



# Cortland County Legislature

## Legislative Session

Legislative Chambers  
Cortland, NY 13045  
<https://www.cortlandcountyny.gov>

### ~ Agenda ~

Thursday, September 25, 2025

6:00 PM

Board Room

### Public Hearings

1. Local Law "H" of 2025 - A Local Law Amending the Occupancy Tax Local Law to include Short-Term Rental Units

### Call to Order

### Salute to the Flag

### Roll Call

| Attendee Name                        | Present                  | Absent                   | Late                     | Arrived |
|--------------------------------------|--------------------------|--------------------------|--------------------------|---------|
| Legislator Douglas Bentley           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |         |
| Legislator Cathy Bischoff            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |         |
| Legislator Reed Cleland              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |         |
| Legislator Mitchel Eccleston         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |         |
| Minority Leader Beau Harbin          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |         |
| Majority Leader Paul Heider          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |         |
| Legislator Linda Jones               | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |         |
| Legislator Dominick Mantella         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |         |
| Legislator William McGovern          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |         |
| Legislator Joseph Nauseef            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |         |
| Legislator Christopher Newell        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |         |
| Legislator Jason Prentice            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |         |
| Legislator Sandra Price              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |         |
| Legislator Ronald J. Van Dee         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |         |
| Legislator Keith VanGorder           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |         |
| Legislator Eugene Waldbauer          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |         |
| Chair of the Legislature Kevin Fitch | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |         |

## **Approval of Minutes**

1. Cortland County Legislature - Special Meeting - Aug 14, 2025 4:00 PM
2. Cortland County Legislature - Legislative Session - Aug 28, 2025 6:00 PM

## **Privilege of the Floor**

## **Proclamations & Recognitions**

1. Proclamation Honoring Francis Riter

## **Presentation of Petitions, Communications, Presentations and Notices**

1. 111 Port Watson Street Update - Commissioner of Public Works, Charles Sudbrink

## **Reports of Standing, Special and Ad Hoc Committees**

## **Receive and File**

## **Articles Postponed to Day Certain**

## **Unfinished Business**

## **New Business**

## **Resolutions**

## **Resolutions from the Chair**

## **Referred from Public Works Committee**

## **ON MOTION OF HEIDER**

## **AGENDA ITEM NO. 1**

### **Authorize Temporary Lease Modification for 49 Grant Street - Code Blue**

WHEREAS, the New York State Office of Temporary and Disability Assistance mandates counties to implement regulations in Title 18NYCRR Section 304.1 titled Protection of Vulnerable Homeless Persons, otherwise referred to as “Code Blue” to provide shelter during inclement weather when air temperatures are at or below 32 degrees Fahrenheit; AND

WHEREAS, the New York State (NYS) Code Blue policy was established as an emergency Executive Order on December 16, 2016, with a commitment of reimbursement for additional costs to counties that are directly related to the requirements of the Code Blue regulation; AND

WHEREAS, Cortland County has entered into a contract with the Salvation Army for the provision of Warming Center services for the 2025 - 2026 season; AND

WHEREAS, Resolution No. 123-25 authorizes the County Administrator, upon review and approval by the County Attorney or designee, to sign an agreement with a landlord of a location to be determined for hours the Salvation Army is not open in an amount not to exceed \$25,000; AND

WHEREAS, Cortland County (Landlord) and Catholic Charities of Cortland County (Tenant) entered into a Lease Agreement dated April 30, 2024 for premises located at 49 Grant Street, Cortland, New York 13045, bearing Tax Map No.: 86.43-02-14.200; AND

WHEREAS, Cortland County and Catholic Charities of Cortland County desire to temporarily expand upon the use of the premises contained in said Lease Agreement to include operation of a temporary warming center to be operated under specific circumstances, in accordance with New York State Code Blue regulations, when the County Office Building is closed until such time as the Salvation Army Warming Center officially opens on November 1, 2025; AND

WHEREAS, such expanded use shall only be limited up to 16 hours each night the Department of Social Services declares the need to open based on qualifying temperatures prior to November 1, 2025; AND

WHEREAS, Cortland County and Catholic Charities of Cortland County desire to temporarily further expand upon the use of the premises contained in the aforementioned Lease Agreement, beginning November 1, 2025 until the termination of the lease agreement on March 31, 2026, to include operation of a temporary warming center to be operated from 4:30 p.m. to 7:30 p.m. on Tuesdays and Sunday mornings from 8:30 a.m. until noon; AND

WHEREAS, all other terms and conditions of the Lease Agreement dated April 30, 2024 shall remain in full force and effect; NOW THEREFORE BE IT

RESOLVED, that the County Administrator upon review and approval by the County Attorney or designee, is hereby authorized to sign an agreement to modify the Lease Agreement dated April 30, 2024 to temporarily expand upon the use of the premises located at 49 Grant Street, Cortland, New York 13045, bearing Tax Map No.: 86.43-02-14.200 to include operation of a temporary warming center to be operated under specific circumstances, in accordance with New York State Code Blue regulations, when the County Office Building is closed, until such time as the Salvation Army Warming Center officially opens on November 1, 2025, and after November 1, 2025 on Tuesdays from 4:30 p.m. to 7:30 p.m. on Tuesdays and Sunday mornings from 8:30 a.m. until noon until the end of the lease term on March 31, 2026.

## **ON MOTION OF HEIDER**

## **AGENDA ITEM NO. 2**

### **Amend 2025 Budget - Increase Revenue from NYS Unified Court System**

WHEREAS, the County of Cortland shall have higher than estimated revenues for projects completed at the Cortland County Courthouse; AND

WHEREAS, the County of Cortland received \$68,132 in reimbursement over the budgeted amount for 2025 for projects completed at the County Courthouse; AND

WHEREAS, the County of Cortland anticipates an additional reimbursement in the amount of \$70,000 for projects completed at the County Courthouse; AND

WHEREAS, the additional revenue to be received from the NYS Unified Court System has been recommended to be appropriated to fund additional costs associated with projects at the Cortland County Courthouse; NOW THEREFORE BE IT

RESOLVED, that with the recommendation of the Cortland County Department of Public Works that the following accounts be modified; AND BE IT FURTHER

RESOLVED, that the 2025 County Budget be amended as follows:

Increase:

Revenue

A162043.43021

Court Facilities Incentive

\$138,132.00

Expense

**ON MOTION OF HEIDER****AGENDA ITEM NO. 3****Authorize Continued Funding of Building and Grounds Capital Project Reserve**

WHEREAS, the Cortland County Legislature adopted Resolution No. 221-18; AND

WHEREAS, under the terms of the Sales Tax Sharing Agreement adopted by Resolution No. 221-18 there shall be deducted from the annual gross distribution of sales tax received from the State of New York a fixed sum in the annual amount of \$1.5 Million for County purposes; AND

WHEREAS, the Cortland County Legislature adopted Resolution No. 226-18, as amended by 294-20 and 283-21, which formalized the use and commitment of "Off the Top" sales tax revenue; AND

WHEREAS, the Cortland County Legislature adopted Resolution No. 190-25, Authorize Sales Tax Sharing Agreement by and Between the County of Cortland and the City of Cortland, which removed the "Off the Top" sales tax commitment to the County; AND

WHEREAS, there are multiple County facilities that are in need of substantial repair and renovations, AND

WHEREAS, it is the recommendation of the Public Works Committee to more adequately fund the Buildings and Grounds Capital Project reserve to begin addressing facility repairs and renovations; NOW THEREFORE BE IT

RESOLVED, the Cortland County Legislature authorize \$300,000 annually be deposited to the Building and Grounds Capital Project Reserve, A.386300.B&G

**Referred from Government Operations Committee**

**Referred from Judiciary & Public Safety Committee**

**Referred from Agriculture/Planning/Environment Committee**

**Referred from Health & Human Services Committee**

**ON MOTION OF VAN DEE****AGENDA ITEM NO. 4****Authorize Purchase of OQ Analyst FFT Software and Entering into a BAA with OQ Measures, LLC - Mental Health Department**

WHEREAS, the Cortland County Mental Health Department has an approved contract with FFT, LLC (Contract No. 169-25, authorized by Resolution No. 189-24), to provide Functional Family Therapy intensive training for three (3) staff members, funded through the SAMHSA Grant; AND

WHEREAS, the expectation of the training and the program is to use specific electronically-based assessments based on real time contact with clients requiring special treatment and protection of HIPAA; AND

WHEREAS, FFT, LLC partner's with OQ Measures, LLC to provide these specific electronic assessments; AND

WHEREAS, Cortland County Mental Health is requesting approval to purchase this unique

software and enter into a specific BAA with OQ Measures, LLC; AND

WHEREAS, funding for the software will be paid through the SAMHSA Grant; NOW THEREFORE BE IT

RESOLVED, that the County Administrator or Chairman of the Legislature, upon review and approval by the County Attorney or designee, approve entering into the BAA with OQ Measures, LLC and the purchase of the software for a cost not to exceed \$675 from Account No. A43105-54005-ISCEI.

**ON MOTION OF VAN DEE**

**AGENDA ITEM NO. 5**

**Amend Budget Unmet Need Program - Office for Aging**

WHEREAS, the New York State Office for the Aging has made available the sum of \$404,830 under the Unmet Need Program, for the period of April 01, 2025 through March 31, 2026, through Cortland County Office for Aging Revenue Account No. A677243-43772-UNAS; AND

WHEREAS, these funds reflect an increase of \$183,284 over what was originally anticipated; AND

WHEREAS, these funds are to be used for additional home care, meals, transportation, case management, home modifications and/or any need for the aging community that absent the funding could not be provided otherwise; NOW THEREFORE BE IT

RESOLVED, that the 2025 County Budget be and hereby is amended as follows; AND BE IT FURTHER

RESOLVED, that the Director of Finance shall carryover all unused grant funds to the subsequent year(s) budget covered by the grant, per the approved grant agreement.

|                    |                             | Current   | Change  | Revised   |
|--------------------|-----------------------------|-----------|---------|-----------|
| Revenue:           |                             |           |         |           |
| A677243-43772-UNAS | Aging Services - State Aid  | \$221,546 | 183,284 | \$404,830 |
|                    |                             |           |         |           |
| Expense:           |                             |           |         |           |
| A67725-51005-UNAS  | Personal Services Full-Time | 126,594   | 39,006  | 165,600   |
| A67725-51010-UNAS  | Personal Services Part-Time | 8,826     | 39,278  | 48,104    |
| A67725-54055-UNAS  | Professional Services       | 7,566     | 5,000   | 12,566    |
| A67725-54800-UNAS  | Program Expense             | 16,933    | 50,000  | 66,933    |
| A67725-54400-UNAS  | Food Supplies               | 0         | 50,000  | 50,000    |
| A67725-58020-UNAS  | Retirement                  | 17,032    | 0       | 17,032    |
| A67725-58030-UNAS  | FICA                        | 10,360    | 0       | 10,360    |
| A67725-58040-UNAS  | Workers' Compensation       | 4,715     | 0       | 4,715     |
| A67725-58060-UNAS  | Health Insurance            | 34,140    | 0       | 34,140    |
| A67725-58062-UNAS  | Dental Insurance            | 202       | 0       | 202       |
| A67725-58065-UNAS  | Vision Insurance            | 41        | 0       | 41        |

**Referred from Finance & Administration Committee**

**ON MOTION OF BISCHOFF**

**AGENDA ITEM NO. 6**

**Reappoint Director of Real Property Tax Services**

WHEREAS, the Cortland County Legislature, through Resolution No. 394-20, appointed Laura

Fox as the Cortland County Director of Real Property Tax Services effective December 17, 2020 through September 30, 2025; AND

WHEREAS, the County Administrator, pursuant to Section 5 of Local Law No. 7 of year 2002 is responsible for making recommendations to the County Legislature for the appointment of each department head; AND

WHEREAS, the County Administrator recommends the reappointment of Laura Fox as the Director of Real Property Tax Services; AND

WHEREAS, the Finance and Administration Committee, after reviewing the recommendation of the County Administrator, concurs with the County Administrator's recommendation of reappointment; NOW THEREFORE BE IT

RESOLVED, that Laura Fox, Cortland NY, be and is hereby appointed effective October 1, 2025 for a six (6) year term through September 30, 2031, and shall be compensated in accordance with the Management and Management Confidential Compensation Policy as may be amended from time to time.

**ON MOTION OF BISCHOFF**

**AGENDA ITEM NO. 7**

**Authorize Budget Amendment//Accept Funds Kiwanis Club of Cortland County - Dwyer Park**

WHEREAS, Resolution No. 183-25 accepted the donation of a playground from the Kiwanis Club of Cortland County to be installed at Dwyer Memorial County Park; AND

WHEREAS, it is the desire of the Kiwanis Club of Cortland County for the County to purchase all equipment and oversee its installation and reimburse the County for all expenditures; AND

WHEREAS, funding for this is currently not in the 2025 budget: NOW THEREFORE BE IT

RESOLVED, that the County Administrator, upon review and approval by the County Attorney or designee, is hereby authorized and directed to sign an agreement with Kiwanis Club of Cortland County to accept these funds; AND BE IT FURTHER

RESOLVED, the 2025 County Budget be amended as follows:

Increase Revenue:

|              |                   |          |
|--------------|-------------------|----------|
| A71105.42705 | Gifts & Donations | \$61,000 |
|--------------|-------------------|----------|

Increase Expenditures:

|              |                               |          |
|--------------|-------------------------------|----------|
| A71105.52015 | Department Specific Equipment | \$61,000 |
|--------------|-------------------------------|----------|

**ON MOTION OF BISCHOFF**

**AGENDA ITEM NO. 8**

**Resolution Authorizing the Signing of a Memorandum of Agreement with Tompkins Cortland Community College**

WHEREAS, the Cortland County Legislature adopted Resolution No. 493-01 - Endorsing the Tompkins Cortland Community College Master Plan and Approving Expansion and Renovation of Tompkins Cortland Community College Facilities Subject to State Approval and Funding; AND

WHEREAS, the Cortland County Legislature adopted Resolution No. 351-02 which authorized the expenditure of \$540,000 for the design of the athletic facility, with the understanding that one-half would be paid by the State and the other half paid from the College's out-of-county capital charge back account; AND

WHEREAS, the Cortland County Legislature adopted Resolution No. 352-03 which authorized the Tompkins Cortland Community College Campus Master Plan Amendment which included an understanding that matching funds were to come from the College's out-of-county capital charge back account; AND

WHEREAS, the Cortland County Legislature adopted Resolution No. 228-12 endorsing the Tompkins Cortland Community College Master Plan in the amount of \$7,050,000 subject to State Approval and Funding with the understanding that matching funds were to come from the College's out-of-county capital charge back account; AND

WHEREAS, the Cortland County Legislature adopted Resolution No. 355-18 approving the college's request for modification of the debt service repayment schedule for the above-noted Master Plan agreements to provide the flexibility necessary for Tompkins Cortland Community College to continue operations due to reduced enrollment of out of County and out of State students significantly reducing the college's cash flow; AND

WHEREAS, Cortland County is a sponsor of Tompkins Cortland Community College and, therefore, is responsible for a portion of both deferred maintenance and capital costs of the college in partnership with Tompkins County; AND

WHEREAS, both Cortland County and Tompkins Cortland Community College have historically met their respective obligations as outlined above by transferring funds to the other through issuance of written checks or wiring of funds; AND

WHEREAS, it is the desire of Cortland County and Tompkins Cortland Community College to improve efficiencies and streamline the process by which their respective obligations are met; AND

WHEREAS, it is more efficient for Tompkins Cortland Community College to retain the out-of-county capital charge back funds proportioned to Cortland County, which shall be considered fulfillment of Cortland County's annual statutory obligation to provide funding for deferred maintenance and capital costs of the college, and for Cortland County to apply a credit equal to such amount towards the college's debt service repayment until such time as the debt service for the above-noted Master Plan agreements have been repaid; AND

WHEREAS, to effectuate the same, Tompkins Cortland Community College shall provide to Cortland County by no later than October 15<sup>th</sup> of each year, an accurate certified accounting of out-of-county capital charge back funds received for the college's prior fiscal year (September 1<sup>st</sup> - August 31<sup>st</sup>) and Cortland County's proportionate share thereof; AND

WHEREAS, said amount shall be credited towards Cortland County's statutory obligation for the fiscal year following receipt of the certification (January 1<sup>st</sup> - December 31<sup>st</sup>); AND

WHEREAS, within 30 days of Cortland County's receipt of the aforementioned certification from the college, Cortland County shall provide a certified accounting of the capital debt reflecting a reduction of an amount equal to Cortland County's proportionate share of the out-of-county capital charge back received by Tompkins Cortland Community College; AND

WHEREAS, it is the desire of Cortland County and Tompkins Cortland Community College to memorialize their agreement in writing; NOW THEREFORE BE IT

RESOLVED, that the Cortland County Legislature authorizes the Chair of the Legislature, upon review and approval by the County Attorney or designee, to execute a Memorandum of Agreement with Tompkins Cortland Community College consistent with the terms set forth in this Resolution.

**Local Law "H" of 2025 - A Local Law Amending the Occupancy Tax Local Law to include Short-Term Rental Units**

WHEREAS, said Local Law has been in final form upon the desks of the members of the Legislature at least seven (7) calendar days, exclusive of Sunday, prior to this date; AND

WHEREAS, a public hearing thereon has been held before this Legislature after publication of notice thereof as legally required; NOW THEREFORE BE IT

RESOLVED, that Local Law "H" of 2025 is hereby adopted and shall take effect upon the filing thereof in the Office of the Secretary of State as provided by Municipal Home Rule Law; AND

WHEREAS, this Cortland County Legislature adopted Local Law No. 1 of 2002, entitled "Imposing a Tax on the Occupancy of Hotel and Motel Rooms in Cortland County Pursuant to Article 29, Section 1202-g of the Tax Law of the State of New York;" AND

WHEREAS, Local Law No. 1 of 2002 was amended by Local Law No. 1 of 2009; Local Law No. 4 of 2013; and Local Law 4 of 2014; AND

WHEREAS, on December 21, 2024, Governor Kathy Hochul signed into law legislation to regulate and govern the short-term rental industry; AND

WHEREAS, on February 28, 2025, Governor Kathy Hochul signed the chapter amendment to the short-term rental legislation, which provides further details to help counties implement the statewide short-term rental registry law; AND

WHEREAS, inclusion of short-term rentals under the occupancy tax will create parity among lodging providers, include revenue collection, and ensure broader support for county services and initiatives; AND

WHEREAS, the Cortland County Legislature wishes to amend Local Law No. 1 of 2002 to:

1. Opt-in to the State-authorized inclusion of short-term rental units under the definition of taxable occupancy for the purposes of collecting occupancy tax

; NOW THEREFORE

**BE IT ENACTED** by the County Legislature of the County of Cortland as follows:

**Local Law "H" of 2025 - A Local Law Amending the Occupancy Tax Local Law to include Short-Term Rental Units****SECTION 1. TITLE**

This Local Law shall be known as the "Cortland County Occupancy Tax Law."

**SECTION 2. LEGISLATIVE INTENT**

The County Legislature hereby finds that the intent of this Local Law shall be to enhance funding for tourism and cultural activities for the benefit of Cortland County and its residents, and to further support economic development.

**SECTION 3. AUTHORITY**

- a. Notwithstanding any other provision of law to the contrary, the County of Cortland is hereby

authorized and empowered to adopt and amend local laws imposing in such county a tax, in addition to any other tax authorized and imposed pursuant to Article 29 Section 1202-g of the New York State Tax Law (as amended by Chapter 118, part W, of the Laws of 2001), as the State Legislature has or would have the power and authority to impose upon persons occupying hotel or motel rooms within Cortland County. For the purposes of this local law, the term “hotel” or “motel” shall mean and include any facility providing lodging on an overnight basis and shall include those facilities designated and commonly known as “bed and breakfast” and “tourist” facilities.

- b. The rate of such tax shall not exceed five percent of the per diem rental rate for each room, provided however, that such tax shall not be applicable to a permanent resident. For the purposes of this Local Law, the term “permanent resident” shall mean a person occupying any room or rooms in a hotel or motel for at least thirty (30) consecutive days.

#### SECTION 4. TEXT

1. Definitions
2. Imposition of Tax
3. Transitional Provisions
4. Exempt Organizations
5. Territorial Limitations
6. Registration
7. Administration and Collection
8. Records to be Kept
9. Returns
10. Payment of Tax
11. Determination of Tax
12. Disposition of Revenues
13. Refunds
14. Remedies Exclusive
15. Proceedings to Recover Tax
16. General Power of Chairman of County Legislature
17. Administration of Oaths
18. Reference of Tax
19. Penalties and Interest
20. Returns to be Secret
21. Notices and Limitations of Time
22. Separability

##### **1. DEFINITIONS:**

- a. Booking Service shall mean a person or entity who, directly or indirectly:

1. Provides one or more online, computer or application based platforms that individually or collectively can be used to:

- i. List or advertise offers for short-term rentals or short-term rental units; and,

- ii. Either accept such offers, or reserve or pay for such rentals; and,

2. Charges, collects or receives a fee for the use of such platform or for provision of any service in connection with a short-term rental or short-term rental unit.

- b. Person shall mean an individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any

combination of the foregoing.

- c. Operator shall mean any person operating a hotel, motel, or short-term rental unit in Cortland County, including but not limited to, the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel, motel, or short-term rental unit.
- d. Hotel or Motel shall mean a facility which is regularly used and kept open as such for the lodging of guests. The terms “hotel” and “motel” include an apartment hotel, a motel, guest house, or facilities designated and commonly known as “bed and breakfast” and “tourist” facilities, whether or not meals are served.
- e. Occupancy shall mean the use or possession, or the right to use or possession of any room in a hotel, motel, or short-term rental unit or any room, rooms, dwellings, structures, properties for which a fee is imposed by the operator for an overnight stay.
- f. Occupant shall mean a person who, for a consideration, uses, possesses, or has the right to use or possess any room in a hotel, motel, or short-term rental under any lease, concession, permit, right of access, license to use or other agreement, or otherwise. This shall also include any room, rooms, dwellings, structures, properties for which a fee is imposed by the operator for an overnight stay.
- g. Permanent Resident shall mean any occupant of any room or rooms in a hotel, motel, or short-term rental unit for at least thirty (30) consecutive days shall be considered a permanent resident with regard to the period of such occupancy.
- h. Rent shall mean the consideration received for occupancy valued in money, whether received in money or otherwise.
- i. Room shall mean any room or rooms of any kind in any part or portion of a hotel, motel, or short-term rental unit, including, but not limited to, any room, rooms, dwellings, structures, properties for which a fee is imposed by the operator for an overnight stay, which is available for or let out for any purpose other than a place of assembly.
- j. Return shall mean any return filed or required to be filed as herein provided.
- k. Short-Term Rental Host shall mean a person or entity in lawful possession of a short-term rental unit who rents such unit to guests in accordance with the article.
- l. Short-Term Rental Unit shall mean an entire dwelling, or a room, group of rooms, other living or sleeping space, or any other space within a dwelling, made available for rent by guests for less than thirty (30) consecutive days, where the unit is offered for tourist or transient use by the short-term rental host of the residential unit and where such unit is located in a covered jurisdiction.

## **2. IMPOSITION OF TAX:**

On or after the     day of    , 20    , there is hereby imposed and there shall be paid a tax of five (5) percent of the rent for every occupancy of a room or rooms in a hotelmotel, or short-term rental unit within Cortland County, to include any room, rooms, dwelling, structures, properties for which a fee is imposed by the operator for an overnight stay; except that the tax shall not be imposed upon a permanent resident of the hotel, motel, or short-term rental unit.

## **3. TRANSITIONAL PROVISIONS:**

The tax imposed by this Local Law shall be paid upon any occupancy on or after the \_\_\_\_ day of \_\_\_\_, 20\_\_, although such occupancy is pursuant to a prior contract, lease, or other arrangement. Where rent is paid or payable on a weekly, monthly, or other term, the rent shall be subject to the tax imposed by this Local Law to the extent that it covers any period on and after the \_\_\_\_ day of \_\_\_\_, 20\_\_.

#### **4. EXEMPT ORGANIZATIONS:**

- a. This Local Law shall not authorize the imposition of such tax upon any transaction by or with any of the following in accordance with Section 1230 of the New York State Tax Law:
  1. The State of New York, or any public corporation (including a public corporation created pursuant to agreement or compact with another state or Canada), improvement districts or political subdivisions of the State;
  2. The United States of America, insofar as it is immune from taxations;
  3. Any corporation, or association, or trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable, or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying out propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this subdivision shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph.
- b. Where any organization described in sub paragraph (iii) of part (a) of this subdivision carries on its activities in the furtherance of the purposes for which it was organized, in premises in which, as part of said activities, it operates a hotel, motel, or short-term rental unit, occupancy of rooms in the premises and rents therefrom received by such corporation or association shall not be subject to tax hereunder.
- c. The hotel, motel, or short-term rental unit operator shall submit such written proof as may be required to show that the use or occupancy falls within the aforescribed exempt categories. In the absence of such documentation, the tax must be collected by the operator.

#### **5. TERRITORIAL LIMITATIONS:**

The tax imposed by this Local Law shall apply only to the occupancies within the territorial limits of the County of Cortland.

#### **6. REGISTRATION:**

Within ten (10) days after the effective date of this local law, or in the case of operators commencing hotel or motel business in Cortland County after such effective date, within three (3) days after such commencement, every operator shall file with the Office of the Chairman of the Cortland County Legislature a certificate of registration in a form prescribed by the County Chairman. Within five (5) days after such registration, the County Chairman shall issue, without charge to each operator, a certificate of authority empowering such operator to collect the tax from the occupant and duplicate thereof for each additional hotel or motel of such operator. Each certificate of duplicate shall state the hotel or motel to which it is applicable. Such certificate of authority shall be prominently displayed by the operator in a manner that it may be seen and come to notice of all occupants and persons seeking occupancy in the hotel to which it applies.

Such certificates shall be nonassignable and nontransferable, and shall be surrendered immediately to the County Chairman upon the cessation of business at the hotel or motel named or upon its sale or transfer.

## **7. ADMINISTRATION AND COLLECTION:**

- a. The tax imposed by this Local Law shall be administered and collected by the Chairman of the Cortland County Legislature, or other designated fiscal officers of the County by such means and in such manner as are other taxes which are now administered and collected by such, or as otherwise provided by this Local Law.
- b. The tax imposed by this Local Law shall be paid by the person liable therefore to the owner of the hotel, motel, or short-term rental unit room occupied or to the person entitled to be paid the rent or charge for the hotel, motel, or short-term rental unit room occupied, including any room, rooms, dwellings, structures, properties for which a fee is imposed by the operator for an overnight stay.
- c. The tax to be collected shall be stated and charged separately from the rent shown on any record thereof at the time when the occupancy is arranged, contracted, or charged for, and upon every evidence of occupancy of any bill, statement, or charge made for said occupancy issued or delivered by the operator. The tax shall be paid by the occupant to the operator as trustee for, and on account of, Cortland County, and that such owner or person entitled to be paid the rent or charge shall be liable for the collection and payment of the tax.
- d. The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this Local Law. The operator shall have the same right in collecting the tax from the person occupying the hotel, motel, or short-term rental unit room, in respect to non-payment of the tax by the occupant, as if the tax were a part of the rent or charge and payable at the same time as the rent or charge. This includes all rights of eviction, dispossession, repossession, and enforcement of any innkeeper's lien that he or she may have in the event of nonpayment of rent by the occupant; provided, however, that the County Chairman or other fiscal officer(s), employees or agents duly designated by him or her shall be joined as a part in any action or proceeding brought by the operator to collect or enforce collection of the tax.
- e. The County Chairman may, whenever he or she deems it necessary for the proper enforcement of this Local Law, provide by regulation that the occupant shall file returns and pay directly to the Cortland County Treasurer the tax herein imposed, at such times as returns are required to be filed and payment made by the operator.
- f. The tax imposed by this local law shall be paid upon any occupancy on and after the        day of       , 20      , although such occupancy is had pursuant to a contract, lease, or other arrangement made prior to such date. Where rent is paid, charged, billed, or falls due on either a weekly, monthly, or other term basis, the rent so paid, charged, billed, or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period on and after the        day of       , 20      . Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the County Chairman may, by regulation, provide for the credit and/or refund of the amount of such tax upon application therefor as provided in subdivision (13) of this Local Law.
- g. For the purpose of the proper administration of this Local Law, and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established. The burden of providing that a rent for occupancy is not taxable hereunder shall be upon the operator, except that, where by regulation pursuant to subdivision (7)(c) of Section 4 of this Local Law, an occupant is required to file returns

and pay directly to the County Chairman the tax herein imposed, the burden of proving that a rent for occupancy is not taxable shall be upon the occupant. Where an occupant claims exemption from the tax under the provisions of subdivision (4) of Section 4 of this Local Law, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption a certificate duly executed by an exempt corporation or association certifying that the occupant is its agent, representative, or employee, together with a certificate executed by the occupant that his occupancy is paid or to be paid by such exempt corporation or association, and is necessary or required in the course of or in connection with the occupant's duties as a representative of such corporation or association. Where deemed necessary by the operator, he or she may further require that any occupant claiming exemption from the tax furnish a copy of a certificate issued by the County Chairman certifying that the corporation or association therein named is exempt from the tax under subdivision (4) of this Section 4 of this Local Law.

#### **8. RECORDS TO BE KEPT:**

Every operator shall keep records of every occupancy, of all rent paid, charged, or due, and of all tax payable thereon, in such form as the County Chairman may require by regulation. Such records shall be available for inspection and examination at any time upon demand by the County Chairman or his duly authorized employee or agent, and shall be preserved for a period of three (3) years, except that the County Chairman may consent to their destruction within that period or may require that they be kept longer.

#### **9. RETURNS:**

- a. Every operator shall file with the County Chairman a return of occupancy, of rents, and of taxes payable thereon for the periods ending February 28<sup>th</sup>, May 31<sup>st</sup>, August 31<sup>st</sup>, and November 30<sup>th</sup> of each year, on and after the \_\_\_\_ day of \_\_\_\_ 20\_\_. Such returns shall be filed within twenty (20) days from the expiration of the period covered thereby. If the twentieth day falls on a Saturday, Sunday, or legal holiday, the return and tax will be said to be due on the next County working day. The County Chairman may permit or require returns to be made by other periods and upon such dates as he may specify. If the County Chairman deems it necessary in order to ensure the payment of the tax imposed by this law, he or she may require returns to be made for shorter periods than those prescribed pursuant to the foregoing provisions of this sections and upon such dates as he may specify.
- b. The form of returns shall be prescribed by the County Chairman and shall contain such information as he may deem necessary for the proper administration of this local law. The County Chairman may require amended returns to be filed within twenty (20) days after notice and to contain the information specified in the notice.
- c. If a return required by this local law is not filed, or a return when filed is incorrect or insufficient on its face, the County Chairman shall take the necessary steps to enforce the filing of such return or of a corrected return.

#### **10. PAYMENT OF TAX:**

At the time of filing a return of occupancy and of rents, each operator shall pay to the County Chairman the taxes imposed by this local law upon rents required to be included in such return, as well as all other monies collected by the operator acting or purporting to act under the provisions of this local law. Where the County Chairman deems it necessary to protect revenues to be obtained under this local law, he may require any operator required to collect the tax imposed by this local law to file with him a bond, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and

responsibility, in such an amount as the County Chairman may fix to secure the payment of any tax and/or penalties and interest due or which may become due from such operator. In the event that the County Chairman determines that an operator is to file such a bond, he shall give notice to the operator to that effect, specifying within five (5) days after the giving of notice unless within those five (5) days the operator requests in writing a hearing before the County Chairman, at which the necessity, propriety, and the amount of the bond shall be determined by the County Chairman. This determination shall be final and shall be complied with within fifteen (15) days after the giving the notice thereof. In lieu of a bond, security approved by the County Chairman or cash in the amount he may prescribe, may, at any time, without notice to the depositor, be applied to any tax and/or interest or penalties due, and for the purpose the securities may be sold by him at public or private sale without notice to the depositor thereof.

#### **11. DETERMINATION OF TAX:**

- a. Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality, or unconstitutionality or any other reason whatsoever by a proceeding under Article 78 of the Civil Practice Law and Rules if application therefore is made to the Supreme Court within thirty (30) days after the giving of the notice of such final determination; provided, however, that any such proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted unless:
  - i. The amount of any tax sought to be reviewed, with interest and penalties thereon as may be provided for by local law or regulation shall be first deposited and there is an undertaking filed, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such an amount as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charge which may accrue in the prosecution of such proceeding; or
  - ii. At the option of the petitioner such undertaking may be in a sum sufficient to cover the taxes, interests and penalties stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interest, or penalties as a condition precedent to the application.
- b. If a return required by this Local Law is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be determined by the County Chairman or his designate, the proper fiscal officer, from obtainable information. If necessary, the tax may be estimated on the basis of external indices, such as the number of rooms, location, scale of rents, comparable rents, types of accommodations and service, number of employees and/or other factors. Notice of such determination shall be given to the person liable for the collection and/or payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within thirty (30) days after notice of such determination, applies to the County Chairman for a hearing, or unless the County Chairman makes a new determination on his or her own motion. After such a hearing, the County Chairman shall give notice of his or her determination to the person against whom the tax is assessed. The determination of the County Chairman shall be reviewable for error, illegality, unconstitutionality, or any other reason whatsoever by proceeding under Article 78 of the Civil Practice Law and Rules as outlined in part (a) of this subdivision.

#### **12. DISPOSITION OF REVENUES:**

All revenues resulting from the imposition of the tax under this local law shall be paid into the treasury of Cortland County, and shall be credited to and deposited into the general fund of the

County, thereafter to be allocated for tourist and convention development. Provided, however, that the County shall be authorized to retain up to a maximum of ten percent (10%) of such revenue to defer the necessary expenses of the County in administering such tax. The revenue derived from the tax, after deducting the amount provided for administering such tax, shall be allocated to enhance the general economy of Cortland County, its cities, towns and villages, through promotion of tourist activities, conventions, trade shows, special events, and other directly related supporting activities.

### **13. REFUND, REVISION OR CREDITS:**

- a. In the manner provided in this section, the County Chairman shall refund or credit, without interest, any tax, penalty, or interest erroneously, illegally, or unconstitutionally collected or paid if application to the County Chairman for such refund is made within one year from the payment thereof. Whenever a refund is made by the County Chairman, he or she shall state his reasons therefore in writing. Such application may be made by the occupant, operator, or other person who has actually paid the tax. Such application may also be made by an operator who has collected and paid over such tax to the County Chairman, provided that the application is made within one year of the payment by the occupant to the operator. However, no actual refund of monies shall be made to such operator until he first establishes to the satisfaction of the County Chairman under such regulations as the County Chairman by authority has repaid to the occupant the amount for which the application for refund is made. In lieu of any refund required to be made, the County Chairman may allow credit thereof on payments due from the applicant.
- b. An application for a refund or credit made as herein provided shall be deemed an application for a revision of any tax, penalty, or interest complained of and the County Chairman may receive evidence with respect thereto. After making his determination, the County Chairman shall give notice thereof to the applicant, who shall be entitled to review said determination by a proceeding under Article 78 of the Civil Practice Law and Rules; provided the proceeding is instituted within thirty (30) days after the giving of the notice of determination and provided a final determination of tax due was not previously made. Such a proceeding shall not be instituted unless an undertaking is filed with the County Chairman in an amount and with sureties approved by a justice of the Supreme Court to the effect that if such proceedings are dismissed or the tax confirmed, the petitioner will pay all costs and charges that may accrue in the prosecution of said proceeding.
- c. A person shall not be entitled under this section to a revision, refund, or credit of a tax, interest, or penalty that had been determined to be due pursuant to the provisions of subdivision thirteen (13) of this local law where said person has had a hearing or an opportunity for a hearing or an opportunity for a hearing as provided in this section, or who has failed to avail himself of the remedies provided therein. No refund or credit of a tax, interest, or penalty paid after a determination by the County Chairman pursuant to subdivision eleven (11) of this local law shall be paid unless it is found that the determination was erroneous, illegal, unconstitutional, or otherwise improper by the County Chairman after a hearing of his own motion, or in a proceeding under Article 78 of the Civil Practice Law and Rules pursuant to the provisions of said section. In that event, refund or credit without interest shall be made of the tax, interest, or penalty found to have overpaid.

### **14. REMEDIES EXCLUSIVE:**

The remedies provided by subdivisions eleven (11) and thirteen (13) of this local law shall be exclusive remedies available to any person for the review of tax liability imposed by this Local Law. No determination, proposed determination of tax, nor determination on any application for refund shall be enjoined or reviewed except as hereinafter provided, by an action for declaratory

judgment, an action for money had and received, or by an action proceeding other than a proceeding in the nature of a certiorari proceeding under Article 78 of the Civil Practice Law and Rules. A taxpayer may, however, proceed by declaratory judgment if he or she institutes suit thirty (30) days after a deficiency assessment if made and pays the amount of the deficiency assessment to the County Chairman prior to the institution of such suit and posts a bond for costs as provided in subdivision eleven (11) of this local law.

## **15. PROCEEDING TO RECOVER TAX:**

- a. Whenever any operator, any officer of a corporate operator, any occupant, or other person fails to collect and pay over any tax and/or penalty or interest as imposed by this local law, the County Attorney shall, at the request of the County Chairman, bring or cause to be brought an action to enforce the payment of same on behalf of the County in any court of the State of New York or of any other state or of the United States. If, however, the County Chairman in his discretion believes that any such operator, officer, occupant, or other person is about to cease business, leave the state, or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, he or she may declare such tax or penalty to be immediately due and payable, and may issue a warrant immediately.
- b. As an additional or alternate remedy, the County Chairman may issue a warrant, directed to the Sheriff, commanding him to levy upon and sell the real and personal property of the operator, officer of a corporate operator, or other person liable for the tax, which may be found within the County for the payment of the amount thereof, with any penalties and interest, and the cost of executing the warrant, and to return such warrant to the County Chairman and to pay him the money collected by virtue thereof within sixty (60) days after the receipt of said warrant. Within five (5) days after the receipt of the warrant, the Sheriff shall file a copy of the same with the County Clerk. Thereupon the Clerk shall enter in the judgment docket the name of the person stated in the warrant, the amount of tax, penalties, and interest for which the warrant is issued, and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon the interest in real and personal property of the person against whom the warrant is issued. The Sheriff shall then proceed upon the warrant in the same manner and with like effect as that provided by law in respect to executions issued against property upon judgments of a court of court. For services in executing the warrant he or she shall be entitled to the same fees, which he may collect in the same manner. In the discretion of the County Chairman, a warrant of like terms, force, and effect may be issued and directed to any officer or employee of the County Chairman. In the execution thereof, such officer or employee shall have all the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not fully satisfied, the County Chairman may, from time to time, issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the County has recovered judgment thereof and execution thereon has been returned unsatisfied.
- c. Whenever an operator makes a sale, transfer, or assignment of any part or the whole of his or her hotel; or his or her lease, license, or other agreement or right to possess or operate such hotel or the equipment, furnishings, fixtures, supplies, or stock of merchandise, pertaining to the conduct or operation of said hotel or motel; other than ordinary and regular prosecution of business, the purchaser, transferee or assignee shall, at least ten (10) days before taking possession of the subject of said sale, transfer or assignment, or before receiving payment, notify the County Chairman by registered mail of the proposed sale and the price terms, and conditions thereof, whether or not the seller, transferor, or assignee has represented to or informed the purchaser, transferee, or assignee that it owes any tax pursuant to this local law, whether or not the purchaser, transferee, or assignee has knowledge that such taxes are owing, and whether any such

taxes are in fact owing.

- d. Whenever the seller, transferor, or assignor fails to give notice to the County Chairman as required above, or whenever the County Chairman or other fiscal officer informs the purchaser, transferee, or assignee that a possible claim for such taxes exists, any sums of money, property, choses in action, or other consideration which the purchaser, transferee or assignee is required to transfer over to the seller, transferor, or assignor shall be subject to a first priority right and lien for any such taxes theretofore and thereafter determined to be due from the seller, transferor, or assignor to the County. The purchaser, transferee, or assignee is then forbidden to transfer to the seller, transferor, or assignor any such sums of money, property, or choses in action to the extent of the amount of the County's claim. For failure to comply with the provisions of this subdivision, the purchaser, transferee, or assignee, in addition to being subject to the liabilities and remedies imposed under the provisions of Article 6 of the Uniform Commercial Code, shall, as well as the seller, transferor, or assignor, be personally liable for the payment to the County of any such taxes theretofore or thereafter determined to be due to the County from the seller, transferor, or assignor. Such liability may be assessed and enforced in the same manner as the liability for tax under this local law.

#### **16. GENERAL POWERS OF THE COUNTY CHAIRMAN:**

- a. In addition to the powers granted to him or her in this local law, the County Chairman is, subject to the approval of the Cortland County Legislature, hereby authorized and empowered to:
  1. Make, adopt, and amend rules and regulations appropriate to the carrying out of this local law and the purposes thereof;
  2. Extend, for cause shown, the time of filing any return for a period not exceeding thirty (30) days; and for cause shown, to remit penalties but not interest; and to compromise disputed claims in connection with the taxes hereby imposed;
  3. Request information from the Tax Commission of the State of New York or the Treasury Department of the United States relative to any person; and to afford information to such Tax Commission or Treasury Department relative to any person, notwithstanding any other provision of this local law to the contrary;
  4. Delegate functions hereunder to any employee(s) of County Administration;
  5. Prescribe methods for confirming the rents for occupancy and to confirm the accuracy of information on the taxable and nontaxable rents;
  6. Require any operator within the County, if it is determined that adequate records are not being maintained, to keep detailed records of the nature and type of hotel or motel maintained; nature and type of service rendered; number of rooms available and occupied; daily leases; occupancy contracts or arrangements; rents received; charged and accrued; the names and addresses of the occupants; whether or not any occupancy is claimed to be subject to the tax imposed by this local law; and to furnish such information at the request of the County Chairman.

#### **17. ADMINISTRATION OF OATHS AND COMPELLING TESTIMONY;**

- a. The Cortland County Chairman or his employee(s) or agent(s) duly designated and authorized by him or her shall have the power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this local law. The County Chairman shall have power to subpoena and require the attendance

of witnesses and the production of books, papers, and documents to secure information pertinent to the performance of his or her duties hereunder, in the enforcement of this local law, and to examine them in relation thereto. The County Chairman shall also have the power to issue commissions for the examination of witnesses who are out of the state, unable to attend before him, or who are excused from attendance.

- b. A Supreme Court Justice, either in court or in chambers, shall have the power to summarily enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and documents called for by the subpoena of the County Chairman under this local law.
- c. Any subpoenaed person who refuses to testify or produce books or records, or who testifies falsely in any material matter pending before the County Chairman under this local law shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than one (1) year, or both such fine and imprisonment.
- d. The officers who serve the summons or subpoena of the County Chairman and witness attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of records, except as herein provided otherwise. Such officers shall be the County Sheriff and his or her duly appointed deputies, or any officers or employees of the County Chairman's officer designated by him to serve such process.

#### **18. REFERENCE TO TAX:**

Whenever reference is made to this tax in placards or advertisements, or in any other publications, such reference shall be substantially in the following form: "Tax on occupancy of hotel, motel, or short-term rental unit rooms" or "occupancy tax," except that in any bill, receipt, statement, or other evidence or memorandum of occupancy or rent charge issued or employed by the operator, the word "tax" will suffice.

#### **19. PENALTIES AND INTEREST:**

- a. Any person failing to file a return or to pay over any tax to the County Chairman within the time required by this local law shall be subject to a penalty of ten percent (10%) of the amount of tax due, plus interest at the rate of one and one-half (1 ½ %) percent of such tax for each month after such return was required to be filed or such tax became due. Such penalties and interest shall be paid and disposed of in the same manner as other revenues from this local law.
- b. The following persons shall, in addition to the penalties herein or elsewhere prescribed, be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars (\$1,000) or imprisonment not exceeding one year or both such fine and imprisonment:
  - 1. Any operator, occupant, or any officer of a corporate operator or occupant failing to file a return required by this local law, or filing or causing to be filed, making or causing to be made, giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement authorized or required by this local law, which is willfully false;
  - 2. Any operator or officer of a corporate operator willfully failing to file a bond required to be filed pursuant to subdivision eleven (11) of this local law, failing to file a registration certificate and such data in connection therewith as the County Chairman may require, failing to display or surrender the certificate of authority as

required by this local law, or assigning or transferring such certificate of authority;

3. Any operator or officer of a corporate operator willfully failing to charge separately from the rent the tax herein imposed, willfully failing to state such tax separately on any evidence of occupancy and on any bill, statement or receipt of rent issued or employed by the operator, or willfully failing or refusing to collect such tax from the occupant;
  4. Any operator or officer of a corporate operator who refers or causes reference to be made to this tax in a form or manner other than that required by this local law; and,
  5. Any operator failing to keep records required by subdivision eight (8) of Section 4 of this local law.
- c. Any operator or officer of a corporate operator who fails to file a certificate of registration as provided under this local law shall be subject to a penalty of \$250 for each month of delinquency in filing such certificate. Officers of a corporate operator shall be personally liable for the tax collected or required to be collected by such corporation under this local law, and subject to the penalties herein above imposed.
  - d. The certificate of the County Chairman to the effect that a tax has not been paid, that a return, bond, or registration certificate has not been filed, or that information has not been supplied pursuant to the provisions of this local law, shall be presumptive evidence thereof.

## **20. RETURNS TO BE SECRET:**

- a. Except in accordance with the proper judicial order, or as otherwise provided by law, it shall be unlawful for the County Chairman or any officer or employee of the County Chairman's officer to disclose in any manner the rents or other information relating to the business of a taxpayer contained in any return required under this local law, except to such persons and at such times as necessary to carry out this local law, except to such persons and at such times as necessary to carry out this local law. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the County Chairman in an action or proceeding under the provisions of this local law, or on behalf of any party to any action or proceeding under the provisions of this local law when the returns or facts shown thereby are directly involved in such action or proceeding. In any of these events the Court may require the production of any may admit into evidence as much of said returns or the facts shown thereby as are pertinent to the action or proceeding, and no more. Nothing herein shall be construed to prohibit the delivery to the taxpayer or his duly authorized representative of a certified copy of any return filed in connection with his or her tax, nor to prohibit the publication of statistics classified so as to prevent the identification of particular returns and the items thereof. In addition, nothing herein shall be construed to prohibit the inspection by the County Attorney or other legal representatives of the County of the return of the taxpayer who shall bring action to set aside or review the tax based thereon, or against who an action or proceeding has been instituted for the collection of a tax or penalty. Returns shall be preserved for three years and thereafter until the County Chairman permits them to be destroyed.
- b. Any violation of part (a) of this subdivision shall be punishable by a fine not exceeding one thousand dollars (\$1000), or by imprisonment not exceeding one (1) year, or both such fine and imprisonment in the discretion of the Court. If the offender is an officer or employee of the County, he or she shall be dismissed from office and be incapable of holding any public officer for a period of five years thereafter.

## **21. NOTICES AND LIMITATIONS OF TIME:**

- a. Any notice authorized or required under the provisions of this local law may be given by mailing the same to the person for whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed by him pursuant to the provisions of this local law, or in any application made by him or her. If no return has been filed nor application made, then notice may be given by mailing same to such address as may be obtainable. Mailing of such notice shall be presumptive evidence of the receipt of same by the person to whom it is addressed. Any period of time which is determined according to the provisions of this local law by the giving of notice shall commence to run from the date of mailing of such notice.
- b. The provisions of the Civil Practice Law and Rules or any other law relative to the limitations of time for the enforcement of a civil remedy shall not apply to any action or proceeding taken by the County to levy, appraise, assess, determine, or enforce the collection of any tax or penalty provided by this local law. However, except in the case of a willfully false or fraudulent return with the intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three (3) years from the date of filing of a return; provided, however, that where no return has been filed as provided by law, the tax may be assessed and collected at any time.
- c. Where a taxpayer has consented in writing, before the expiration of the period prescribed herein for the assessment of an additional tax, that such period be extended, the amount of such additional tax due be determined at any time within the extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

## **22. SEPARABILITY:**

If any provision of this local law, or the application thereof to any person or circumstances, is held to be invalid the remainder of this local law and the application of its provision to other persons or circumstances shall not be affected thereby.

### **SECTION 5. EFFECTIVE DATE:**

This local law shall take effect upon filing in the Office of the Secretary of State as provided by Section 27 of the Municipal Home Rule Law.

## **ON MOTION OF BISCHOFF**

## **AGENDA ITEM NO. 10**

### **Requesting Special Legislation to Amend New York State Tax Law, in Relation to Expanding the Use of Occupancy Tax Dollars**

WHEREAS, New York State Tax Law, §1202-g (9) presently authorizes Cortland County to adopt and amend local laws directing all revenues be allocated for tourist and convention development; provided, however, the County shall be authorized to retain up to a maximum of ten percent of such revenue to defer the necessary expenses of the county in administering such tax. The revenue derived from such tax, after deducting the amount provided for administering such tax, as so authorized by local law, shall be allocated to enhance the general economy of Cortland County, its cities, towns, and villages, through promotion of tourist activities, conventions, trade shows, special events, and other directly related and supporting activities; AND

WHEREAS, the current use of occupancy tax revenue is limited to the above stated uses referenced in the preceding paragraph; AND

WHEREAS, economic development is closely intertwined with tourism and vital to the long-term

sustainability and growth of the County's economy; AND

WHEREAS, expanding the authorized use of occupancy tax funds to include economic development will allow the County greater flexibility to support projects that enhance local workforce development, business attractions, and related initiatives that directly or indirectly benefit tourism and the County's economy as a whole; NOW THEREFORE BE IT

RESOLVED, that the Legislature of the County of Cortland does hereby request special legislation be enacted to amend New York State Tax Law, §1202 (9), as follows:

1. Expand the permissible uses of occupancy tax revenues to include funding of economic development initiatives, including but not limited to: economic development, to include tourism and recreation related activities, the development, operation, and maintenance of tourist activities that occur at county-owned parks, and such other programs for the benefit of the County's economic development as determined by the majority of the County Legislature;

; AND IT BE FURTHER

RESOLVED, that the Clerk of the Legislature is hereby directed to provide certified copies of this Resolution to New York State Senator Lea Webb, New York State Assemblymember Anna Kelles, and Assemblymember Jeff Gallahan in order to request the introduction of Home Rule Legislation regarding this matter.

## **Announcements**

## **Adjournment**