

**COUNTY OF WASHINGTON, NEW YORK
LOCAL LAW NO. 1 OF 2009**

By Supervisors Lindsay, Suprenant, Scribner, Banks, Alexander, Henke

A Local Law Prohibiting the Consumption of Alcoholic Beverages and/or Illegal Drugs by Minors on Private Premises in Washington County

BE IT ENACTED, by the Board of Supervisors of the County of Washington, New York, as follows:

SECTION 1. TITLE

This law shall be entitled "A Local Law Prohibiting the Consumption of Alcoholic Beverages and/or Illegal Drugs by Minors on Private Premises in Washington County".

SECTION 2. PURPOSE/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. However, the legislature has not regulated the situation where a person over the age of sixteen (16) knowingly permits the consumption of alcohol by a minor in his or her home, or in 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 the County and giving law enforcement a viable recourse against anyone who permits such conduct. The underage consumption of alcoholic beverages, whether at a social gathering or involving only one minor individual, poses an immediate threat to the public health, safety and welfare of the residents of Washington County, often leading to alcohol abuse by minors, vandalism, physical altercations, accidental injuries, and excessive noise disturbances requiring the intervention of local law enforcement as well as the commission of violent crimes such as sexual offenses and serious assaults. This local law will serve to deter the consumption of alcoholic beverages and/or illegal drugs by minors by holding those persons responsible who permit the consumption of alcoholic beverages or illegal drugs by minors at residences or private premises in their control.

SECTION 3. DEFINITIONS.

Whenever used in this law, unless a different meaning is stated in a definition applicable to only a portion of this law, the following terms will have meanings as set forth below:

- a) "Minor" shall mean any person under the age of twenty-one (21) as pertains to the consumption of alcohol or illegal drugs.
- b) "Residence" or "private premises" shall mean any home, apartment, condominium, co-operative unit or other dwelling unit of any kind, including yards and open areas adjacent thereto.

- c) "Knowingly" shall mean aware of, or having reason to be aware of.
- d) "Alcoholic beverage" shall mean any liquor, wine, beer, spirits, cider or other liquid, or solid, patented or not, 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 property 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 direct and immediate authority and ability to regulate, direct or dominate private property, including, but not limited to the control exercised by tenants, lessees, owners and/or landlords who have notice of underage drinking on their property.

SECTION 4. PROHIBITION.

It shall be unlawful for any person over the age of sixteen (16) who owns, rents, or otherwise controls a private residence, to knowingly host, permit or allow a social 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.

A violation of Section 4 of this local law shall constitute an unclassified misdemeanor. 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.
- 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 twenty (20) 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.
- 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.

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. INCONSISTENCIES WITH OTHER LAWS/SEVERABILITY.

If any part or provision of this section is inconsistent with any Federal or State statute(s), law(s), rule(s) or regulation(s), then such statute(s), law(s), rule(s) or regulation(s) shall prevail. Additionally, if any clause, sentence, paragraph, or section of this local law shall be held invalid by any court of competent jurisdiction, or the application of this local law to any person or set of circumstances shall be held invalid, such validity or judgment shall not effect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or operation of this local law directly involved in the controversy in which the judgment shall have been rendered. To further this end, the provisions of this local law are hereby declared to be severable.

SECTION 9. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the Secretary of State.