



CITY OF CORTLAND COMMON COUNCIL MEETING

JANUARY 16, 2024 | 6:00 PM

MINUTES

MEETING LOCATION

CITY HALL
25 COURT STREET
CORTLAND, NY 13045

STREAMING VIA ZOOM

MEETING ROOM ID:
923 566 4700
[ZOOM LINK](#)

MAYOR

SCOTT STEVE

COUNCIL MEMBERS

WAYNE SCHUTT
KATY SILLIMAN
MARY CLARE PENNELLO
PAT LANE
SETH THOMPSON
BILL CARPENTER
TROY BECKWITH
TOM MICHALES

CITY CLERK

ANDY JEWETT

CORPORATION COUNSEL

A.J. MELDRIM

DIRECTOR OF ADMINISTRATION & FINANCE

LISA HENTY

CONTACT

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RESOLUTIONS ADOPTED

- Resolution No. 13 Authorize the Code Enforcement Office to Enter Into Contract for Snow and Garbage Removal Services
- Resolution No. 14 Adopt Local Law No. 1 of 2024 Relating to Tobacco Retailing within the City, and the Requirement of a 'Local Tobacco Retail License' in addition to New York State issued Tobacco Retail Licenses
- Resolution No. 15 Refer Proposed Zoning Amendment to the County Planning Board and Set Public Hearing



CITY OF CORTLAND COMMON COUNCIL

JANUARY 16, 2024 | 6:00 PM

MEETING MINUTES

PUBLIC HEARINGS

Public Hearing No. 1 of 2024 Proposed Local Law No. 1 of 2024 Relating to Tobacco Retailing within the City, and the Requirement of a 'Local Tobacco Retail License' in addition to New York State issued Tobacco Retail Licenses

The federal Family Smoking Prevention and Control Act of 2009 provides local governments with the freedom to implement tobacco control policies. The proposed local law would establish a local licensing system for tobacco product and electronic smoking device retailers within the City of Cortland. The full text of the proposed local law may be found below within Agenda Item No. 2.

A public hearing was opened at 6:00 p.m. Jennifer Hamilton, Public Health Educator with the Cortland County Health Department, spoke in favor of the proposed local law. An area high school student and member of Reality Check, spoke in support of the proposal and about the impact of tobacco and electronic smoking devices on students and the school environment. Brittany Taylor with the American Heart Association spoke in support of the proposed local law. Wayne Miller spoke in support of the proposed local law. The public hearing was closed at 6:17 p.m.

Public Hearing No. 2 of 2024 Relating to Progress and Effectiveness of the CDBG Microenterprise Assistance Program #285ME506-22

The city was awarded \$200,000 in fiscal year 2022 to provide assistance to existing small businesses or startup businesses with five or fewer employees to support and foster their development of expansion. To be eligible for assistance, an existing or new micro-enterprise must also meet a low-to-moderate income test in one of two ways: 1) the business owner(s) must be low-to-moderate in income (LMI) based on family size and gross, annual income; or 2) a majority of the jobs to be created must be low-to-moderate income jobs and/or available to low-to-moderate income persons. The purpose of the hearing to provide the public an opportunity to ask questions or offer comments about the program.

A public hearing was opened at 6:17 p.m. There being no one present to speak, the public hearing was closed at 6:18 p.m.

CALL TO ORDER | ROLL CALL

Mayor Steve called the meeting to order at 6:18 p.m., and the City Clerk called the roll. The following Common Council members were in attendance:

- 1st Ward Wayne Schutt
- 2nd Ward Katy Silliman
- 3rd Ward Mary Clare Pennello
- 4th Ward Patricia Lane
- 5th Ward Seth Thompson
- 6th Ward William Carpenter

The following Council Members were recorded absent:

- 7th Ward Troy Beckwith
- 8th Ward Tom Michales

SALUTE TO THE FLAG | MOMENT OF REFLECTION

PRIVILEGE OF THE FLOOR

No one was present to speak.

WARD REPORTS

- Ward 2: Council Member Silliman said she hopes to see a banner hung on Main St. congratulating and celebrating the SUNY Cortland football team.
- Ward 3: Council Member Pennello said that flooding issues in the ward are being addressed.
- Ward 4: Council Member Lane attended a town and gown meeting. A discussion item included celebration of the football team and recognition of other student achievements.
- Ward 5: Council Member Thompson received a question about whether Pendleton St. is designated as an emergency snow route and that maybe there by be a better route due to snow and ice conditions.

APPROVAL OF THE MINUTES

The minutes of the January 2, 2024 Council meeting were approved.

- Motioned by: Council Member Schutt
- Seconded by: Council Member Carpenter
- Approved: Ayes – 6 [Schutt, Silliman, Pennello, Lane, Thompson, Carpenter]
Nays – 0

RESOLUTIONS

Resolution No. 13 Authorize the Code Enforcement Office to Enter Into Contract for Snow and Garbage Removal Services

RESOLVED, the City of Cortland Common Council authorizes Mayor Steve or his designee to enter into an agreement for garbage, snow and other miscellaneous removal services with Matthew Taylor for a rate of \$65.00 per hour and \$.80 (80¢) per linear foot of sidewalk cleared of snow beginning retroactively on January 10, 2024 through January 10, 2025.

- Motioned by: Council Member Carpenter
- Seconded by: Council Member Silliman
- Approved: Ayes – 6 [Schutt, Silliman, Pennello, Lane, Thompson, Carpenter]
Nays – 0

Resolution No. 14 Adopt Local Law No. 1 of 2024 Relating to Tobacco Retailing within the City, and the Requirement of a 'Local Tobacco Retail License' in addition to New York State issued Tobacco Retail Licenses

RESOLVED, that said local law shall read as follows:

CITY OF CORTLAND, NEW YORK
LOCAL LAW NO. 1 OF THE YEAR 2024
“AMENDMENT OF CHAPTER 269 – TOBACCO RETAILING,
ARTICLE I – REQUIREMENT OF LOCAL TOBACCO RETAIL LICENSE”

Be it enacted by the Common Council of the City of Cortland as follows:

Section 1. Enactment and Title.

Chapter 269. Tobacco Retailing.

Article I. Requirement of Local Tobacco Retail License.

§ 269-1. Definitions.

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

ACCESSORY – A product that is intended or reasonably expected to be used with or for the human consumption of a ‘Tobacco Product’ or ‘Electronic Smoking Device’, but does not contain tobacco, and is not made or derived from tobacco; including, but not limited to, carrying cases, lanyards, lighters, and holsters, and meets any of the following criteria:

- Is not intended or reasonably expected to affect or alter the performance, composition, constituents, or characteristics of a ‘Tobacco Product’ or ‘Electronic Smoking Device’; or
- Is intended or reasonably expected to affect or maintain the performance, composition, constituents, or characteristics of a ‘Tobacco Product’ or ‘Electronic Smoking Device’, but:
 - Solely controls moisture and/or temperature of a stored ‘Tobacco Product’ or ‘Electronic Smoking Device’; or
 - Solely provides an external heat source to initiate, but not maintain combustion of a ‘Tobacco Product’.

APPLICANT – Any individual, corporation, partnership, limited liability company, or other business entity, as well as each entity’s members, partners, and/or shareholders, as applicable, seeking a ‘Tobacco Retail License’. Applicant must be the actual State License(s) holder, and must be the entity offering the ‘Covered Product(s)’ for sale.

APPLICATION – The form completed in writing by an Applicant or an authorized agent thereof. An Application must be executed, and verified under penalty of perjury by the Applicant or the authorized agent thereof.

APPLICATION FEE – The annual, non-refundable fee that must accompany an Application upon its submission to the Division. The application fee for a ‘Tobacco Retail License’ shall be established by resolution of the Common Council of this City. Such fee may thereafter be amended from time to time by like resolution.

BUILDING – A permanent structure affixed to real property within the City bearing a tax parcel identification number, rendering the land improved for purposes of taxation.

CITY – The City of Cortland, New York.

COMPONENT OR PART – Software or materials intended or reasonably expected to alter or affect the performance, composition, constituents, or characteristics of a ‘Tobacco Product’ or ‘Electronic Smoking Device’; or, is to be used with or for the human consumption of a ‘Tobacco Product’ or ‘Electronic Smoking Device’. ‘Component or Part’ excludes an ‘Accessory’, but does include, although shall not limited to: e-liquids, cartridges,

refills, batteries, heating coils, programmable software, rolling papers, wraps, hookahs, mouthpieces, pipes, and flavorings for 'Tobacco Products' or Electronic Smoking Devices', whether they are sold together or separately.

COVERED PRODUCT(S) – Any 'Tobacco Product', 'Electronic Smoking Device', or any other product regulated by Article 13-F of the New York State Public Health Law ("Adolescent Tobacco Use Prevention Act").

DIVISION – The City's Code Enforcement Office or Division of Code Enforcement.

DIRECTOR – Director of the City's Code Enforcement Office, or Division of Code Enforcement, or their authorized designee.

ELECTRONIC SMOKING DEVICE(S) – Any device that may be used to deliver any aerosolized or vaporized substance that may be inhaled, whether or not the aerosolized or vaporized substance contains nicotine, including but not limited to: e-cigarettes, e-cigar, e-pipe, vape pen, or e-hookah. 'Electronic Smoking Device', as defined in this Article, includes any 'Component or Part', any substance to be aerosolized or vaporized, whether or not separately sold.

GAS STATION – A premises where petroleum for motor vehicles is stored and sold, for which all valid New York State licenses and/or certificates, including, but not limited to a New York State Department of Environmental Conservation registration, if required, is maintained, and includes a convenience store located on the same premises.

STATE LICENSE(S) – A valid New York State Department of Taxation certificate of registration for the sale of 'Covered Product(s)'.

TOBACCO PRODUCT(S) – Any product containing, made of, or derived from tobacco or nicotine, including synthetic nicotine, that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, snus, bidis, powdered tobacco, and nicotine water. 'Tobacco Product(s)' shall include any 'Component or Part', whether or not separately sold. 'Tobacco Product(s)' does not include drugs, devices, or a combination of products approved and authorized for sale by the United States Food and Drug Administration ("FDA") for cessation purposes, as defined in the federal Food, Drug, and Cosmetic Act. 'Tobacco Product(s)' does not include products regulated under Article 7-A of the Consolidated Laws of the State of New York.

TOBACCO RETAILER – Any individual, corporation, partnership, limited liability company, or other business entity that sells, offers for sale, or exchanges or offers to exchange for any form of consideration, 'Tobacco Products' and related products, which shall include 'Covered Products' and 'Component or Part' as defined in this Article.

TOBACCO RETAILING – Engaging in the activities of a Tobacco Retailer.

TOBACCO RETAIL LICENSE – Any license validly issued by the Division to an Applicant to engage in the retail sale of any 'Covered Product(s)' in the City. This shall be a local license issued, in addition to any required New York State license or other applicable, required license for the sale of tobacco.

YOUTH ORIENTED FACILITY – A parcel in the City that is occupied by the following:

- Any school, which shall be defined as a public or private kindergarten, elementary, middle, junior high, or high school;
- A library open to the public;
- A playground open to the public;

- A youth center, which shall be defined as a facility where children, ages 6-17, inclusive, come together for programs or activities;
- A recreation facility open to the public, which shall be defined as an area, place or structure, or other facility that is used either permanently, or temporarily for community recreation, even though it may be used for other purposes;
- Any park, which shall be defined as a park open to the public and owned by the City or any of its agencies;
- A licensed child-care facility or preschool; or
- Any other facility frequented by youth.

§ 269-2. Local Tobacco Retail License; Required.

- A. As of the effective date of this Article, a valid local ‘Tobacco Retail License’ issued by the Division in compliance with, and pursuant to this Article, shall be required to sell, offer for sale, or to permit the Sale of ‘Covered Product(s)’ to consumers in the City, in accordance with the terms herein. The requirement of a local ‘Tobacco Retail License’ pursuant to this Article is not applicable to a wholesale dealer who sells products to retail dealers for the purpose of resale only, so long as said wholesale dealer does not sell any ‘Covered Product(s)’ directly to consumers.
- B. Applicants must submit an Application for a local ‘Tobacco Retail License’ to the Division for approval on an annual basis. Local ‘Tobacco Retail Licenses’ issued pursuant to this Article shall be effective upon the date of issuance thereof, and shall be valid for a period of one (1) year from the date of issuance, unless sooner suspended or revoked.
- C. The Application Fee is non-refundable.
- D. The requirement of a local ‘Tobacco Retail License’ as set forth in this Article shall be in addition to any required license, certificate or the like, as mandated by New York State, or the United States, for the retail sale of ‘Covered Product(s)’.
- E. Applications for a local ‘Tobacco Retail License’ shall be submitted or filed with the Division in accordance with the procedural requirements as set forth in §269-3 of this Article.

§269-3. Local Tobacco Retail License Application and Eligibility Requirements.

A. Eligibility for a Local Tobacco Retail License.

- (1) Each local ‘Tobacco Retail License’ shall only be issued to actual retail sellers of ‘Covered Product(s)’ to be located in a building.
- (2) In order to be eligible to receive a local ‘Tobacco Retail License’ from the City’s Division, all Applicants must satisfy the following criteria:
 - a. An Applicant must hold and possess any and all required, current, valid ‘State License(s)’ issued by New the York State Department of Taxation and Finance for the retail sale of ‘Covered Products’ or otherwise, and provide proof of the same to the Division.
 - b. An Applicant must hold and possess any and all required, current, valid permits, licenses, certificates, and/or approvals necessary to operate in New York State and the City.

- c. An Applicant, or the owner of the property where the Applicant operates its business, must not owe to the City any outstanding taxes, payments in lieu of taxes, fees, fines, penalties, or other charges.
- d. An Applicant shall not be, or have been the owner or commercial tenant of a premises declared to be a public nuisance as set forth in the City's Administrative Code, as amended.
- e. In accordance with §269-3(B)(e) below, any Applicant, as an owner or tenant of any Building at which 'Covered Product(s)' are being sold, offered for sale, or permitted to be sold under a New York State or local 'Tobacco Retail License', shall be in compliance with all provisions of the City's Administrative Code, and with all other State or Federal laws and regulations at the time of Application. Notwithstanding any requirement herein to the contrary, the Division may consider an Applicant's or a Building's twelve (12) month history relative to compliance with local, state, and federal laws, rules, rules, and regulations.
- f. No local 'Tobacco Retail License' shall be issued to any Applicant who intends to sell for retail 'Covered Product(s)' within one thousand (1000) feet of a 'Youth Orientated Facility' as defined in this Article, as measured from the nearest point of the property line of the parcel on which the 'Youth Orientated Facility' is located, to the nearest point of the property line of the parcel on which the Applicant's business is located, for which the local 'Tobacco Retail License' is being sought hereunder.
- g. No local 'Tobacco Retail License' shall be issued to any Applicant within one thousand (1000) feet of another business holding and/or operating under a current and valid local 'Tobacco Retail License' as measured by a straight line from the nearest point of the property line of the parcel on which the business holding and/or operating under a current and valid local 'Tobacco Retail License' is located to the nearest point of the property line of the parcel on which the Applicant's business is located for which the local 'Tobacco Retail License' is being sought hereunder.
- h. In the event a 'Youth Orientated Facility' is located within one thousand (1000) feet of an existing business holding and/or operating under a current and valid local 'Tobacco Retail License', such business shall not be precluded from holding a local 'Tobacco Retail License', continuing operation under said license, or from applying for or renewing a local 'Tobacco Retail License'.
- i. Any Applicant applying for a local 'Tobacco Retail License' who disputes the Division's finding that the Applicant is disqualified or ineligible under §269-3(A)(2)(f) or §269-3(A)(2)(g) above, may dispute such finding pursuant to the following procedure:
 - i. Any such dispute must be made in writing, via certified U.S. Mail to the Division within thirty (30) days or receipt for the notice provided for in §269-5(B);
 - ii. The Applicant must include any and all evidence the Applicant relies on to support its claim that the Applicant and/or business is not located within one thousand (1000) feet of a 'Youth Orientated Facility' or other business holding and/or operating under a current and valid local 'Tobacco Retail License';
 - iii. The Division shall consider the above-described evidence as part of the Application;
 - iv. Upon the receipt of a validly submitted dispute, the Director or their authorized designee shall utilize the City's Zoning Board of Appeals to make the final determination as to whether the Applicant and/or business is located within one thousand (1000) feet of a 'Youth

Oriented Facility', or other business holding and/or operation under a current and valid local 'Tobacco Retail License'.

- (3) As of the effective date of this Article, and notwithstanding §269-3(A)(2)(f) and §269-3(A)(2)(g) herein, or any other provision of this Article to the contrary, an Applicant shall be eligible for a local 'Tobacco Retail License' in the Building identified in the submitted Application:
 - a. Possesses all required valid 'State License(s)';
 - b. Possesses a fee interest in or has a signed and valid lease for space in a Building where any 'Covered Product' will be or is currently being sold, offered for sale, or permitted to be sold as set forth in the Application;
 - c. Satisfies all requirements for licensure hereunder, and meets or is otherwise compliant with the terms and conditions of set forth in this Article; and
 - d. Submits an Application within the timeframe set forth in §269-3(B)(1).
- (4) The same eligibility criteria shall apply to subsequent annual license renewals upon an Applicant in the event an Applicant does in fact possess a current and valid local 'Tobacco Retail License'.
- (5) Any Applicant who fails to submit an Application within the timeframe set forth in §269-3(B)(1) shall be bound by the parameters set forth in §269-3(A)(2)(f) and §269-3(A)(2)(g).

B. Application Process

- (1) All Applications for a local 'Tobacco Retail License' shall be submitted to the Division within One Hundred and Twenty (120) days of the giving of notice set forth in §269-17 hereof, and then annual thereafter at least sixty (60) days prior to the expiration of the current local 'Tobacco Retail License'.
- (2) An Application shall be executed and verified under penalty of perjury by the Applicant or a duly authorized agent thereof. The Applicant shall maintain a duplicate original (signed and verified), which shall be subject to inspection by the City.
- (3) Each Application for a local 'Tobacco Retail License' be accompanied by the Application Fee.
- (4) Applicants shall agree that the business address provided in the Application shall be the address to which any notice required under this Article and any service of process required under the New York State Civil Practice Law and Rules, or under any local law or ordinance shall be sent unless the Applicant notifies the Division by certified U.S. Mail of a different address to be used for such notice.
- (5) Upon receipt of a completed Application and the Application Fee, the Division, and/or its designee shall inspect the Building at which any Covered Product(s) are to be sold, offered for sale, or permitted to be sold as sought in the Application to ensure compliance with all applicable codes, rules, laws, and regulations. Such inspection shall be scheduled in accordance with §269-5(A)(8). The Applicant shall have thirty (30) days to cure any code violations identified and cited during such an inspection, unless the violation cannot be reasonably cured within such thirty-day period, then the Applicant can request additional time to cure. In no event, without express written permission of the Division, in its sole discretion, shall the Applicant have more than initial thirty-day period. The Division may also request the Applicant provide additional information that is reasonably related to the determination of whether a local 'Tobacco Retail License' shall be issued.

- (6) Upon receipt of a completed Application and Application Fee, the Chief of Police or their designee shall conduct a criminal background check of the Applicant.

§ 269-4. Issuance of Local Tobacco Retail Licenses.

- A. Within sixty (60) days of compliance and completion of the requirements set forth in §269-3, the Division must make a determination on the Application and notify the Applicant of such determination. IF the Application currently holds a valid local 'Tobacco Retail License' issued pursuant to this Article, the Applicant may continue to operate under such local 'Tobacco Retail License' until such time as a determination on the new Application is made by the Division and such determination is provided by the Division to the Applicant.
- B. In the event an Application for a local 'Tobacco Retail License' is approved, the Division shall notify the Applicant in writing, via certified U.S. Mail and First Class Mail to the address provided by the Applicant as required on the Application.
- C. The issuance of any local 'Tobacco Retail License' pursuant to this Article is done in the City's sole discretion and shall not confer upon the Applicant any property interest or other right in the possession of a local 'Tobacco Retail License'.

§269-5. Denial of Local Tobacco Retail Licenses.

- A. The Division may, in its sole discretion, refuse to issue a local 'Tobacco Retail License' to an Applicant if it finds that one or more of the following reasons for denial exists:
 - (1) The Applicant has failed to meet or comply with any requirement set forth in this Article;
 - (2) The information presented in the Application is incomplete, inaccurate, false, or misleading;
 - (3) The Application Fee has not been paid as required;
 - (4) The Applicant has previously had a local 'Tobacco Retail License' issued under this Article revoked for any reason within the previous five (5) years;
 - (5) A local 'Tobacco Retail License' issued under this Article for the same address or location was previously revoked within the preceding three (3) years – unless the Applicant has demonstrated to the satisfaction of the Division that the Applicant has no connection to the prior licensee, its members, partners, or shareholders, and was not the owner of the premises at the time of revocation;
 - (6) The Applicant has been found by a Court of Law or administrative body to have violated any federal, state, or local law pertaining to: trafficking in contraband Covered Product(s); the payment or collection of taxes on Covered Product(s); the display of Covered Product(s); the display of required health warnings pertaining to Covered Products; or, the sale of Covered Product(s);
 - (7) The Applicant has outstanding fines and/or violations within the Cortland County Health Department in connection with violations of New York State Public Health Law Article 13-F, known as the Adolescent Tobacco Use Prevention Act;
 - (8) The Applicant fails to schedule and permit the inspection required under §269-2(B)(5) to take place within thirty (30) days of submitting an Application;
 - (9) The Applicant fails to pass the inspection as required under §269-3(B)(5);

(10) The Applicant is in violation of any other provision of this Article or is in violation of any federal or state statutes, rules or regulations, or any local laws, ordinances, rules or regulations of the City; or

(11) The Applicant has been conviction, and such conviction has not been expunged, of:

- a. Any felony as defined in the New York State Penal Law, in the five (5) years immediately preceding the date of the Application; or
- b. Any Class A misdemeanor, as defined in the New York State Penal Law, in the two (2) years immediately preceding the date of the Application.

B. In the event an Application for a local 'Tobacco Retail License' is denied, for any reason, the Division shall notify the Applicant in writing, via certified U.S. Mail and First-Class Mail to the address provided by the Applicant as required on the Application, and shall set forth the reason(s) such Application was denied.

§269-6. Operation of Business.

Local 'Tobacco Retail License' holders shall comply with all provisions of federal and state statutes, rules and regulations, and all local laws, ordinances, rules and regulations of the City relating to the conduct of business and the occupation use and maintenance of the premises at which the business is located. Moreover, local 'Tobacco Retail License' holders shall comply with any and all notices, orders decisions, and determinations made by any City official or body that governs the occupation and use of the business holding and/or operating under the local 'Tobacco Retail License'.

§269-7. Limitation on Number of Licenses Issued.

A. As of the effective date of this Article, the total number of local 'Tobacco Retail Licenses' issued by the Division shall be no more than the sum of:

- (1) The number of valid and current 'State License(s)' issued for establishments open and operating in the City as of the effective date of this Article; and
- (2) The number of valid and current 'State License(s)' that were issued by New York State for establishments on or before the effective date of this Article which open for the operation of business in accordance with the provisions of this Article on or before the ninetieth (90th) day following the effective date of this Article.

B. Issuance of any additional local 'Tobacco Retail Licenses' shall be authorized pursuant to local 'Tobacco Retail License' §269-8.

C. A local 'Tobacco Retail License' shall only be issued to an Applicant for the same location at which the Applicant possessed a valid and current 'State License' prior to the effective date of this Article.

D. Notwithstanding the terms set forth in §269-7(C) above, beginning one (1) year from the effective date of this Article, Division shall only issue one (1) local 'Tobacco Retail License' for every two (2) local 'Tobacco Retail Licenses' that were revoked, or expired and not renewed during the previous year.

E. Whenever the number of valid Applications for local 'Tobacco Retail Licenses' exceeds the maximum number of licenses available for issue pursuant to §269-7, the Division shall grant such local 'Tobacco Retail Licenses' using the following priorities:

- (1) Local 'Tobacco Retail Licenses' shall be granted first, by order of Application date and time to any Applicant compliant with this Article, that held a valid local 'Tobacco Retail License' in the prior year;

- (2) A local 'Tobacco Retail License' shall be granted, second, by order of Application date and time to any Applicant compliant with this Article that did not hold a valid local 'Tobacco Retail License' in the prior year; or
- (3) A local 'Tobacco Retail License' shall be granted by lottery when the order of Application date and time is insufficient, in the discretion of the Division, to determine who shall be issued a local 'Tobacco Retail License' pursuant to §269-7(E)(2).

§269-8. Transferability.

- A. All local 'Tobacco Retail Licenses' issued pursuant to this Article are nontransferable and non-assignable and are only valid for the Applicant and the specific Building indicated on the local 'Tobacco Retail License'.
- B. Any change in business ownership, membership interests, shareholders, partnership interests, business address, or interruption in or of possession of a local 'Tobacco Retail License', will result in the automatic termination of said local 'Tobacco Retail License'.
- C. A local 'Tobacco Retail License' holder shall notify the Division in writing, via certified U.S. Mail, within five (5) days following the date when such local 'Tobacco Retail License' holder transfers, assigns, sells, closes, or moves the business operating under the local 'Tobacco Retail License'. Upon being notified, the Division shall cancel the local 'Tobacco Retail License'.

§269-9. Requirement to Displace Tobacco Retail License.

Any local 'Tobacco Retail License' issued pursuant to this Article shall be conspicuously displayed the location where any Covered Product(s) are sold, or offered for sale, so that is readily visible to customers.

§269-10. Violations and Penalties.

- A. Any or all of the following shall constitute a violation under this Article:
 - (1) The Application and/or eligibility requirements for a local 'Tobacco Retail License' under §269-3 are not met continuously, at any time after said local 'Tobacco Retail License' was issued;
 - (2) One or more of the bases for denial of a local 'Tobacco Retail License' under §269-5 exists at any time after said local 'Tobacco Retail License' was issued;
 - (3) A violation by the local 'Tobacco Retail License' holder of any federal, state, or local law or regulation pertaining to: trafficking in contraband Covered Product(s); the payment or collection of taxes on Covered Product(s); the display of Covered Product(s); the display of required health warnings pertaining to Covered Product(s); or, the sale of Covered Product(s);
 - (4) Selling, offering for sale, or permitting the sale of any Covered Product(s) without a valid and current local 'Tobacco Retail License' displayed in accordance with §269-9;
 - (5) The local 'Tobacco Retail License' holder submitted an Application that contained a material misrepresentation; or
 - (6) The local 'Tobacco Retail License' holder is in violation of any other provision of this Article, or is in violation of and federal or state statutes, rules, and regulations, as well as any local laws, ordinances, rules, and regulations of the City.

B. Following notice and a hearing pursuant to §269-12, any 'Tobacco Retail License' holder found to be in violation of this Article shall be liable for a civil penalty of not more than \$3,500.00 for the first violation, not more than \$7,000.00 for the second violation, and not more than \$10,000.00 for the third and each subsequent violation. Each day on which a violation occurs shall be considered a separate and distinct violation.

§269-11. Suspension and Revocation of Licenses.

A. Following notice and a hearing pursuant to §269-12, the Division may take any of the following actions based on a violation(s) of this Article:

- (1) Suspension of the local 'Tobacco Retail License' for up to twelve months; or
- (2) Revocation of the local 'Tobacco Retail License'.

§269-12. Hearing.

A. In the event a local 'Tobacco Retail License' holder is alleged to be in violation of this Article, the Division may hold a hearing upon fifteen (15) days written notice to said license holder, sent by certified U.S. Mail and First-Class Mail to the address provided by the Applicant as required on the Application. Any such notice shall inform the local 'Tobacco Retail License' holder of the date, time, and location of the hearing, the alleged violation(s), and the potential resulting penalty.

B. Any hearing held pursuant to §269-12 shall be held before a hearing officer or board designated by the Division, but shall not include any employee of the Division. All such hearings shall be recorded, and such recordings shall be maintained for a period of two (2) years.

C. The hearing officer or board shall review the hearing recording and all exhibits submitted at the hearing, and, within forty-five (45) days following said hearing, render a written recommendation to the Director as to whether a local 'Tobacco Retail License' should be suspended, revoked, and as to the civil penalty to be assessed.

D. The Director or their designee shall prepare a final order of determination and provide said determination, in writing to the local 'Tobacco Retail License' holder, via certified U.S. Mail and First-Class Mail, at the address provided by the Applicant as required on the Application.

§269-13. Failure to Obtain a Local Tobacco Retail License.

A. In the event any business required to obtain a local 'Tobacco Retail License' pursuant to this Article, and continues to sell, to offer for sale, or to permit the sale of 'Covered Product(s)' to consumers in the City, the Division shall notify the business via certified U.S. Mail and First-Class Mail to the business's address of record to otherwise operate in the City as follows:

- (1) That it is operating in violation of this Article;
- (2) That it has fifteen (15) days from receipt of the written notification to stop operating in violation of this Article; and
- (3) That if it continues to operate in violation of this Article after the fifteen (15) day period from the date the written notification was received, the business shall be subject to immediate closure by the Division pursuant to §107.1.4 of the 2020 New York State Property Maintenance Code, and pursuant to any other relevant statute, law, ordinance, rule or regulation, and that a civil penalty of up to \$10,000.00 may be imposed.

- B. In the event a business is provided with the written notification described herein, and continues to operate in violation of this Article after such notification, the Divisions shall immediately close the business pursuant to §107.1.4 of the 2020 New York State Property Maintenance Code, and pursuant to any other relevant statute, law, ordinance, rule or regulation, and may impose a civil penalty of up to \$10,000.00.

§269-14. Inspection Access.

In addition to the requirements set forth in §269-3, officers and employees of any City departments with responsibility to enforce or assist the Director in enforcing the provisions of this Article, shall have the right of access to any business subject to the terms of this Article for the purpose of making an inspection during normal business hours. The City shall also have the authority to seek inspection warrants when and where necessary to properly administer this rules promulgated by this Article.

§269-15. Enforcement.

- A. The Director, in conjunction with other City departments, including but not limited to, the City of Cortland Police Department, shall enforce the provisions of this Article. The Director and/or their authorized designee(s) may conduct periodic inspections of the business holding and/or operating under a local ‘Tobacco Retail License’, or a business in violation of this Article, in order to ensure compliance.
- B. The City’s Corporation Counsel, or their designee, may maintain an action or special proceeding in a court of competent jurisdiction for the recovery of civil penalties, together with costs and disbursements. In addition to any action or special proceeding for the recovery of civil penalties, the City’s Corporation Counsel, or their designee, may take any and all action necessary to enforce the terms of the Article, including, but not limited to, an action or special proceeding to enjoin the continued operation or maintenance of a business in violation of the rules promulgated by this Article.

§269-16. Notice Regarding This Article.

Within sixty (60) days of the effective date of this Article, the Division shall send to all known entities possessing a valid and current ‘State License’ a copy of this Article, and shall publish this Article in the Cortland Standard or any other publication authorized by the Common Council, once a week for two (2) weeks. A copy of this Article shall also be posted on the City’s website. Failure to receive notice shall not affect the applicability of the rules promulgated by this Article.

§269-17. Rules and Regulations.

The City reserves the right to issue and amend rules, regulations, standards, guidelines, or conditions to implement and enforce the terms of this Article.

§269-18. Severability.

If any clause, sentence, paragraph or part of this Article or application thereof to any person or circumstance is adjudged by a court to be invalid, such judgment shall not affect, impair, or invalidate the remainder of the Article, or the application of its terms to any other person or circumstance, but shall be confined in its operation to the clause, sentence, paragraph or part thereof, and to the persons or circumstances directly involved in the controversy in which the judgment shall be rendered.

Section 2. Separability.

If any part of provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or

provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Common Council of the City of Cortland hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 3. Findings.

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 4 Effective Date.

This Local Law shall take effect immediately upon filing in the Office of the New York Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

Motioned by: Council Member Schutt

Seconded by: Council Member Pennello

Approved: Ayes – 6 [Schutt, Silliman, Pennello, Lane, Thompson, Carpenter]
Nays – 0

Resolution No. 15 Refer Proposed Zoning Amendment to the County Planning Board and Set Public Hearing

RESOLVED, that the Common Council does hereby refer the proposed local law to amend §300-4 and §300-32 of the city’s Administrative Code to the Cortland County Planning Board for review at its February 15, 2024 meeting and to the City of Cortland Planning Commission for review at its March 4, 2024 meeting; AND BE IT FURTHER

RESOLVED, that pursuant to Section 20 of the Municipal Home Rule Law of the State of New York, a public hearing on a proposed local law to amend the city’s Administrative Code relating to limiting retail sale of cannabis, cannabis related products, and products regulated by the Adolescent Tobacco Use Prevention Act shall be held at 6:00 p.m. on March 5, 2024 at City Hall, 25 Court Street, Cortland NY and that the City Clerk shall publish notice of such hearing in the official newspaper of the City of Cortland.

Motioned by: Council Member Schutt

Seconded by: Council Member Lane

Approved: Ayes – 6 [Schutt, Silliman, Pennello, Lane, Thompson, Carpenter]
Nays – 0

EXECUTIVE SESSION

The Common Council entered executive session pursuant to §105(1)f for the purpose of discussing a person’s employment history.

Motioned by: Council Member Silliman

Seconded by: Council Member Thompson

Approved: Ayes – 6 [Schutt, Silliman, Pennello, Lane, Thompson, Carpenter]
Nays – 0

The Common Council adjourned executive session at 7:19 p.m., returning to regular session.

Motioned by: Council Member Schutt

Seconded by: Council Member Lane

Approved: Ayes – 6 [Schutt, Silliman, Pennello, Lane, Thompson, Carpenter]
Nays – 0

DISCUSSION ITEMS

Discussion Item No. 1 City of Cortland Advocacy Priorities for the 2024 NYS Legislative Agenda

The Council, Mayor and Director of Administration and Finance discussed alignment of the city’s state advocacy efforts with the New York Conference of Mayors’ (NYCOM) legislative agenda and policy statements covering a variety of issues that impact the City. The Common Council will have further discussion with the City’s representatives in the NYS Senate and Assembly, and U.S. Congress.

Discussion Item No. 2 City Council Ward and City Priorities for 2024

The Council, Mayor and Director of Administration and Finance discussed strategies to identify and address concerns and priorities of Common Council members within their wards.

ADJOURNMENT

The meeting was adjourned at 7:31 p.m. on motion of Council Member Silliman