

RESOLUTION NO. 2015029

RE: LOCAL LAW NO. OF 2015, A LOCAL LAW OF THE COUNTY OF
DUTCHESS, NEW YORK PROTECTING INFANTS AND CHILDREN
FROM HARMFUL HEALTH EFFECTS OF UNNECESSARY EXPOSURE
TO TOXIC CHEMICALS

Legislators TYNER, JETER-JACKSON, MAC AVERY, STRAWINSKI, AMPARO,
FARLEY, PERKINS, JOHNSON, and IGNAFFO offer the following and move its adoption:

RESOLVED, that the Legislature of the County of Dutchess adopt Local Law No. of
2015, which has been submitted this day for consideration by said Legislature.

STATE OF NEW YORK

ss:

COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 9th day of February, 2015, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 9th day of February, 2015.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

LOCAL LAW NO. FOR 2015

RE: A LOCAL LAW OF THE COUNTY OF DUTCHESS, NEW YORK
PROTECTING INFANTS AND CHILDREN FROM HARMFUL
HEALTH EFFECTS OF UNNECESSARY EXPOSURE TO TOXIC
CHEMICALS

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
DUTCHESS, as follows:

Section 1. Legislative Intent.

The Legislature hereby finds and determines that there are chemicals of high concern for the environment and human health, as have been determined by many authorities, including the state of Maine Article 38 MRSA Chapter 16-D, *Toxic Chemicals in Children's Products*, as of September 1, 2011.

The Legislature finds that within this list of chemicals of high concern, several are known to be toxic and carcinogenic, including benzene, lead, mercury, antimony, arsenic, cadmium, and cobalt.

This Legislature finds and determines that many common children's products contain these toxic chemicals and known carcinogens.

The Legislature finds that exposure to benzene can cause harmful effects to the blood, a decrease in red blood cells, and causes cancer in humans.

The Legislature finds that lead can contaminate drinking water supplies and cause brain damage, hyperactivity, anemia, liver and kidney damage, developmental delays, and even death.

The Legislature finds that mercury can contaminate fish and other wildlife and cause damage to brain development, impacts on cognitive thinking, a decrease in fine motor and visual special skills, and muscle weakness.

The Legislature finds that antimony can cause respiratory and cardiovascular damage, skin disorders, and gastrointestinal disorders.

The Legislature finds that arsenic can cause skin lesion, cancer, developmental delays, neurotoxicity, diabetes, cardiovascular disease, and lung cancer.

The Legislature finds that cobalt, while an essential element as a constituent of vitamin B12, can cause cardiomyopathy and gastrointestinal effects by chronic oral exposure.

The Legislature finds that cadmium can result in kidney disease, bronchiolitis, emphysema, and damage to the liver, lungs, bone, immune system, blood, and nervous system.

This Legislature further finds and determines that several states, localities and the federal government are considering a ban on these eight chemicals in children's products.

This Legislature finds that, in the absence of such Federal and New York State enacted laws, Dutchess County is committed to protecting the environment and the public health and welfare of our County's infants and children whose growing bodies are vulnerable to the health hazards caused by these eight chemicals.

Therefore, the purpose of this local law is to protect infants and young children from their harmful health effects.

Section 2. Definitions.

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

- A) "Children's Apparel" means any item of clothing that consists of fabric or related material intended or promoted for use in children's clothing.
- B) "Children's Product" means any product primarily intended for, made for, or marketed for use by children. Children's product does not mean batteries, consumer electronics, paper products, or a drug, biologic, medical device, food, or food additive regulated by the US Food and Drug Administration.
- C) "Children" means a person or persons aged twelve and under.
- D) "Person" shall mean any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity of business of any kind.

Section 3. Prohibitions.

No person shall sell or offer for sale children's products that contain benzene, lead, mercury, antimony, arsenic, cadmium, and cobalt within the County of Dutchess.

Section 4. Enforcement.

This law shall be enforced by the Dutchess County Department of Health in accordance with the provisions of the Dutchess County Charter and Code.

Section 5. Authority to Promulgate Rules and Regulations.

The Commissioner of the Dutchess County Department of Health is hereby authorized and empowered to promulgate such rules and regulations as he or she deems necessary to implement this law.

Section 6. Penalties.

Any person who knowingly violates the provisions of this law or reasonably should know that he/she is in violation of the provisions of this law shall be subject to an initial civil penalty of five hundred dollars (\$500) per violation of the law and a subsequent penalty of one thousand dollars (\$1,000) per violation.

Section 7. Applicability.

This law shall apply to any and all actions occurring on or after the effective date of this law.

Section 8. 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 9. State Environmental Quality Review Act compliance.

This County Legislature determines that the foregoing action constitutes a "Type II action" as said term is defined in the State Environmental Quality Review Act ("SEQRA"), and that no further action with respect to same is required under SEQRA.

Section 10. Effective Date.

This law shall take effect one year following its filing in the Office of the New York State Secretary of State.

ARTICLE VII

DEPARTMENT OF HEALTH

Section

- 7.01 County Health District; Department of Health; Commissioner; Appointment; Qualifications; Term.
- 7.02 Powers and Duties.
- 7.03 Board of Health; Appointment; Powers and Duties.
- 7.04 Deputy Commissioners and Staff.
- 7.05 Acting Commissioner.
- 7.06 Director of Weights and Measures III ³²
- 7.07 Veterans Services ⁴⁴

Section 7.01. County Health District; Department of Health; Commissioner; Appointment; Qualifications; Term. The County of Dutchess shall be a health district. There shall be a Department of Health under the direction of a Commissioner of Health, who shall be appointed by the County Executive, subject to confirmation by the County Legislature. At the time of his appointment, and throughout his term of office, the Commissioner shall be and remain duly licensed and entitled to practice medicine in the State of New York and shall have such other qualifications as may be required by law. He shall be appointed on the basis of his professional experience and other qualifications for the responsibilities of his office. He shall be directly responsible to and, unless otherwise required by law, serve at the pleasure of the County Executive.

Section 7.02. Powers and Duties. The Commissioner of Health shall be the chief administrative officer of the department. Except as otherwise provided in this Charter he shall have all the powers and perform all the duties conferred or imposed by law upon a county commissioner of health or a county board of health, and shall perform such other and related duties required by the County Executive or County Legislature.

Section 7.03. Board of Health; Appointment; Powers and Duties. There shall be within the department a Board of Health whose members shall be appointed by the County Legislature in the manner and for the term provided in the Public Health Law. The Board of Health, subject to the provisions of the Public Health Law and the State Sanitary Code, shall have the power to formulate, adopt, promulgate, amend or repeal such rules and regulations as may affect public health within the County; to formulate, adopt, promulgate, amend or repeal a County Sanitary Code; to consider any matters that may come to its attention relating to the preservation and improvement of public health within the County, and advise the Commissioner thereon, either at his request or upon its own initiative, and from time to time to make recommendations to the Commissioner thereon.

Section 7.04. Deputy Commissioners and Staff. The Commissioner of Health shall have the power to appoint such Deputy Commissioners, assistants and employees of his department as shall be authorized by the County Legislature. At the times of their appointment, and throughout their terms of office, all Deputy Commissioners of Health shall be and remain duly licensed and entitled to practice medicine in the State of New York, and shall have such other qualifications as may be required by law. All Deputy Commissioners, assistants and employees of the department shall be directly responsible to, and serve at the pleasure of the Commissioner, except as otherwise provided by this Charter, the Administrative Code or applicable law.

Section 7.05. Acting Commissioner. The Commissioner of Health, subject to approval by the County Executive, shall designate in writing, and in order of succession, the Deputy Commissioners and assistants who shall be Acting Commissioner of Health in the event of his absence from the County or inability to perform and exercise the powers and duties of his office. Such designation shall be filed with the County Clerk and the Clerk of the County Legislature and may be revoked at any time by the Commissioner filing a new written designation and order of succession. The Acting Commissioner of Health shall have all the powers and perform all the duties of the Commissioner.

Section 7.06. Director of Weights and Measures III. Within the Department of Health, there shall be a Director of Weights and Measures III who shall have the powers and duties of a county director of weights and measures as described in Article 16 of the New York State Agriculture and Markets Law. The Director shall also perform such other and related duties as required by the Commissioner of Health provided such additional powers and duties deal primarily with services designed to aid and protect the consumer and are not inconsistent with the provisions of Article 16 of the New York State Agricultural and Markets Law. ³²

Section 7.07. Veterans Services. The Director of Veterans Services shall:

1. Inform military and naval authorities of the United States and assist members of the armed forces and veterans, who are residents of this county, and their families, in relation to:

- a. matters pertaining to educational training and retraining services and facilities,
- b. health, medical and rehabilitation services and facilities,
- c. provisions of federal, state and local laws and regulations affording special rights and privileges to members of the armed forces and veterans and their families,
- d. employment and re-employment services,
- e. other matters of similar, related or appropriate nature,
- f. assist families of members of the reserve components of the armed forces and organized militia ordered into active duty to ensure that they are made aware of and receiving all appropriate support available to them and are placed in contact with the agencies responsible for such support, including but not limited to, the division of military and naval affairs and other state agencies responsible for providing such support,
- g. perform such other duties as may be assigned by the state director of veterans' affairs and,
- h. such other services as may from time to time be allowed or deleted by state statute, rule or regulation.

2. The Director of Veterans Services shall also hold the title of the County Director of Veterans' Service Agency as set forth in Article 17 of the New York State Executive Law and he/she shall be a veteran.

3. The Commissioner of Health in consultation with the Director of Veterans Services may from time to time add or delete such programs as allowed by statute, rule or regulation. ⁴⁴

32 Section 7.06. Director of Weights and Measures III. Added by Resolution No. 2010347. Local Law No. 2 of 2011.

44 Section 7.07. Veterans Services. Added by Resolution No. 2012323. Local Law #7 of 2012.

ARTICLE VII

DEPARTMENT OF HEALTH⁴⁵

Section

- 7.01. Board of Health; Sanitary Code; Procedure for Adoption.
- 7.02. County Sanitary Code; Violations and Penalties.
- 7.03. Board of Health; Powers and Duties.
- 7.04. Health Services; Intergovernmental Cooperation.

Section 7.01. Board of Health; Sanitary Code; Procedure for Adoption.

(a) The affirmative vote of a majority of the total membership of the Board of Health shall be required to pass any rule, regulation, order or direction which constitutes an amendment or addition to the County Sanitary Code. On the final passage, the question shall be taken by ayes and noes, and the names of the members present and their vote shall be entered in the minutes of proceedings.

(b) Every rule, regulation, order or direction which constitutes an amendment or addition to the County Sanitary Code shall be mailed or delivered in final form to each member at least 10 calendar days, exclusive of Sunday, prior to its final passage, unless the County Executive certifies as to the necessity for its immediate passage, and, in such event, such rule, regulation, order or direction may be passed by the affirmative vote of two-thirds of the total membership of the Board of Health.

(c) The Board of Health shall hold a public hearing on every rule, regulation, order or direction which constitutes an amendment or addition to the County Sanitary Code prior to its final passage. Such public hearing shall be on at least five days' notice, published in the official daily newspapers in the County of Dutchess.

(d) The Board of Health shall cause to be published annually a supplement to the County Sanitary Code which shall indicate all additions to, repeals, and amendments of any section of said Code.

(e) The Commissioner of Health shall cause to be furnished certified copies of the County Sanitary Code and its amendments for such fee as may be authorized by law.

Section 7.02. County Sanitary Code; Violations and Penalties.

The provisions of the County Sanitary Code shall have the force and effect of law. Any violation or non-conformance with any provision of such County Sanitary Code or of any rule, regulation, order or direction made thereunder shall constitute a misdemeanor punishable by a fine of not more than fifty dollars or by imprisonment for not more than six months or by both such fine and imprisonment. Certified copies of the County Sanitary Code shall be received in evidence in all courts and proceedings in the State.

Section 7.03. Board of Health; Powers and Duties.

The Board of Health shall, in consultation with the Commissioner, prepare recommendations for meeting the public health needs of Dutchess County. Copies of the recommendations shall be transmitted to the County Executive for his evaluation and referral within sixty (60) days to the County Legislature and the State Commissioner of Health. The Board of Health shall have and exercise such other powers and duties conferred upon such Board by the County Charter or this Code.

Section 7.04. Health Services, Intergovernmental Cooperation.

The County Executive, upon recommendation of the Commissioner and the Board of Health, shall have the power to enter into contracts to obtain or render health services, pursuant to Section 33.02 of the Charter.

45 Article VI, Health, Department of renumbered VII by Resolution No. 195 of 1997. Local Law No. 6 of 1997.