

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(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~~

of Burke

Local Law No. 1 of the year 20 01

A local law Prohibit Exposure and Promotion of Exposure of a Person
(Insert Title)

Be it enacted by the Town Council of the
(Name of Legislative Body)

~~County~~

~~City~~

Town

~~Village~~

of Burke as follows:

Please see attached text.

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

A LOCAL LAW RELATING TO THE EXPOSURE AND PROMOTION OF EXPOSURE OF A PERSON

Section 1. Purpose.

The Town Council of the Town of Burke finds that the exposure of a person and the promoting of exposure of a person will cause physical harm to persons, damage to property and create public nuisances within the Town of Burke. The purpose of this Local Law is protect the health, safety and well-being of persons and property by imposing restrictions on the exposure of a person and the promotion of the exposure of a person within the Town of Burke.

Section 2. Authority.

This Local Law is enacted pursuant to the provisions of § 245.01 and 245.02, Article 245, Title N of the Penal Law of the State of New York and § 10, Article 2 of the Municipal Home Rule Law of the State of New York.

Section 3. Title.

The title of this Law shall be, "Law Prohibiting the Exposure of a Person and Promoting the Exposure of a Person in the Town of Burke."

Section 4. Definition of Terms.

As used in this Local Law the following words shall have the following respective meanings:

- a. **Exposure.** Exposure shall mean that a person appears in a state of nudity where the person's private or intimate parts of the person's body are unclothed, displayed and visible.
- b. **Intimate Parts.** Intimate parts shall mean male and female genitals. Intimate parts shall also mean that portion of the breast of a female person which is below the top of the areola.

- c. **Municipal Home Rule Law.** Municipal Home Rule Law shall mean the Municipal Home Rule Law of the State of New York in effect as of the effective date of this Local Law, as amended by this Local Law, and as amended thereafter.
- d. **Penal Law.** Penal Law shall mean the Penal Law of the State of New York in effect as of the effective date of this Local Law, as amended by this Local Law, and as amended thereafter.
- e. **Person.** Unless stated otherwise herein; a person shall mean both female and male human being.
- f. **Private Parts.** Private parts shall mean male and female genitals. Private parts of a female person shall include that portion of the breast which is below the top of the areola.
- g. **Promoting Exposure of the Person.** Promoting exposure of a person shall mean when a person either individually or in a partnership or through a limited liability company or a corporation, knowingly conducts, maintains, owns, manages, operates, or furnishes any public premise or place where a person in a public place appears in such manner that the private or intimate parts of the person's body are unclothed or exposed, or a person either individually or in a partnership or through a limited liability company or a corporation manages, organizes or finances an event or happening where a person in a public place appears in such manner that the private or intimate parts of the person's body are unclothed or exposed.
- h. **Public Place.** Public place shall mean and include all outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including such places of entertainment taverns, restaurants, clubs, theaters, dance balls, banquet halls, party rooms or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.
- i. **Town of Burke.** The Town of Burke shall mean the area within the corporate limits of the Town of Burke.

Section 5. Restrictions.

It shall be unlawful for any person to appear in a public place exposed or to promote the exposure of a person in a public place. This prohibition shall not apply to the breast-feeding of infants.

Section 6. Enforcement.

This Local Law shall be enforced by the Code Enforcement Official of the Town of Burke.

Section 7. Appearance Ticket.

Any Code Enforcement Official of the Town of Burke observing a violation of this Local Law in his or her presence shall issue and serve an appearance ticket for such violation.

Section 8. Penalties.

- a. Conviction of a violation of this local law shall be deemed violation and punishable by up to 15 days imprisonment in the Franklin County prison or fine of up to \$250.00.
- b. Alternatively, or in addition to an action to recover the penalties provided by Subsection (a), the Town Council may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct or abate any violation of or to enforce, any provision of this Local Law, notwithstanding that a penalty or other punishment for such violation has otherwise been provided.

Section 9. Separability.

Each separate provision of this Local Law shall be deemed independent of all other provisions herein, and if any provision shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Section 10. Repealer.

This Local Law shall supersede all prior Local Laws, Ordinances, Rules and Regulations relative to the exposure of persons or promotion of exposure of persons within the Town of Burke and they shall be, upon the effectiveness of this Local Law, null and void.

Section 11. 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. 1 of 2001 of the ~~(County)~~(City)(Town)(Village) of Burke was duly passed by the Town Council on June 12 2001, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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____. 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.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

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____. 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.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* 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.

Yvonne E. Spinner
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

Yvonne E. Spinner, Town Clerk

Date: June 12, 2001

(Seal)

(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 Franklin

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.

Brian S. Stewart
Signature

Brian S. Stewart

Attorney for Town

Title

County

City

Town

Village

Date:

of Burke

7/24/01



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

RANDY A. DANIELS
SECRETARY OF STATE

August 6, 2001

BRIAN S. STEWART
ATTORNEY AT LAW
31 ELM STREET PO Box 788
MALONE, NY 12953

RE: Town of Burke, Local Law 1, 2001, filed 07/26/2001

The above referenced material was received and filed by this office as indicated. Additional local law filing forms will be forwarded upon request.

Sincerely,

A handwritten signature in dark ink that reads "Linda Lasch".

Linda Lasch
Principal Clerk
State Records & Law Bureau
(518) 474-2755