

COUNTY OF CORTLAND

Local Law No. \_\_\_ of the year 2015

A LOCAL LAW PROHIBITING THE CONSUMPTION OF ILLICIT DRUGS AND ALCOHOLIC BEVERAGES AND PRODUCTS BY MINORS WHILE LOCATED ON PRIVATE PROPERTY

### LEGISLATIVE INTENT

The County of Cortland desires to protect the public interest, welfare, health and safety of all persons within the confines of the County of Cortland by prohibiting the service to and consumption of alcoholic beverages and products and illicit drugs by persons under the age of twenty-one years while located on private property located inside the County of Cortland.

The County of Cortland finds it appropriate to prohibit and make unlawful the occurrence of social gatherings on private property where alcoholic beverages and products and/or illicit drugs are served to, given to, or otherwise used or consumed by persons under the age of twenty-one as it is harmful to such persons themselves and a threat to the public welfare, health and safety.

The County of Cortland further finds that the adoption of this local law will help ensure that alcoholic beverages and products and illicit drugs are neither served to, given to or otherwise used or consumed by persons under the age of twenty-one at these gatherings.

NOW AND THEREFORE be it enacted by the Cortland County Legislature

### SECTION ONE: DEFINITIONS

1. Alcoholic Beverage or Product:  
Any liquor, wine, beer, spirits, cider, other liquid or product or palcohol or other solid or powder, patented or not, composed of or containing alcohol or spirits, whether or not brewed, fermented or distilled or any alcoholic beverage as so defined by the New York State Alcoholic Beverage Control Law now or as amended or any successor thereto.
2. Control:  
The authority and ability to regulate, direct, dominate or exercise dominion and control over.
3. Illicit Drugs:  
Drug shall mean and include any substance listed in New York Public Health Law § 3306 et.seq. now or as amended or any successor thereto.
4. Minor:  
Minor shall mean any person, who at the time of the alleged offense, was under the age of twenty-one.
5. Social Gathering:  
A gathering of persons at a residence or upon other private property with minors present.

6. Residence:

Any home, apartment, condominium, town house, cooperative unit or dwelling unit of any kind (whether permanent or temporary in nature), including the lawn, yard and open areas adjacent thereto comprising the curtilage thereof.

7. Personal:

A human being and, where appropriate, a public or private corporation, an unincorporated association, partnership, a government or governmental instrumentality.

## **SECTION TWO: PROHIBITED ACTS**

No person having control of any residence or other private property shall allow, permit or condone a social gathering to take place or to occur at said residence when such person knows or has reason to know that any alcoholic beverage or product, or alcohol or illicit drugs as defined herein is being unlawfully possessed, served, offered, given or consumed by a minor at the residence or on such private property..

The provisions of this section shall NOT apply to the following EXCEPTIONS:

1. The possession or consumption of an alcoholic beverage or product by persons lawfully permitted to do so pursuant to NYS Alcoholic Beverage Control Law § 65-c now or as amended or any successor thereto; or
2. The possession or consumption of a drug for which the person has a current valid prescription, or as otherwise permitted by applicable law.

These two exceptions shall be affirmative defenses subject to production of competent proof of the application of the exception.

## **SECTION THREE: PENALTIES**

1. A first violation of Section Two: Prohibited Acts:

Any person convicted of a first violation shall be subject to

- a) a fine of not less than \$100.00 (one hundred dollars) and not to exceed \$250.00 (two hundred fifty dollars) ; or
- b) a term of incarceration not to exceed 15 (fifteen) days; or
- c) both such fine and incarceration

2. A second violation of Section Two: Prohibited Acts:

Any person convicted of a second violation shall be subject to

- a) a fine of not less than \$150.00 (one hundred fifty dollars) and not to exceed \$300.00 (three hundred dollars); or
- b) a term of incarceration not to exceed 15 (fifteen) days; or

- c) both such fine and incarceration
- 3. A third or subsequent violation of Section Two: Prohibited Acts:  
Any person convicted of a third or subsequent violation shall be subject to
  - a) a fine of not less than \$250.00 (two hundred fifty dollars) and not to exceed \$500.0 (five hundred dollars); AND
  - b) a term of incarceration not to exceed 15 (fifteen) days by not less than 1 (one) day.

Failure to comply with Section Two: Prohibited Acts shall constitute a violation.

#### **SECTION FOUR: SEVERABILITY**

If any part or provision of this Local Law is deemed inconsistent with any federal or state statute, law, rule or regulation, then such statute, rule, law or regulation shall prevail.

If any part or provision of the Local Law is adjudged invalid by a Court of competent jurisdiction, such adjudication shall be confined in its operation to the section or provision of or application directly involved in the controversy in which such adjudication shall have been rendered and shall not affect or impair the validity of the remainder of this section or application thereof to other persons or circumstances.