

A LOCAL LAW enacted by the Town of Yorktown entitled “Tobacco Control Law”

Section I. Statement of Authority.

This local law is authorized by the New York State Constitution, the provisions of the New York Municipal Home Rule Law, the relevant provisions of the Town Law of the State of New York, the laws of the Town of Yorktown and the general police power vested with the Town of Yorktown to promote the health, safety and welfare of all residents and property owners in the Town.

Section II. Purpose.

The purpose of this local law is to restrict the sale of tobacco, vapor and related products on a going-forward basis and limit the concentration of tobacco retail dealers and vapor products dealers within the Town.

Section III. There shall be a new Article XXXII, entitled Tobacco, Vapor and Related Products, as follows:

§ 300-262 Definitions.

When used in this article, unless otherwise expressly stated or unless the context or subject matter otherwise requires, the following words shall have the meanings therein:

ADVERTISEMENT

Words, pictures, photographs, symbols, graphics or visual images of any kind, or any combination thereof, which bear a health warning required by federal statute, the purpose or effect of which is to identify a brand of a tobacco product, electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine, a trademark of a tobacco product, electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine or a trade name associated exclusively with a tobacco product, electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine or to promote the use or sale of a tobacco product, electronic cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine.

ELECTRONIC CIGARETTE

An electronic device that delivers vapor which is inhaled by an individual user, and shall include any refill, cartridge and any other component of such a device.

ELECTRONIC CIGARETTE DEALER

A person or entity engaged in the sale of Electronic Cigarettes.

SMOKING PARAPHERNALIA

Any pipe, water pipe, hookah, rolling papers, electronic cigarette, vaporizer or any other device, equipment or apparatus designed for the inhalation of tobacco or nicotine.

TOBACCO PRODUCTS

One or more cigarettes or cigars, bidis, chewing tobacco, powdered tobacco, nicotine water or any other tobacco products.

TOBACCO RETAIL DEALER

A person or entity engaged in the sale tobacco products.

VAPOR PRODUCT

Any noncombustible liquid or gel, regardless of the presence of nicotine therein, that is manufactured into a finished product for use in an electronic cigarette, including any device that contains such noncombustible liquid or gel. "Vapor product" shall not include any device, or any component thereof, that does not contain such noncombustible liquid or gel, or any product approved by the United States Food and Drug Administration as a drug or medical device, or manufactured and dispensed pursuant to Title V-A of Article 33 of the New York Public Health Law.

VAPOR PRODUCTS DEALER

A person or entity engaged in the sale of vapor products.

§ 300-263 Regulation of Tobacco, Vapor & Electronic Cigarette Dealers.

- (a) Notwithstanding any provision of the Code of the Town of Yorktown to the contrary, Tobacco Retail Dealers, Vapor Products Dealers and Electronic Cigarette Dealers shall be a permitted use in, and only in, commercial zoning districts, provided that any part of the property line of the Tobacco Retail Dealers, Vapor Products Dealers and Electronic Cigarette Dealers business is not located within 1,500 feet from the nearest point of the property line of a school, playground, child-care facility, family day-care home, youth center, church, community center, recreational facility, senior housing developments, medical buildings, and/or park.
- (b) The Town Board intends that this section 263 shall apply on a prospective basis only, and the provisions of this section shall not apply to any Tobacco Retail Dealers, Vapor Products Dealers and Electronic Cigarette Dealers licensed by the Commissioner of Taxation and Finance legally operating in the Town prior to the enactment of this article.

§ 300-264 Advertising and Visibility.

Notwithstanding any provision of the Code of the Town of Yorktown to the contrary:

- (a) No person, corporation, partnership, sole proprietor, limited partnership, association or any other business entity may place, cause to be placed, maintain or to cause to be maintained, smoking paraphernalia or Tobacco Product, Electronic Cigarette, or Vapor Product intended or reasonably expected to be used with or for the consumption of nicotine advertisements in a store front or exterior window or any door which is used for entry or egress by the public to the building or structure containing a place of business within one thousand five hundred feet of a

school, playground, child-care facility, family day-care home, youth center, church, community center, recreational facility, senior housing developments, medical buildings, and/or park.

- (b) Any person, corporation, partnership, sole proprietor, limited partnership, association or any other business entity in violation of this section shall be subject to a civil penalty of not more than one thousand dollars for a first violation and not more than two thousand dollars for a second or subsequent violation.

Section IV. Severability.

If any part or 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 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 Town Board of the Town of Yorktown hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section V. Repeal.

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed to the extent of such inconsistency.

Section VI. Effective Date.

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.