

Township of West Milford

Passaic County, New Jersey

~ Resolution 2024 – 238 ~

RESOLUTION GRANTING BLANKET 12.39 RELIEF, ESTABLISHING QUARTILES TO INACTIVE MUNICIPALLY ISSUED CLASS C RETAIL LICENSES AND APPROVING THE RENEWALS OF POCKET/INACTIVE PLENARY RETAIL CONSUMPTION LICENSES FOR THE 2024-2025 LICENSE YEAR

WHEREAS, a license that has been inactive (i.e. not actively used for two full license terms) cannot be renewed by a municipal issuing authority unless the licensee submits and receives a special ruling based on good cause shown, commonly referred to as 12.39 Relief; and

WHEREAS, Governor Philip Murphy signed legislation (S-4265/A-5912) that codified P.L. 2023, c.290 amending N.J.S.A. 33:1-12.39 effective on August 1, 2024; and

WHEREAS the Division of ABC issued Administrative Order 2024-03 granting blanket 12.39 Relief to inactive municipally issued Class C Retail Licensees for the 2024-2025 license terms and establishing quartiles under P.L. 2023, c.290 with a deadline of August 1, 2025; and

WHEREAS, this new law provides that an inactive Class C license shall not be renewed if it has not been actively used in connection with the operation of a licensed premises within two consecutive license terms and will expire unless the municipality issuing authority extends the period and renews the license for an additional year; and

WHEREAS the two-year period of inactivity is measured from the effective date of the new law (August 1, 2024); and

WHEREAS, pursuant to the terms of the new law and concurrent with the effective date of sections 3 through 6 of the new law, inactive Class C licensees will no longer be able to petition the Director for good cause to receive 12.39 Relief in order for the municipal issuing authorities to renew inactive licenses; and

WHEREAS, in order to qualify for blanket 12.39 Relief, inactive Class C licensees must otherwise qualify for renewal by doing the following:

1. File a timely renewal application (POSSE online or paper template renewal application) for the 2024-2025 license term not later than June 30, 2024 (30 day grace period until July 30, 2024 pursuant to N.J.S.A. 33:1-12.13); and
2. Pay the State filing fee and municipal renewal filing fee for the 2024-2025 license term not later than June 30, 2024 (30-day grace period until July 30, 2024 pursuant to N.J.S.A. 33:1-12.13).

WHEREAS, a licensee is not eligible for the blanket 12.39 Relief granted in Administrative Order 2024-03 if a licensee has any prior outstanding issues with the license for any prior term, including any pending objections to renewal; and

WHEREAS, municipalities must review each individual inactive license file prior to issuing a resolution renewing the license for the 2024-2025 license term or any prior term and must be mindful that the blanket 12.39 Relief described in Administrative Order 2024-03 does not remedy past outstanding issues with the license; and

WHEREAS, Subsection (d) of the new law requires the Director of ABC to divide inactive plenary retail consumption licenses into quartiles based on the total length of time the licenses have been inactive; and

WHEREAS, inactive plenary retail consumption licenses in each quartile must be placed into active use or transferred with the statutory timeframes set for in the new law; and

WHEREAS, the Division of ABC has divided these licenses in to quartiles by license term as follows: first quartile 1993-1994 through 2000-2001; second quartile 2001-2002 to 2008-2009; third quartile 2009-2010 to 2016-2017 and fourth quartile 2017-2018 to 2023-2024; and

WHEREAS Subsection (c) of the new law requires that inactive Class C licenses must either be actively used by the license holder or transferred in a private transaction for fair market value to another person who intends to use the license or transferred from a sending municipality to a receiving municipality in accordance with the new law governing inter municipal transfer before the statutory quartile deadlines; and

WHEREAS, inactive Class C license holders are encouraged to take steps to comply with Subsection (c) because, under the new law, some licenses will expire in accordance with the quartiles established under Subsection (d) and will no longer be allowed indefinite periods of inactivity; and

WHEREAS, renewal applications and required fees for the license year 2024-2025 for Plenary Retail Consumption License have been filed with the municipality; and

WHEREAS, the Township Council and Police Department have reviewed the inactive licenses that are qualified and as a result recommend that these licenses be renewed for the 2024-2025 license term to the current owners.

2024-2025 POCKET/INACTIVE LICENSES	
LICENSEE	LICENSEE
FAMILY ASSETS INACTIVE 1615-33-002-003 QUARTILE 4 2017-2018 – 2023-2024 (6/30/2024)	CHICO LLC POCKET 1615-33-010-006 QUARTILE 4 2017-2018 – 2023-2024 (6/30/2024)
HAVANA NIGHTS TAPAS & BAR LLC INACTIVE 1615-33-028-008 QUARTILE 4 2017-2018 – 2023-2024 (6/30/2024)	LAKE FRONT LIQUORS LLC POCKET 1615-33-013-010 QUARTILE 3 2009-2010 – 2016-2017 (6/30/2017)
PFA REALTY POCKET 1615-33-020-009 QUARTILE 2 2001-2002 to 2008-2009 (6/30/2009)	JAY Bhole LIQUORS POCKET 1615-33-027-013 QUARTILE 3 2009-2010 – 2016-2017 (6/30/2017)

Instructions for activation, siting, re-opening or transferring:

1. Inactive/Pocket Licenses must submit a 12-page Place-to-Place Transfer application with detailed sketch of proposed site and a Police Investigation Request to the Township Clerk and receive satisfactory recommendations from the Health, Fire, Building, Zoning and Police Departments prior to siting/activating this license.
2. Prior to activating or re-opening the license, inspections of premises must be made and satisfactory recommendations must be received by the Fire, Health, Building, Zoning and Police Departments.
3. Prior to activating or re-opening the license, Licensee must submit applicable 12 page application pages 1, 2, and 11 of the 12-page ABC application to the Township Clerk with date of activation.
4. Health Department Retail Food Establishment license must be acquired with detailed floor plans and satisfactory recommendation received in the Health Office prior to opening.

NOW, THEREFORE, BE IT RESOLVED that the Township Clerk is directed to issue and hold these inactive /pocket license certificates until these licenses are either activated, sited or re-opened at a location or transferred.

Adopted: June 12, 2024

Adopted this 12th day of June, 2024
and certified as a true copy of an original.

William Senande, Township Clerk