suitability of same and the sale thereof shall have been approved by the Superintendent. Sales may be at the time of need or pre-need. If such sale shall be at time of need, the Superintendent shall determine the type, size, condition and location of plot or plots whether to be used or reserved and the requirements regarding the use thereof. If such sale shall be pre-need, the Superintendent shall determine the type, size, condition and location of such plot or plots either at the time of sale or subsequently, including at time of assignment or reservation or pending first use of same.

c. Section 4. thereof is deleted in its entirety and a new Section 4. is substituted therefor as follows:

### **Section 4. TRANSFER OF BURIAL RIGHTS**

All transfers of burial rights shall be made in accordance with the laws of the State of New York and the laws, rules and regulations of the County of Orange. No such transfer or assignment shall be valid or binding upon the County unless same shall have been approved in advance in writing by the Superintendent. Before any burial rights shall have been exercised or use made of Cemetery facilities, or following complete dis-interment to the satisfaction of the County, the owner(s) of burial rights may sell or convey same only to eligible persons for use in conformance with this Law and only with the advance written approval of such sale or conveyance by the County. County shall have the option to re-acquire said burial rights prior to the conveyance of same to any third party. In such event the price which the County shall pay to the holder of such burial rights shall be the purchase price paid to the County plus interest calculated at the then-prevailing legal rate from the date paid to County. The County shall not be obligated to recognize as owners of burial rights persons not identified as such by name and residence on the books and records of the County.

d. Section 5. thereof is hereby amended as follows:

i. In the first sentence thereof the words "Any lot owner" are deleted therefrom and the words "Any owner of burial rights" are substituted therefor.

ii. In the first sentence thereof the word "plots." is deleted therefrom and the words "burial rights." are substituted therefor.

iii. In the eighth sentence thereof the words "Plot owners" are deleted therefrom and the words "Owners of burial rights" are substituted therefor; and in said sentence the words "or otherwise allow the use of their burial rights" are inserted after the words "in their plots" therein.

iv. In the ninth sentence thereof, the first twenty six words thereof are deleted therefrom and the following substituted therefor: "When burial rights are held jointly by two or more persons, the County shall permit the exercise of such rights by such owner(s) ..."

e. Section 6 thereof is amended as follows:

i. In the first sentence thereof, the first three words are deleted and the following inserted in their place: "The owner of burial rights ..."; and the thirteenth word thereof is deleted and the following inserted in its place: " burial rights".

f. Section 7 thereof is deleted in its entirety and the following Sections re-numbered accordingly.

## **Section 2. EFFECTIVE DATE**

This Local Law shall take effect immediately, as provided in the Municipal Home Rule Law of the State of New York.

Local Law No. 2 of 2002 was passed June 6, 2002 by the following roll call vote:

Ayes:	21
Noes:	0
Absent:	0

Approved by the County Executive: June 26, 2002

Effective: July 15, 2002

## **LOCAL LAW NO. 3 OF 2002**

### **A LOCAL LAW APPROVING AN APPLICATION TO AMEND THE BOUNDARIES OF THE ORANGE COUNTY NEWBURGH-STEWART EMPIRE ZONE.**

**PREAMBLE:** The County of Orange is the grantee of Empire Zone No. 60, awarded by the State of New York to promote economic development, employment and private investment in our communities by offering substantial tax incentives and benefits.

Under the laws, rules and regulations of the Empire Zone Program, an application may be submitted to the State Department of Economic Development to modify the boundaries of the Empire Zone to transfer Zone-eligible acreage to heretofore undesignated areas.

The Orange County Newburgh-Stewart Empire Zone originally was granted and designated on acreage located within the City of Newburgh and the Towns of Newburgh and New Windsor; and in

keeping therewith the Administrative Board of the Empire Zone has adopted standards and requirements including that no application for a boundary modification shall be approved if a new Zone client can be accommodated within said three original municipalities.

The subject application complies with such requirements, and will be submitted only with the approval of the Zone Administrative Board and the affected local municipalities, which will have held public hearings and passed local Resolutions supporting the subject amendments prior to final submission of said application to the New York State Department of Economic Development.

**BE IT ENACTED**, by the County Legislature of the County of Orange, State of New York, as follows:

### **SECTION 1. BOUNDARY AMENDMENT APPLICATION APPROVED**

We, the Legislature of the County of Orange, do hereby endorse and approve the submission of the application for boundary modification of the Orange County Newburgh-Stewart Empire Zone, as indicated on the attached Schedule, as in keeping with the purposes and policies of the Empire Zone Program of the State of New York and the best interests of Orange County, subject to the approval of the State Department of Economic Development.

### **SECTION 2. EFFECTIVE DATE**

This Local Law shall take effect immediately, as provided by the Municipal Home Rule Law of the State of New York.

### **SCHEDULE OF NEWBURGH-STEWART EMPIRE ZONE BOUNDARY REVISIONS**

**JULY 3, 2002**

#### **Areas to be newly designated as part of the Empire Zone**

- **Town of Wallkill: 35 acres** in the vicinity of NYS Rte. 17 Exit 116
  - **City of Middletown: 5 acres**
  - **City of Port Jervis: 3 acres**
- **Village of Kiryas Joel: 2 acres** adjacent to County Route 105 and Bakertown Road

Total number of acres to be newly designated as part of the Empire Zone: 45

#### **Areas to be undesignated from the current Empire Zone**

- **Town of New Windsor: 60 acres** in the former Stewart Army Subpost off NYS Route 207
- **Town of Newburgh: 40 acres** in the Northeast Business Park off NYS Route 17K

Total number of acres to be undesignated from the current Empire Zone: 100

Local Law No. 3 of 2002 was passed July 12, 2002 by the following roll call vote:

Ayes: 19  
Noes: 0  
Abstentions: 2  
Absent: 0

Approved by the County Executive: July 31, 2002

Effective: August 12, 2002

### **LOCAL LAW NO. 4 OF 2002**

#### **A LOCAL LAW AUTHORIZING THE PREPARATION AND SUBMISSION OF AN APPLICATION SEEKING EMPIRE ZONE STATUS.**

**BE IT ENACTED** by the Legislature of the County of Orange, as follows:

##### **SECTION ONE. FINDINGS AND PURPOSE:**

The Legislature of the County of Orange hereby finds and declares that responsible development, expansion of employment opportunities and the promotion of business and industry in the County of Orange is important for the continued economic growth within the County of Orange and for the economic prosperity of its citizens. The purpose of this Local Law is to authorize and endorse the preparation of an application under the application provisions of Article 18-B of the General Municipal Law for the designation by the State of New York of certain areas hereinafter described as an Empire Zone within the meaning of said statute, and to provide for the orderly and lawful administrative thereof, in the interests of the economic well-being and prosperity of the County of Orange. The Legislature finds and declares the establishment of an Empire Zone within the County of Orange as described herein to be in harmony with the purposes of Article 18-B of the General Municipal Law and the New York State Department of Economic Development.

##### **SECTION TWO. APPLICATION AUTHORIZED; ZONE DESCRIBED:**

The Legislature on behalf of the County of Orange hereby authorizes the submission of an application to the New York State Department of Economic Development for the establishment of an Empire Zone on certain lands and properties located within the City of Middletown and the Town of Wallkill in the County of Orange. The boundaries of said areas to be included in the Middletown-Wallkill Empire Zone shall be as set forth in Schedule **A**, which is attached hereto (on file in Clerk, Legislative Office) and made a part hereof.

##### **SECTION THREE. LOCAL EMPIRE ZONE ADMINISTRATOR AND CERTIFICATION OFFICER:**

Pursuant to Article 18-B of the General Municipal Law, a local empire zone administrator with the title of Middletown-Wallkill Empire Zone Coordinator and a local Certification Officer shall be named by the County Executive as required by law and shall have all of the powers and duties as imposed upon such officers by all applicable laws, regulations and rules.



**SECTION FOUR. LOCAL EMPIRE ZONE ADMINISTRATIVE BOARD:**

Pursuant to Article 18-B of the General Municipal Law, the Middletown-Walkkill Empire Zone shall have an Administrative Board. The Administrative Board shall consist of at least six members, none of whom shall be the local Empire Zone Certification Officer, and shall be representative of local businesses, organized labor, community organizations, financial institutions, local educational institutions and residents of the empire zone. The Middletown-Walkkill Empire Zone Administrative Board shall perform all duties required of it pursuant to Section 963 of the General Municipal Law.

**SECTION FIVE. EFFECTIVE DATE:**

This Local Law shall take effect immediately, as provided in the Municipal Home Rule Law.

Local Law No. 4 of 2002 was passed August 9, 2002 by the following roll call vote:

Ayes:	19
Noes:	1
Abstentions:	1
Absent:	0

Approved by the County Executive: August 28, 2002

Effective: September 3, 2002

**LOCAL LAW NO. 5 OF 2002**

**A LOCAL LAW APPROVING AN AGREEMENT BETWEEN THE ORANGE COUNTY LEGISLATURE AND THE ORANGE COUNTY EXECUTIVE PROVIDING FOR SUPERVISION OF THE AGRICULTURAL ECONOMIC DEVELOPMENT DIRECTOR BY THE ORANGE COUNTY DEPARTMENT OF PLANNING, PURSUANT TO SECTION 2.02(f) OF THE ORANGE COUNTY CHARTER.**

**BE IT ENACTED** by the County Legislature of the County of Orange, State of New York, as follows:

**PREAMBLE:** The Legislature of the County of Orange finds and determines as follows: that the Orange County Agricultural and Farmland Protection Board ("AFPB") was created by Resolution No. 57 of 1993 under the authority of Section 302 of the New York State Agriculture & Markets Law; and

That the Orange County Legislature has provided funds to the AFPB for the retention of a consultant to the Board to provide farmland protection and agricultural economic development and related services; and

That agricultural and farming preservation and protection and agricultural economic development are a vital part of the economy and heritage of Orange County, and they are the subject of the County's adopted Agricultural & Farmland Protection Plan, and the enhancement and preservation of agriculture is an essential component of the County planning function which would be

enhanced by a close working relationship between the AFPB and its staff and the Orange County Planning Department; and

That pursuant to Section 2.02(f) of the Orange County Charter, the Orange County Legislature has the power by Local Law to create, alter, combine or abolish County Administrative Units not headed by elective officers, and that such supervision of said consultant by the Commissioner of the Department of Planning is in the best interests of the County.

### **SECTION ONE: PURPOSE AND ENACTMENT**

The purpose of this Local Law is to provide that responsibility for the day-to-day supervision of the consultant to the Orange County Agricultural & Farmland Protection Board, known as the Agricultural Economic Development Director shall be and the same hereby is transferred to the Commissioner of the Orange County Department of Planning, in accordance with the understanding and agreement of the Legislature of the County of Orange and the Orange County Executive.

### **SECTION TWO: EFFECTIVE DATE**

This Local Law shall become effective immediately as provided in the Municipal Home Rule Law.

Local Law No. 5 of 2002 was passed August 9, 2002 by the following roll call vote:

Ayes:	21
Noes:	0
Absent:	0

Approved by the County Executive: August 28, 2002

Effective: September 3, 2002

## **LOCAL LAW NO. 6 OF 2002**

### **A LOCAL LAW AMENDING LOCAL LAW NO. 3 OF 2002 APPROVING AN APPLICATION TO AMEND THE BOUNDARIES OF THE ORANGE COUNTY NEWBURGH-STEWART EMPIRE ZONE.**

**PREAMBLE:** The County of Orange is the grantee of Empire Zone No. 60, awarded by the State of New York to promote economic development, employment and private investment in our communities by offering substantial tax incentives and benefits.

Under the laws, rules and regulations of the Empire Zone Program, an application may be submitted to the State Department of Economic Development to modify the boundaries of the Empire Zone to transfer Zone-eligible acreage to heretofore undesignated areas.

The Orange County Newburgh-Stewart Empire Zone originally was granted and designated on acreage located within the City of Newburgh and the Towns of Newburgh and New Windsor; and in keeping therewith the Administrative Board of the Empire Zone has adopted standards and

requirements including that no application for a boundary modification shall be approved if a new Zone client can be accommodated within said three original municipalities.

The subject application complies with such requirements, and has the approval of the Zone Administrative Board and the affected local municipalities, which have held public hearings and passed local Resolutions supporting the subject amendments.

**BE IT ENACTED**, by the County Legislature of the County of Orange, State of New York, as follows:

**SECTION 1. BOUNDARY AMENDMENT APPLICATION APPROVED**

We, the Legislature of the County of Orange, do hereby endorse and approve the submission of the application for boundary modification of the Orange County Newburgh-Stewart Empire Zone, as indicated on the attached Schedule (on file in Clerk, Legislative Office), as in keeping with the purposes and policies of the Empire Zone Program of the State of New York and the best interests of Orange County, subject to the approval of the State Department of Economic Development.

**SECTION 2. EFFECTIVE DATE**

This Local Law shall take effect immediately, as provided by the Municipal Home Rule Law of the State of New York.

Local Law No. 6 of 2002 was passed November 7, 2002 by the following roll call vote:

Ayes:	19
Noes:	0
Abstentions:	2
Absent:	0

Approved by the County Executive: November 22, 2002

Effective: January 2, 2003

**LOCAL LAW NO. 7 OF 2002**

**A LOCAL LAW AMENDING LOCAL LAW NO. 7 OF 1998 AS AMENDED BY LOCAL LAW NO. 1 OF 2001, WHICH PROVIDED AN EXEMPTION FROM TAXES AND SPECIAL AD VALOREM LEVIES FOR CAPITAL IMPROVEMENTS TO RESIDENTIAL BUILDINGS, BY EXTENDING THE DATE UPON WHICH SAID LOCAL LAW WAS TO EXPIRE.**

**SECTION 1. PURPOSE**

This Legislature enacted Local Law No. 7 of 1998, which provided an exemption from taxes and special ad valorem levies for capital improvements to residential buildings pursuant to Section 421-f of the Real Property Tax Law of the State of New York, including therein a provision by which said Local Law was to expire unless further acted upon by this Legislature. This Legislature did further act upon said Local Law by enacting Local Law No. 1 of 2001 which extended said expiration date to December 23, 2002. It is the purpose of this Local Law to further amend said expiration date

contained in said Local Law as amended to extend same for two (2) years until December 23, 2004, to allow said exemption to remain available for such period, as provided in Section 421-f of the Real Property Tax Law.

### **SECTION 2. AMENDMENT**

Local Law No. 7 of 1998 as amended by Local Law No. 1 of 2001 is further amended as follows:

Section 7. thereof as amended is further amended by deleting therefrom the date "December 23, 2002" and substituting therefor the date "December 23, 2004."

### **SECTION 3. EFFECTIVE DATE**

This Local Law shall become effective immediately, as provided in the Municipal Home Rule Law.

Local Law No. 7 of 2002 was passed December 6, 2002 by the following roll call vote:

Ayes:	18
Noes:	0
Absent:	3

Approved by the County Executive: December 27, 2002

Effective: January 2, 2003