

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one.)

of Wheatfield

Local Law No. 3-2023 of the year 2023

A local law Amend Chapter 200 (Zoning) of the Code of the Town of Wheatfield, by adding a new  
(Insert Title)  
Article entitled Adult-Use Cannabis as follows:

Be it enacted by the Town Board of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of Wheatfield as follows:

See Attached

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)**

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 3-2023 of 2023 of the ~~(County)(City)(Town)(Village)~~ of Wheatfield was duly passed by the Town Board on July 10 2023, in accordance with the applicable *(Name of Legislative Body)* provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* on \_\_\_\_\_ 20    , in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. *(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local *(Elective Chief Executive Officer\*)* law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

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\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

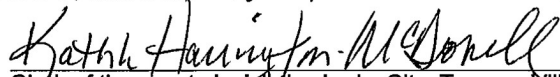
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_ above.

  
Clerk of the county legislative body, City, Town or Village Clerk or  
officer designated by local legislative body

(Seal)

Date: 7-12-2023

## **ADULT-USE CANNABIS**

**Amend Chapter 200 (Zoning) of the Code of the Town of Wheatfield, by adding a new Article entitled Adult-Use Cannabis as follows:**

### **1. Authority**

This Adult-Use Cannabis Law is adopted pursuant to Article IX of the New York State Constitution §2(c)(6) and (10), New York Statute of Local Governments, §10(1) and (7), Sections 261-263 of the Town Law Section 10 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety, and welfare of the community.

### **2. Statement of Purpose**

This Adult-Use Cannabis Law is adopted to advance and protect the public health, safety, welfare, and quality of life of the Town of Wheatfield by creating regulations for adult-use cannabis businesses, with the following objectives:

- A. To provide a regulatory scheme for the designation of properties suitable for the location and operation of adult-use cannabis businesses.
- B. To ensure compatible land uses in the vicinity of the areas affected by adult-use cannabis businesses.

### **3. Definitions**

As used in this Article, the following terms shall have the meanings indicated:

**ADULT-USE CANNABIS RETAIL DISPENSARY:** An establishment which sells at retail any cannabis products, the sale of which requires a license issued by the New York State Cannabis Control Board.

**COMMUNITY FACILITY:** A facility which has the primary purpose of providing recreational opportunities or services to children or adolescents, such as a day-care center, nursery school, public park, playground, swimming pool, or library.

**MICROBUSINESS:** An establishment which cultivates, processes, and distributes and/or sells at retail any cannabis products, which requires a license issued by the New York State Cannabis Control Board. A microbusiness might also allow on-site consumption of said cannabis products, which also requires a license issued by the New York State Control Board.

**ON-SITE CANNABIS CONSUMPTION LOUNGE:** An establishment which sells at retail any cannabis products and allows on-site consumption of said cannabis products, which requires a license issued by the New York State Cannabis Control Board.

#### **4. Applicability**

The requirements of this Local Law shall apply to all adult-use cannabis businesses permitted in the Town of Wheatfield after the effective date of this Local Law.

#### **5. Permitting Requirements for Adult-Use Cannabis Retail Dispensaries**

Adult-use cannabis retail dispensaries are permitted through the issuance of a special use permit in accordance with Article XI of this Chapter within the Commercial (C-1) district.

##### **A. Applications for adult-use cannabis retail dispensaries shall be:**

1) reviewed by the Planning Board for completeness. Applicants shall be advised within ten (10) business days after the first Planning Board meeting on the application of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

2) subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town shall have a notice printed in a newspaper of general circulation in the Town in accordance with the Town's special use permit requirements. Applicants shall also have delivered the notice by first class mail to adjoining landowners or landowners within 500 feet of the property at least ten (10) days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.

3) referred to the County Planning Board pursuant to General Municipal Law § 239-m if required.

4) upon closing of the public hearing, the Planning Board shall take action on the application within 62 days of the public hearing (and after completion of the SEQR process).

##### **B. Special Use Permit Standards.**

1) Setbacks. Adult-use cannabis retail dispensaries shall not be located:

a. Within a 2,000-foot radius of another adult-use cannabis retail dispensary.

b. Within 200 feet of a house of worship (if on the same road), as measured in a straight line from the center of the nearest entrance of such house of worship to the center of the nearest entrance of such adult-use cannabis retail dispensary.

i. If the entrance to the house of worship or to the adult-use cannabis retail dispensary are set back from the front lot line,

an imaginary line will be drawn from the front lot line to the entrance, perpendicular to the front lot line. The intersection of this line with the front lot line will be used to determine the distance between the two entrances.

c. Within 500 feet of school grounds (if on the same road), as measured in a straight line from the nearest point of such school grounds to the center of the nearest entrance of such adult-use cannabis retail dispensary.

i. If the entrance to the adult-use cannabis retail dispensary is set back from the front lot line, an imaginary line will be drawn from the front lot line to the entrance, perpendicular to the front lot line. The intersection of this line with the front lot line will be used to determine the distance between the entrance and the nearest point of the school grounds.

d. Within 500 feet of a community facility (if on the same road), as measured in a straight line from the center of the nearest entrance of such community facility to the center of the nearest entrance of such adult-use cannabis retail dispensary.

i. If the entrance to the community facility or to the adult-use cannabis retail dispensary are set back from the front lot line, an imaginary line will be drawn from the front lot line to the entrance, perpendicular to the front lot line. The intersection of this line with the front lot line will be used to determine the distance between the two entrances.

ii. If the community facility does not have a principal building, such as a park, the driveway shall be considered the entrance.

2) Drive-through facilities. All adult-use cannabis retail dispensaries must be located within a fully enclosed building. Sale of cannabis products via a drive-through or walk-up window is prohibited.

3) Outdoor smoking of cannabis on-site is strictly prohibited.

4) Hours of operation. An adult-use cannabis retail dispensary may operate only between 9 a.m. and 9 p.m. on weekdays and Saturdays, and 12 p.m. and 5 p.m. on Sundays.

5) Security. The applicant must demonstrate that the appropriate measures are in place to protect employees, customers, and adjoining properties, including, but not necessarily limited to, the installation of cameras and exterior lighting (dark sky compliant).

## **6. Permitting Requirements for On-Site Cannabis Consumption Lounges**

On-site cannabis consumption lounges are permitted through the issuance of a special use permit in accordance with Article XI of this Chapter within the Commercial (C-1) district.

### **A. Applications for on-site cannabis consumption lounges shall be:**

1) reviewed by the Planning Board for completeness. Applicants shall be advised within ten (10) business days after the first Planning Board meeting on the application of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

2) subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town shall have a notice printed in a newspaper of general circulation in the Town in accordance with the Town's special use permit requirements. Applicants shall also have delivered the notice by first class mail to adjoining landowners or landowners within 500 feet of the property at least ten (10) days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.

3) referred to the County Planning Board pursuant to General Municipal Law § 239-m if required.

4) upon closing of the public hearing, the Planning Board shall take action on the application within 62 days of the public hearing (and after completion of the SEQR process).

### **B. Special Use Permit Standards.**

1) Setbacks. On-site cannabis consumption lounges shall not be located:

a. Within a 2,000-foot radius of another on-site cannabis consumption lounge.

b. Within 200 feet of a house of worship (if on the same road), as measured in a straight line from the center of the nearest entrance of such house of worship to the center of the nearest entrance of such on-site cannabis consumption lounge.

i. If the entrance to the house of worship or to the on-site consumption lounge are set back from the front lot line, an imaginary line will be drawn from the front lot line to the entrance, perpendicular to the front lot line. The intersection of this line with the front lot line will be used to determine the distance between the two entrances.

c. Within 500 feet of school grounds (if on the same road), as measured in a straight line from the nearest point of such school grounds to the center of the nearest entrance of such on-site cannabis consumption lounge.

i. If the entrance to the on-site consumption lounge is set back from the front lot line, an imaginary line will be drawn from the front lot line to the entrance, perpendicular to the front lot line. The intersection of this line with the front lot line will be used to determine the distance between the entrance and the nearest point of the school grounds.

d. Within 500 feet of a community facility (if on the same road), as measured in a straight line from the center of the nearest entrance of such community facility to the center of the nearest entrance of such on-site cannabis consumption lounge.

i. If the entrance to the community facility or to the on-site consumption lounge are set back from the front lot line, an imaginary line will be drawn from the front lot line to the entrance, perpendicular to the front lot line. The intersection of this line with the front lot line will be used to determine the distance between the two entrances.

ii. If the community facility does not have a principal building, such as a park, the driveway shall be considered the entrance.

2) All on-site cannabis consumption lounges must be located within a fully enclosed building. Outdoor smoking of cannabis on-site is strictly prohibited.

3) Hours of operation. An on-site cannabis consumption lounge may operate only between 10 a.m. and 9 p.m. on weekdays and Saturdays, and 12 p.m. and 5 p.m. on Sundays.

4) Security. The applicant must demonstrate that the appropriate measures are in place to protect employees, customers, and adjoining properties, including, but not necessarily limited to, the installation of cameras and exterior lighting (dark sky compliant).

5) Odor. The applicant must provide a description of the measures that will be implemented to prevent any odor of cannabis detectable at the lot line. Such odor control measures may include molecular filtration (carbon scrubbing), physical separation of cannabis consumption from doors, windows, and other places where odors may migrate outside, and properly sealing doors and windows to prevent leakage. The applicant must specify the specific odor control equipment to be installed and provide an



engineering assessment signed by a certified Professional Engineer ensuring that the proposed odor control equipment/measures will be sufficient to eliminate cannabis odor (as measured from the lot line). The applicant shall also submit a maintenance plan for the proposed odor control equipment/measures to ensure the efficacy of these measures over time.

6) Serving of alcohol is strictly prohibited.

## **7. Permitting Requirements for Microbusinesses**

Microbusinesses are permitted through the issuance of a special use permit in accordance with Article XI of this Chapter within the Commercial (C-1) district.

A. Applications for microbusinesses shall be:

1) reviewed by the Planning Board for completeness. Applicants shall be advised within ten (10) business days after the first Planning Board meeting on the application of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

2) subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town shall have a notice printed in a newspaper of general circulation in the Town in accordance with the Town's special use permit requirements. Applicants shall also have delivered the notice by first class mail to adjoining landowners or landowners within 500 feet of the property at least ten (10) days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.

3) referred to the County Planning Board pursuant to General Municipal Law § 239-m if required.

4) upon closing of the public hearing, the Planning Board shall take action on the application within 62 days of the public hearing (and completion of the SEQR process).

B. Special Use Permit Standards.

1) Setbacks. Microbusinesses shall not be located:

a. Within a 2,000-foot radius of another adult-use cannabis retail dispensary or microbusiness, or if on-site cannabis consumption is allowed, another on-site cannabis consumption lounge.

b. Within 200 feet of a house of worship (if on the same road), as measured in a straight line from the center of the nearest entrance

of such house of worship to the center of the nearest entrance of such microbusiness.

i. If the entrance to the house of worship or to the microbusiness are set back from the front lot line, an imaginary line will be drawn from the front lot line to the entrance, perpendicular to the front lot line. The intersection of this line with the front lot line will be used to determine the distance between the two entrances.

c. Within 500 feet of school grounds (if on the same road), as measured in a straight line from the nearest point of such school grounds to the center of the nearest entrance of such microbusiness.

i. If the entrance to the microbusiness is set back from the front lot line, an imaginary line will be drawn from the front lot line to the entrance, perpendicular to the front lot line. The intersection of this line with the front lot line will be used to determine the distance between the entrance and the nearest point of the school grounds.

d. Within 500 feet of a community facility (if on the same road), as measured in a straight line from the center of the nearest entrance of such community facility to the center of the nearest entrance of such microbusiness.

i. If the entrance to the community facility or to the microbusiness are set back from the front lot line, an imaginary line will be drawn from the front lot line to the entrance, perpendicular to the front lot line. The intersection of this line with the front lot line will be used to determine the distance between the two entrances.

ii. If the community facility does not have a principal building, such as a park, the driveway shall be considered the entrance.

2) Drive-through facilities. All microbusinesses must be located within a fully enclosed building. Sale of cannabis products via a drive-through or walk-up window is prohibited.

3) Outdoor smoking of cannabis on-site is strictly prohibited.

4) Hours of operation. A microbusiness may operate only between 9 a.m. and 9 p.m. on weekdays and Saturdays, and 12 p.m. and 5 p.m. on Sundays. If indoor on-site cannabis consumption is allowed, hours of

operation shall be in accordance with allowed hours of operation for on-site consumption.

5) Security. The applicant must demonstrate that the appropriate measures are in place to protect employees, customers, and adjoining properties, including, but not necessarily limited to, the installation of cameras and exterior lighting (dark sky compliant).

6) Odor. If indoor on-site cannabis consumption is allowed, the applicant must provide a description of the measures that will be implemented to prevent any odor of cannabis detectable at the lot line. Such odor control measures may include molecular filtration (carbon scrubbing), physical separation of cannabis consumption from doors, windows, and other places where odors may migrate outside, and properly sealing doors and windows to prevent leakage. The applicant must specify the specific odor control equipment to be installed and provide an engineering assessment signed by a certified Professional Engineer ensuring that the proposed odor control equipment/measures will be sufficient to eliminate cannabis odor (as measured from the lot line). The applicant shall also submit a maintenance plan for the proposed odor control equipment/measures to ensure the efficacy of these measures over time.

7) If indoor on-site cannabis consumption is allowed, serving of alcohol is strictly prohibited.

## **8. Enforcement**

Any violation of this Adult-Use Cannabis Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of the Town.

## **9. Severability**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgement of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.