

Regular Meeting of the Town Board of the Town of Van Buren, held on September 4, 2024 at 7:00 pm at the Van Buren Town Hall, 7575 Van Buren Road, Baldwinsville, New York.

Mr. Michael Burke	Councilor
Mr. Robert Grover	Councilor
Mrs. Jennifer Sullivan	Councilor
Ms. Darcie Lesniak	Councilor
Mrs. Wendy Van Der Water	Supervisor

Absent:

Mr. Roger Hand	Councilor
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Also Present:

Ms. Nadine Bell	Town Attorney
Mr. Jason Hoy	Town Engineer
Mr. Doug Foster	Highway Superintendent
Ms. Lynn Precourt	Town Clerk

Approve Meeting Minutes of August 21, 2024:

173-24-000 MOTION BY Mrs. Sullivan, seconded by Ms. Lesniak, to approve the minutes of the Regular Town Board Meeting held on August 21, 2024 as published.

Mr. Burke – Yes, Mr. Grover – Abstain, Mrs. Sullivan – Yes, Ms. Lesniak – Yes, Mrs. Van Der Water – Yes

Motion Carried & Adopted

Citizens Comments:

Mr. Andy Bowes thanked the town for placing the speed control sign on Tappan Street. He asked about getting fog lines on the street because they can help with slowing people down.

Approve Vouchers:

174-24-007 MOTION BY Mr. Grover, seconded by Ms. Lesniak, to approve claims 232638, 232643-232654, 232664-232694 in the amount of \$62,233.23.

Mr. Burke – Yes, Mr. Grover – Yes, Mrs. Sullivan – Yes, Ms. Lesniak – Yes, Mrs. Van Der Water – Yes

Motion Carried & Adopted

Approve budget transfers:

175-24-007 MOTION BY Mrs. Sullivan, seconded by Mr. Grover, to approve the following budget transfers:

FROM:	B.9060.0800	TOWN OUTSIDE HEALTH INSURANCE	\$ (4,000.00)
TO:	B.9050.0800	TOWN OUTSIDE UNEMPLOYMENT <i>Chris Perdue Unemployment</i>	\$ 4,000.00
FROM:	A.1990.0400	CONTINGENCY	\$ (2,000.00)
TO:	A.1620.0426	SECURITY SYSTEMS <b>ACTUAL AMOUNT SPENT IN 2023 WAS \$1,700. Only budgeted \$1,000 in 2024 More is being spent this year</b>	\$ 2,000.00
FROM:	A.7020.0100	PARK WAGES	\$ (4,588.00)
TO:	A.7020.0409	SOFTWARE FOR REC (CIVIC) <b>Software paid for in 2023 for 2024 for Recreation (Civic) approved by former Supervisor</b>	\$ 4,588.00
FROM:	A.1990.0400	CONTINGENCY	\$ (2,000.00)
TO:	A.9010.0800	GENERAL FUND RETIREMENT <b>Adjustment for Retirement bill 2024/2025</b>	\$ 2,000.00
FROM:	B.8020.0432	COMPREHENSIVE PLAN 2924	\$ (4,000.00)
TO:	B.9010.0800	GENERAL FUND RETIREMENT <b>Adjustment for Retirement bill 2024/2025</b>	\$ 4,000.00
FROM:	A.1990.0400	CONTINGENCY	\$ (6,500.00)
TO:	A.1420.0429	ATTORNEY RETAINERS <b>Short Due to December Billing in 2024 Short due to October Billing in 2024</b>	\$ 6,500.00
FROM:	B.3620.0100	CODES WAGES	\$ (20000.00)
TO:	B.3620.0400	CODES INTERMUNICIPAL AGREEMENT WITH SALINA	\$ (20000.00)

***To move Town of Salina reimbursement to  
a contractual line for Code Enforcement  
Services June-October, already spent  
\$14250.00***

Mr. Burke – Yes, Mr. Grover – Yes, Mrs. Sullivan – Yes, Ms. Lesniak – Yes, Mrs. Van Der Water – Yes

Motion Carried & Adopted

**Public Hearing to hear comments on proposed Local Law D-2024, Add Chapter 184, Tobacco and Vapor Products to require tobacco retail licenses:**

176-24-000 MOTION BY Mr. Grover, seconded by Mr. Burke, to recess the regular meeting, open the public hearing and waive reading the legal notice published in *The Messenger* on August 22, 2024.

Mr. Burke – Yes, Mr. Grover – Yes, Mrs. Sullivan – Yes, Ms. Lesniak – Yes, Mrs. Van Der Water – Yes

Motion Carried & Adopted

Ms. Bell said this was proposed in part to deal with illegal sales of tobacco products. It is not meant to be a revenue generator but rather to ensure these businesses are operating legally.

Mrs. Van Der Water asked if there was anyone to speak in favor of this proposed local law.

Mr. Andy Bowes thanked the Board for their work on this and said he supports the law.

Mrs. Van Der Water asked if there was anyone to speak against this proposed local law. No one spoke.

177-24-000 MOTION BY Mrs. Sullivan, seconded by Mr. Grover, to close the public hearing and resume the regular meeting at 7:08 pm.

Mr. Burke – Yes, Mr. Grover – Yes, Mrs. Sullivan – Yes, Ms. Lesniak – Yes, Mrs. Van Der Water – Yes

Motion Carried & Adopted

A Local Law Amending the Van Buren Town Code to Add Chapter 184, titled  
Tobacco and Vapor Products,” to Require Tobacco Retail Licenses  
within the Town of Van Buren

The following resolution was offered by Mrs. Sullivan, who moved its adoption, seconded by Mr. Grover, to wit:

**WHEREAS**, pursuant to the provisions of the Municipal Home Rule Law, a proposed local law titled, “A Local Law Amending the Van Buren Town Code to Add Chapter 184, titled “Tobacco and Vapor Products,” to Require Tobacco Retail Licenses within the Town of Van Buren,” was presented and introduced at a regular meeting of the Town Board of the Town of Van Buren held on August 21, 2024; and

**WHEREAS**, a public hearing was held on such proposed local law on this 4<sup>th</sup> day of September, 2024, by the Town Board of the Town of Van Buren and proof of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed local law having been heard, and said proposed local law having been in the possession of the members of the Town Board of the Town of Van Buren in its final form in the manner required by Section 20 of the Municipal Home Rule of the State of New York; and

**WHEREAS**, the enactment of proposed Local Law No. D-2024 has previously been determined to be an unlisted action and will have no significant effect on the environment thus concluding the SEQR review process; and

**WHEREAS**, it is in the public interest to enact said proposed Local Law No. D-2024.

**NOW, THEREFORE**, it is

**RESOLVED** that the Town Board of the Town of Van Buren, Onondaga County, New York, does hereby enact proposed Local Law No. D-2024 as Local Law No. \_\_-2024 as follows:

**“TOWN OF VAN BUREN  
LOCAL LAW \_\_-2024**

**A LOCAL LAW AMENDING THE VAN BUREN TOWN CODE TO ADD  
CHAPTER 184, TITLED “TOBACCO AND VAPOR PRODUCTS,” TO  
REQUIRE TOBACCO RETAIL LICENSES WITHIN  
THE TOWN OF VAN BUREN**

**BE IT ENACTED**, by the Town Board of the Town of Van Buren the Code of the Town of Van Buren to add a new Chapter 184, as follows:

**SECTION 1.**

The Town Board of the Town of Van Buren adopts this Local Law to add a new Chapter 184, titled "Tobacco and Vapor Products," to establish retail license requirements for tobacco and vapor product stores within the Town of Van Buren, which shall read as follows:

## **CHAPTER 184. TOBACCO AND VAPOR PRODUCTS**

### **§ 184-1. Legislative Findings, Intent and Purpose.**

Tobacco products and electronic smoking devices are addictive and inherently dangerous and have been shown to be harmful to the public health. Tobacco use is the leading preventable cause of death in the United States, causing over 480,000 deaths in the United States each year from health conditions including but not limited to cancer and heart disease. In New York State, approximately 28,000 adults die from smoking-related illnesses each year.

Research shows that the accessibility and availability of tobacco products and electronic smoking devices influences youth to begin using tobacco products and electronic smoking devices. Youth are uniquely vulnerable to the effects of nicotine and the formation of nicotine dependence. Nicotine exposure can harm the developing adolescent brain. An overwhelming majority of Americans who smoke cigarettes daily first tried smoking by the age of eighteen (18), and youth who use e-cigarettes may be more likely to smoke cigarettes in the future. The Surgeon General of the United States has concluded that almost no one starts smoking tobacco after age twenty-five (25).

Tobacco product and electronic smoking device retail outlet density is associated with increased rates of smoking. Although it is unlawful to sell tobacco products to minors, according to a report by the New York State Department of Health, Youth Access Tobacco Enforcement Program for the period of April 1, 2018, through March 21, 2020, 7.91% of the New York retailers surveyed do sell to minors. 22.5% of high school students in New York State use electronic nicotine delivery systems (also called electronic cigarettes). 25.6% of high school students in New York State use some form of tobacco product.

The Family Smoking Prevention and Control Act of 2009 provides local governments with the freedom to implement tobacco control policies. A local licensing system for tobacco product and electronic smoking device retailers will provide a local enforcement mechanism to allow the Town of Van Buren to monitor and increase retailers' compliance with federal, state, and local laws, including laws that prohibit the sale of tobacco products and electronic smoking devices to minors, such as New York State Public Health Law Article 13-F, by requiring compliance with these laws as a condition for obtaining and maintaining a local Tobacco Retail License.

The Town Board of the Town of Van Buren finds that the Town of Van Buren has a substantial and important interest in reducing the illegal sale of tobacco products, electronic smoking devices, and all other products regulated by New York State Public Health Law Article 13-F, to minors. It is the intent of the Town through the addition of this new Article to implement effective measures to license all retailers selling tobacco products, electronic smoking devices, and all other products regulated by New York State Public Health Law Article 13-F; to reduce the

number of such retailers; to regulate the location of such retailers; to stop the sale of tobacco products, electronic smoking devices, and all other products regulated by New York State Public Health Law Article 13-F, to minors; and to reduce the number of individuals of all ages who use tobacco products and electronic smoking devices.

**§ 184-2. Definitions.**

For the purposes of this Chapter, the following words and phrases shall be defined as follows:

- (a) *Accessory* shall mean 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, 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 either of the following:
  - (i) 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
  - (ii) is intended or reasonably expected to affect or maintain the performance, composition, constituents or characteristics of a Tobacco Product or Electronic Smoking Device but:
    - (A) solely controls moisture and/or temperature of a stored Tobacco Product or Electronic Smoking Device; or
    - (B) solely provides an external heat source to initiate but not maintain combustion of a Tobacco Product.
- (b) *Applicant* shall mean an 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. An Applicant must be the actual State License holder and must be the entity offering the Covered Product for sale.
- (c) *Application* shall mean the form completed in writing by an Applicant or an authorized agent thereof and executed and verified under penalty of perjury by the Applicant or the authorized agent thereof.
- (d) *Application Fee* shall mean the annual non-refundable fee, which shall be established by resolution of the Town Board, owed upon the submission of an Application.
- (e) *Building* shall mean a permanent structure affixed to real property within the Town bearing a tax parcel identification number rendering the land improved for purposes of taxation.
- (f) *Component or Part* shall mean software or materials intended or reasonably expected: (1) to alter or affect the performance, composition, constituents or characteristics of a Tobacco Product or Electronic Smoking Device or (2) to be used with or for the human

consumption of a Tobacco Product or Electronic Smoking Device. “Component or Part” excludes an Accessory and includes, but is 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.

- (g) *Covered Product(s)* shall mean any Tobacco Product, Electronic Smoking Device, or any other product regulated by Article 13-F of the New York State Public Health Law, known as the Adolescent Tobacco Use Prevention Act.
- (h) *Department* shall mean the Codes Enforcement Office for the Town.
- (i) *Director* shall mean the Code Enforcement Officer, or their designee, for the Town.
- (j) *Electronic Smoking Device(s)* shall mean 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, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. “Electronic Smoking Device” includes any Component or Part but not Accessory and includes any substance to be aerosolized or vaporized, whether or not separately sold. “Electronic Smoking Device” does not include drugs, devices, or combination products approved and authorized for sale by the U.S. Food and Drug Administration for cessation purposes, as those terms are defined in the Federal Food, Drug, and Cosmetic Act and does not include products regulated under Article 7-A of the Consolidated Laws of the State of New York.
- (k) *Gas Station* shall mean 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.
- (l) *Public Park* an area to which the public is invited or in which the public is permitted and shall include a park, playground, or athletic field, owned by the Town or any of its agencies.
- (m) *School* shall mean any public or private kindergarten, elementary, middle, junior high, or high school and their grounds and/or facilities.
- (n) *State License(s)* shall mean a valid New York State Department of Taxation and Finance certificate of registration for the sale of a Covered Product.
- (o) *Tobacco Product(s)* shall mean 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” includes a Component or Part, whether or not separately sold, but not Accessory. “Tobacco Product” does not include drugs, devices, or combination products approved and authorized for sale by the

U.S. Food and Drug Administration for cessation purposes, as those terms are defined in the Federal Food, Drug, and Cosmetic Act and does not include products regulated under Article 7-A of the Consolidated Laws of the State of New York.

- (p) *Tobacco Retail License* shall mean any license issued by the Department to an Applicant to engage in the retail sale of any Covered Product in the Town.
- (q) *Town* shall mean the Town of Van Buren.

**§ 184-3. Tobacco Retail License Required.**

- (a) As of the effective date of this Chapter, a valid Tobacco Retail License issued by the Department in compliance with this Chapter shall be required to sell, to offer for sale, or to permit the sale of a Covered Product to consumers in the Town in accordance with the terms hereof. The requirement for a Tobacco Retail License detailed in this Chapter is not applicable for a wholesale dealer who sells products to retail dealers for the purpose of resale only and does not sell any Covered Product directly to consumers. (b) Applicants must submit an Application for a Tobacco Retail License to the Department on an annual basis. Tobacco Retail Licenses issued pursuant to this Chapter 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.
- (b) Each Application for a Tobacco Retail License shall be filed with the Department in accordance with Section 184-4 hereof.
- (c) Notwithstanding the requirements set forth in Subsection (a) above, this Chapter shall not apply to an organization that is deemed a registered organization pursuant to Section 3364 of the New York State Public Health Law.

**§ 184-4. Tobacco Retail License Application and Eligibility Requirements.**

**(1) Eligibility for a Tobacco Retail License**

- (a) Each Tobacco Retail License shall be issued only to actual sellers of Covered Products to be located in a Building.
- (b) To be eligible to receive a Tobacco Retail License from the Department, the Applicant must meet the following criteria:
  - (i) The Applicant shall hold, possess and provide proof to the Department of a current and valid State License(s) issued by the New York State Department of Taxation and Finance;



- (ii) The Applicant shall hold, possess and provide proof to the Department of all required permits, licenses, and/or approvals necessary and/or required to operate in New York State and the Town;
  - (iii) The Applicant must not owe to the Town any outstanding taxes, payments in lieu of taxes, fees, fines, penalties or other charges;
  - (iv) No Tobacco Retail License shall be issued to any Applicant within 1,000 feet of a School or Public Park as measured by a straight line from the nearest point of the property line of the parcel on which the School or Public Park is located to the nearest point of the property line of the parcel on which the Applicant's business is located for which the Tobacco Retail License is being sought hereunder.
  - (v) No Tobacco Retail License shall be issued to any Applicant within 1,000 feet of another business holding and/or operating under a current and valid 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 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 Tobacco Retail License is being sought hereunder.
  - (vi) In the event a School or Public Park locates within 1,000 feet of an existing business holding and/or operating under a current and valid Tobacco Retail License, such business shall not be precluded from holding or continued operation under the Tobacco Retail License or from applying for or obtaining a new Tobacco Retail License.
  - (vii) Any Applicant applying for a Tobacco Retail License who disputes the Department's finding that the Applicant is disqualified under Sections 184-4(1)(b)(iv) or 184-4(1)(b)(v) above may dispute such finding as set forth below. Any such dispute must be made in writing, via certified U.S. Mail, to the Department within thirty (30) days of receipt of the notice provided for in Section 184-6(b) below and include any and all evidence the Applicant relies on to support its claim that it is not located within 1,000 feet of a School, Public Park, or business holding and/or operating under a current and valid Tobacco Retail License. The Department shall consider such evidence as part of the Application. The Director shall have final authority to determine whether the business is located within 1,000 feet of a School, Public Park, or business holding and/or operating under a current and valid Tobacco Retail License.
- (c) As of the effective date of this Chapter, and notwithstanding Sections 184-4(1)(b)(iv) and 184-4(1)(b)(v) hereof, if an Applicant: (i) possesses a valid State License; (ii) has a fee interest or a signed and valid lease for space in a Building where a Covered Product will be or is currently being sold, offered for sale, or permitted to be sold as set forth in the Application; (iii) satisfies all other requirements for licensure hereunder and meets and is

otherwise compliant with the terms and conditions of this Chapter; and (iv) submits an Application within the timeframe set forth in Section 184-4(2)(a) hereof, then, notwithstanding anything in this Section to the contrary, such Applicant shall be eligible for a Tobacco Retail License for the same Applicant in the same Building. Any such Applicant who fails to submit an Application within this time frame shall be bound by Sections 184-4(1)(b)(v) and 184-4(1)(b)(vi) above.

## **(2) Application Process**

- (a) All Applications for a Tobacco Retail License shall be submitted to the Department within 120 days of the giving of notice as set forth in Section 184-16 hereof and then annually thereafter at least 60 days prior to the expiration of the current Tobacco Retail License. The Director, in his/her sole discretion, shall have authority to permit submission of an Application where an Application is late or incomplete through no fault of the Applicant;
- (b) An Application shall be executed and verified under penalty of perjury by the Applicant or an authorized agent thereof. The Applicant shall maintain a duplicate original signed and verified Application, which shall be subject to inspection by the Town;
- (c) Each Application for a Tobacco Retail License shall be accompanied by an Application Fee;
- (d) Applicants shall agree that the business address provided in the Application shall be the address to which any notice required under this Chapter and any service of process required under the New York Civil Practice Law and Rules or under any local law or ordinance shall be sent unless the Applicant notifies the Department by certified U.S. Mail of a different address to be used for such notice;
- (e) Upon the receipt of a completed Application and the Application Fee, the Department and/or its designee shall inspect the Building at which any Covered Product is to be sold, offered for sale, or permitted to be sold as sought in the Application to ensure compliance with all applicable codes and regulations. Such inspection shall be scheduled in accordance with Section 184-6(VIII) below. The Department may also ask the Applicant to provide additional information that is reasonably related to the determination of whether a Tobacco Retail License may issue; and
- (f) Upon the receipt of a completed Application and the Application Fee, the Applicant shall authorize the Town to conduct a national criminal background check on the Applicant prior to the issuance of Tobacco Retail License.

## **§ 184-5. Issuance of Tobacco Retail Licenses.**

- (a) Within 60 days of compliance with and completion of the requirements set forth in Section 184-4 above, the Department must make a determination on the Application and notify the Applicant of the determination. If the Applicant currently holds a valid Tobacco Retail License issued pursuant to this Chapter, the Applicant may continue to operate under

the Tobacco Retail License until such time as a determination on the new Application is made by the Department and such determination is provided by the Department to the Applicant.

- (b) In the event an Application for a Tobacco Retail License is approved, the Department shall notify the Applicant in writing, via certified U.S. Mail and First-Class Mail to the address provided by the Applicant pursuant to Section 184-4(2)(d) above.
- (c) The issuance of any Tobacco Retail License pursuant to this Chapter is done in the Town's sole discretion and shall not confer upon the Applicant any property interest or other right in the possession of a Tobacco Retail License.

**§ 184-6. Denial of Tobacco Retail Licenses.**

- (a) The Department may, in its sole discretion, refuse to issue a Tobacco Retail License to an Applicant if it finds that one or more of the following reasons for denial exists:
  - (i) The Applicant has failed to meet any requirement of this Chapter;
  - (ii) The information presented in the Application is incomplete, inaccurate, false, or misleading;
  - (iii) The Application Fee has not been paid;
  - (iv) The Applicant has previously had a Tobacco Retail License issued under this Chapter revoked for any reason within the previous five (5) years;
  - (v) A Tobacco Retail License issued under this Chapter 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 Department, 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;
  - (vi) The Applicant has been found by a court of law or administrative body to have violated any federal, state or local law pertaining to: (a) trafficking in a contraband Covered Product(s); (b) the payment or collection of taxes on a Covered Product(s); the display of a Covered Product(s); (d) the display of health warnings pertaining to a Covered Product(s); or (e) the sale of a Covered Product(s);
  - (vii) The Applicant has outstanding fines and/or violations with the Onondaga County Health Department in connection with violation(s) of New York State Public Health Law Article 13-F, known as the Adolescent Tobacco Use Prevention Act;
  - (viii) The Applicant fails to schedule and permit the inspection required under Section 184-4(2)(e) above to take place within 30 days of submitting an Application, unless otherwise agreed to by the Department;

- (ix) The Applicant fails to pass the inspection required under Section 184-4(2)(e) above;
- (x) The Applicant is in violation of any other provision of this Chapter or is in violation of any federal or state statutes or rules and regulations or any local laws, ordinances, rules and regulations of the Town; or
- (xi) The Applicant has been convicted, and such conviction has not been expunged, of:
  - (A) Any drug related felony, as defined in the New York Penal Law, in the five (5) years immediately preceding the date of the Application; or
  - (B) In the event the Applicant's background check contains one of the above-enumerated offenses, the Department shall notify the Applicant, via certified U.S. Mail and First-Class Mail to the address provided pursuant to Section 184-4(2)(d) hereof and include a copy of the information obtained relative to the relevant conviction(s) with this correspondence. The letter shall inform the Applicant of the opportunity to provide any information to the Department regarding rehabilitation, good conduct, mistaken identity, or any other information regarding the conviction(s) the Applicant wishes the Department to Consider. The Applicant shall furnish such information, if any, in writing, via certified U.S. Mail, to the Department within ten (10) days of the date of the letter sent by the Department. The Department shall consider all such information and notify the Applicant in writing, via certified U.S. Mail and First-Class Mail to the address provided pursuant to Section 184-4(2)(d) hereof, within 30 days of its determination relative to the additional provided information.
- (b) In the event an Application for a Tobacco Retail License is denied for any reason, the Department shall notify the Applicant in writing, via certified U.S. Mail and First-Class Mail to the address provided by the Applicant pursuant to Section 184-4(2)(d) above, of the reason(s) the Application was denied.

**§ 184-7. Operation of Business.**

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 Town relating to the conduct of business and the occupation, use and maintenance of the premises at which the business is located. Moreover, Tobacco Retail License holders shall comply with any and all notices, orders, decisions and determinations made by any Town official that governs the occupation and use of the business holding and/or operating under the Tobacco Retail License.

**§ 184-8. Transferability.**

All Tobacco Retail Licenses issued pursuant to this Chapter are nontransferable and non-assignable and are valid only for the Applicant and the specific Building indicated on the Tobacco

Retail License; unless, the establishment is an operating Gas Station. A valid and current Tobacco Retail License may be transferred or assigned from an existing Tobacco Retail License holder (hereinafter “transferor or assignor”) operating a Gas Station to a new owner that acquires the Gas Station operating under the Tobacco Retail License, provided the transferor or assignor is not in violation of any state or local law and the new owner (hereinafter “transferee or assignee”) otherwise satisfies all of the conditions for licensure under this Chapter. Notwithstanding anything herein to the contrary, if the transferee or assignee satisfies the forgoing conditions, and the transferor or assignor was issued a Tobacco Retail License pursuant to Section 184-4(1)(c) hereof, then failure of the transferee or assignee to satisfy Sections 184-4(1)(b)(iv) and/or 184-4(1)(b)(v) hereof shall not prevent the transferee or assignee from seeking a new Tobacco Retail License for the same Gas Station as the transferor or assignor. In such event, the transferee or assignee shall be entitled to annually apply for a Tobacco Retail License in accordance with the terms of this Chapter. A separate Tobacco Retail License is required for each Building at which a Covered Product is sold or offered for sale. Except as specifically noted in this Section 184-8, any change in business ownership, membership interests, shareholders, partnership interests, business address, or interruption in possession of a Tobacco Retail License, will result in the automatic termination of the Tobacco Retail License. A Tobacco Retail License holder shall notify the Department in writing, via certified U.S. Mail, within five (5) days following the date when such Tobacco Retail License holder transfers, assigns, sells, closes or moves the business operating under the Tobacco Retail License. Upon being notified, the Department shall cancel the Tobacco Retail License.

**§ 184-9. Requirement to Display Tobacco Retail License.**

Any Tobacco Retail License issued pursuant to this Chapter shall be conspicuously displayed at the location where a Covered Product is sold or offered for sale so that it is readily visible to customers.

**§ 184-10. Violations and Penalties.**

(a) Any or all of the following shall constitute a violation under this Chapter:

- (i) The application and/or eligibility requirements for a Tobacco Retail License under Section 184-4 above are not met at any time after the license was issued; or
- (ii) One or more of the bases for denial of a Tobacco Retail License under Section 184-6 above exists any time after the license was issued; or
- (iii) A violation by the Tobacco Retail License holder of any federal, state or local law or regulation pertaining to: (a) trafficking in a contraband Covered Product(s); (b) the payment or collection of taxes on a Covered Product(s); (c) the display of a Covered Product(s); (d) the display of health warnings pertaining to a Covered Product(s); or (e) the sale of a Covered Product(s); or
- (iv) Selling, offering for sale, or permitting the sale of any Covered Product without a valid Tobacco Retail License displayed in accordance with Section 184-9 above; or

- (v) The Tobacco Retail License holder submitted an Application that contained a material misrepresentation; or
  - (vi) The Tobacco Retail License holder is in violation of any federal or state statutes or rules and regulations as well as any local laws, ordinances, rules, and regulations of the Town.
- (b) Following notice and a hearing in accordance with Section 184-12 below, any Tobacco Retail License holder found to be in violation of this Chapter shall be liable for civil penalty of not more than \$500.00 for the first violation, not more than \$1,000.00 for the second violation, and not more than \$5,000.00 for the third and each subsequent violation. Each day on which a violation occurs shall be considered a separate and distinct violation.

**§ 184-11. Suspension and Revocation of Licenses.**

- (a) Following notice and a hearing in accordance with Section 184-12 below, the Department may take any of the following actions based on a violation(s) of this Chapter:
- (i) Suspension of the Tobacco Retail License for up to twelve (12) months; or
  - (ii) Revocation of the Tobacco Retail License.

**§ 184-12. Hearing.**

- (a) In the event a Tobacco Retail License holder is alleged to be in violation of this Chapter, the Department shall hold a hearing upon 15 days written notice to the license holder sent by certified U.S. Mail and First-Class Mail to the address provided pursuant to Section 184-4(2)(d) hereof. Any such notice shall inform the license holder of the date, time and location of the hearing and the alleged violation(s) and potential resulting penalty.
- (b) Any hearing held hereunder shall be held before a hearing officer chosen by the Department who shall not be an employee within the Department. All such hearings shall be recorded. All such recordings shall be maintained for at least two (2) years.
- (c) Upon written notice to the Tobacco Retail License holder, the Department and/or hearing officer may adjourn the hearing date as the Department deems necessary and reasonable.
- (d) The Tobacco Retail License holder shall be allowed to be represented by counsel and shall be allowed to call witnesses on their behalf and conduct cross-examination of all witnesses.
- (e) The hearing officer shall review the hearing recording and all exhibits submitted at the hearing and, within 45 days following the hearing, render a written recommendation to the Director as to whether a Tobacco Retail License should be suspended or revoked and as to

the civil penalty, as applicable and as defined in Section 184-10 above, that should be assessed.

- (f) Forty-five (45) days after receipt of the hearing officer's written recommendation, the hearing recording, and all exhibits submitted at the hearing, the Director shall conduct a de novo review of the recording, all exhibits submitted at the hearing, and the hearing officer's written recommendation. The Director shall then make a determination whether a Tobacco Retail License should be suspended or revoked and as to any civil penalty that should be assessed pursuant to Section 184-10 above. The Director shall provide the legal counsel for the Town with a written order containing his/her determination, which the Town's legal counsel shall use to prepare the final order. Within fifteen (15) days after receipt of the Director's written order, the final order shall be drafted by the Town's legal counsel. The Final Order shall be signed by the Director and sent to the Tobacco Retail License holder by certified U.S. Mail and First-Class Mail to the address provided pursuant to Section 184-4(2)(d) hereof.

**§ 184-13. Failure to Obtain Tobacco Retail License.**

- (a) In the event any business required to obtain a Tobacco Retail License under Section 184-3 herein fails to obtain a Tobacco Retail License and continues to sell, to offer for sale, or to permit the sale of a Covered Product to consumers in the Town, the Department shall notify the business in writing via Certified U.S. Mail and First-Class Mail to the address provided pursuant to Section 184-4(2)(d) hereof: 1) that it is operating in violation of this Chapter; 2) that it has 15 days from receipt of the written notification to stop operating in violation of this Chapter; and 3) that if it continues to operate in violation of this Chapter after 15 days from the date written notification was mailed, the business shall be subject to immediate closure by the Department under Section 107.1.4 of the 2020 New York State Property Maintenance Code and under any other relevant statute, law, ordinance, rule or regulation and a civil penalty may be sought.
- (b) In the event the business is provided with the written notification described in Section 184-13(a) above and continues to operate in violation of this Chapter after such notification, the Department shall immediately close the business under Section 107.1.4 of the 2020 New York State Property Maintenance Code and under any other relevant statute, law, ordinance, rule or regulation.

**§ 184-14. Inspections Access.**

In addition to the requirements set forth in Section 184-4 above, officers and employees of any Town departments with responsibility to enforce or assist the Director in enforcing this Chapter shall have the right of access to any business subject to the terms of this Chapter for the purpose of making an inspection during normal business hours and the Town shall also have the authority to seek inspection warrants where necessary to properly administer this Chapter.

**§ 184-15. Enforcement.**

- (a) The Director, in conjunction with other Town Departments, , shall enforce the provisions of this Chapter. The Director and/or its authorized designee(s) may conduct periodic inspections of the business holding and/or operating under the Tobacco Retail License, or a business in violation of this Chapter, in order to ensure compliance with this Chapter.
- (b) Legal counsel for the Town 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 recovery of civil penalties, legal counsel for the Town may take any and all action necessary to enforce this Chapter, including but not limited to, an action or special proceeding to enjoin the continued operation or maintenance of a business in violation of the terms of this Chapter.

**§ 184-16. Notice Regarding This Chapter.**

Within 60 days of the effective date of this Chapter, the Department shall send to all known entities possessing a valid and current State License a copy of this Chapter and shall post this Chapter on the Department's website. Failure to receive a notice shall not affect the applicability of this Chapter.

**§ 184-17. Rules and Regulations.**

The Department may issue and amend rules, regulations, standards, guidelines, or conditions to implement and enforce this Chapter.

**§ 184-18. Severability.**

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

**SECTION 2. Effective Date.**

This Local Law shall be effective upon filing with the New York Department of State subject to and in accordance with the provisions of New York State Municipal Home Rule Law. Roll Call Votes: Mr. Burke – Yes, Mr. Grover – Yes, Mrs. Sullivan – Yes, Ms. Lesniak – Yes, Mrs. Van Der Water – Yes

Motion Carried & Adopted



Assessor's Report:

Ms. Golden said she was asked to come to discuss the total assessed and taxable value in the town for 2024. She said when the town approved increasing the income ceiling for the senior citizen exemption it caused a \$10 Million Dollar shortfall in taxable value.

Ms. Golden said all exemptions except the STAR exemption work this way. Exemptions have the ability to shift the tax burden from those getting a discount to those who are not.

Ms. Golden announced the Assessor's Office will be closed Friday, September 13<sup>th</sup>.

Authorize CSI, Inc. to install concrete pad at Snowdale Park pavilion, as part of the 2023 Community Development project, at a cost of \$7,000:

178-24-023 MOTION BY Mrs. Sullivan, seconded by Mr. Burke, to authorize CSI, Inc. to install concrete pad at Snowdale Park pavilion, as part of the 2023 Community Development project, at a cost of \$7,000.

Mr. Burke – Yes, Mr. Grover – Yes, Mrs. Sullivan – Yes, Ms. Lesniak – Yes, Mrs. Van Der Water – Yes

Motion Carried & Adopted

Declare item 402, an Olympus C3000 Zoom digital camera, surplus and destroy:

179-24-000 MOTION BY Mr. Grover, seconded by Mr. Burke, to declare item 402, an Olympus digital camera, surplus and destroy.

Mr. Burke – Yes, Mr. Grover – Yes, Mrs. Sullivan – Yes, Ms. Lesniak – Yes, Mrs. Van Der Water – Yes

Motion Carried & Adopted

Approve speed reduction request for Pottery Road (from intersection of Herman Road and Pottery Road through the Camillus Town Line) from 55 mph to 35 mph:

Mrs. Van Der Water said the town will submit this request for review.

180-24-046 MOTION BY Mrs. Sullivan, seconded by Ms. Lesniak, to approve speed reduction request for Pottery Road (from intersection of Herman Road and Pottery Road through the Camillus Town Line) from 55 mph to 35 mph.

Mr. Burke – Yes, Mr. Grover – Yes, Mrs. Sullivan – Yes, Ms. Lesniak – Yes, Mrs. Van Der Water – Yes

Motion Carried & Adopted

Approve Williamson Software for Codes Department at a cost of \$26,430:

181-24-010 MOTION BY Mr. Burke, seconded by Mr. Grover, to approve Williamson Software for Codes Department at a cost of \$26,430.

Mr. Burke – Yes, Mr. Grover – Yes, Mrs. Sullivan – Yes, Ms. Lesniak – Yes, Mrs. Van Der Water – Yes

Motion Carried & Adopted

Approve cost to mow 1814 Warners Road for \$1,200:

182-24-050 MOTION BY Mr. Grover, seconded by Ms. Lesniak, to approve cost to mow 1814 Warners Road for \$1,200.

Mr. Burke – Yes, Mr. Grover – Yes, Mrs. Sullivan – Yes, Ms. Lesniak – Yes, Mrs. Van Der Water – Yes

Motion Carried & Adopted

Councilor Committee Reports & Comments:

Mrs. Sullivan scheduled a Park & Recreation Committee meeting on September 25<sup>th</sup> at 3:00 pm at the park office.

Mrs. Sullivan thanked Mr. Foster for the speed radar that has been placed on Idlewood Boulevard, she said the residents are happy it is there.

Mr. Grover said school started today and reminded everyone to watch for children and busses.

Supervisor Comments: None

Highway Superintendent Comments: None

Engineer Comments: None

Attorney Comments: None

183-24-000 MOTION BY Mr. Burke, seconded by Mr. Grover, to adjourn to the next Regular Town Board Meeting on September 18, 2024 at 7:00 pm.

Mr. Burke – Yes, Mr. Grover – Yes, Mrs. Sullivan – Yes, Ms. Lesniak – Yes, Mrs. Van Der Water – Yes

Motion Carried & Adopted

Meeting closed 7:28 pm

Respectfully submitted,

Lynn Precourt  
Town Clerk

Regular Town Board Meeting September 4, 2024

Dated: 9/5/24