

**Mayor**  
*Kevin Peterson*

**Trustees**  
*Audrey Hamernik*  
*Janelle Kraft*  
*Darrin Ziembra*  
*Andrew Adolf*



**Village  
Administrator**  
*Regina Grzankowski*

**Village  
Attorney**  
*Samuel Alba*

## Village of Depew

June 12 2023

NYS Department of State  
Division of Corporations, State Records and Uniform Commercial Code  
One Commerce Plaza  
99 Washington Ave.  
Albany, NY 12231

Re: Local Law

Dear Local Law Filing Representative:

Please find the enclosed signed Local Law Filing and The Local Law Resolution. Please contact me with any questions that you may have.

A handwritten signature in black ink, appearing to read "Melissa Dabb".

Melissa Dabb  
Village of Depew  
Deputy Clerk

STATE OF NEW YORK  
**DEPARTMENT OF STATE**

ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001  
HTTPS://DOS.NY.GOV

KATHY HOCHUL  
GOVERNOR  
ROBERT J. RODRIGUEZ  
SECRETARY OF STATE

July 18, 2023

Melissa Dabb  
Depew Village Clerk  
Municipal Building  
85 Manitou Street  
Depew NY 14043

**RE: Village of Depew, Local Law 3 2023, filed on July 6 2023**

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, [www.dos.ny.gov](http://www.dos.ny.gov).

Sincerely,  
State Records and Law Bureau  
(518) 473-2492



Department  
of State

# 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.

COPY

County  City  Town  Village  
(Select one:)

of Depew

Local Law No. 3 of the year 20 23

A local law CANNABIS DISPENSARIES  
(Insert Title)

Be it enacted by the VILLAGE BOARD OF TRUSTEES of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one:)

of Depew as follows:

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

COPY

**ADOPT LOCAL LAW #3 OF 2023 – CANNABIS DISPENSARIES**

Deputy Mayor Adolf, offered the following resolution and moved for its adoption:

**WHEREAS**, the Board of Trustees of the Village of Depew, New York held a public hearing on June 12, 2023 at 7:00 pm in the Council Chambers of the Municipal Building, 85 Manitou St, Depew, NY to hereby adopt a local law for Cannabis Dispensaries within the Village of Depew.

**WHEREAS**, all persons were given an opportunity to speak for or against this local law;

**NOW THEREFORE, BE IT RESOLVED**, this local law is hereby adopted.

The following resolution was seconded by Trustee Kraft, and duly put to a roll call vote which resulted in the following:

- Trustee Hamernik - Y
- Trustee Ziemba - Y
- Trustee Kraft - Y
- Deputy Mayor Adolf - Y
- Mayor Peterson - Y

<p>VILLAGE OF DEPEW          BOARD MEETING          June 12, 2023</p> <p>Agenda Item # 14</p> <p><u> X </u> Approved    ___ Denied</p>
--

State of New York  
 County of Erie    ss:  
 Village of Depew

This is to certify that I, **Melissa Dabb, Deputy Village Clerk** of the *Village of Depew*, in the said *County of Erie*, have compared the foregoing copy of **ADOPT LOCAL LAW #3 OF 2023 – CANNABIS DISPENSARIES** with the original thereof filed in my office at *Depew, New York*, on the 12th day of June 2023 and that the same is a true and correct copy of said original, and of the whole thereof.

*In Witness Whereof*, I have hereunto set my hand and affixed the seal of said Village this the 14<sup>th</sup> day of June 2023.



Deputy Village Clerk, Village of Depew, Erie County, N.Y.

## **Cannabis Retail Business Activity.**

### **[Local Law 260-89]**

**[1] Findings;** legislative intent. The Village of Depew seeks to mitigate any potential nuisances/adverse impacts to other public youth facilities, residences and to protect the overall community character, while also allowing for small business development that provides outlets for hookah or vaping, and for the retail sale of associated products and cannabis for at-home consumption. Notwithstanding the foregoing, all persons who choose, against health adversaries, to be involved with tobacco or non-tobacco materials do so entirely at their own risk.

**[2] Definitions.** As used in this subsection, the following terms shall have the meanings indicated:

#### **Cannabis**

All parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include hemp, cannabinoid hemp or hemp extract as defined by this section or any drug products approved by the Federal Food and Drug Administration.

#### **Cannabis Retail Business**

Any business, collective, establishment, association or any other organization or any person engaged in the licensed activities of an adult-use cannabis retail dispensary and/or on-site consumption.

#### **Delivery**

A delivery license authorizes the delivery of cannabis and cannabis products by licensees, independent of another adult-use cannabis license, to cannabis consumers.

#### **Hookah or Vaping Business**

Shall refer to any facility or location whose business operation, and its principal use, includes the on-site smoking of electronic cigarettes, vape pens, vapors, e-liquids, or other like substances, not to include cannabis or cannabis products, commonly known by such various terms as "bars," "lounges," or "cafes."

**Hookah Pipe**

A single- or multi-stemmed instrument used by one or more persons to smoke tobacco or another substance, which hookah pipe is also commonly referred to as a "hookah," "water pipe," "shisha" or "narghile."

**Microbusiness**

A licensee that may act as a cannabis producer for the cultivation of cannabis, a cannabis processor, a cannabis distributor and a cannabis retail business under this article; provided such licensee complies with all requirements imposed by the State of New York for licensed producers, processors, distributors and retailers to the extent the licensee engages in such activities.

**Public Youth Facilities**

Public youth facility means a location or structure owned by a government or government subdivision or agency, that is accessible to the public, where the primary purpose is to provide recreational opportunities or services to children or adolescents of whom the primary population is reasonably expected to be seventeen (17) years of age or younger.

**School Grounds**

As such term is defined in the New York State Education Law.

**On-Site Consumption**

The consumption of cannabis in an area licensed by the Cannabis Control Board. An on-site consumption license authorizes the acquisition, possession, and sale of cannabis from the licensed premises of the on-site consumption licensee to cannabis consumers for use at the on-site consumption location or another location.

**Retail Sale**

To solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell, made by any licensed person, whether principal, proprietor, agent, or employee, of any cannabis, cannabis product, cannabinoid hemp or hemp extract product to a cannabis consumer for any purpose other than resale.

**Smoking**

Refers to both:

**[a]** The burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains cannabis, including the use of an electronic smoking device that creates an aerosol or vapor; or

**[b]** The inhalation of the smoke/liquid nicotine/vapors/water pipe tobacco and other substances encased in electronic cigarettes, vape pens, and pipes commonly known as "hookah," "water pipe," "shisha," and "narghile" or any similar device.

### **Vape Shop**

Any establishment which offers for sale or consideration electronic cigarettes, pipes, vape pens, vapors, e-liquids, or other like substances as a substantial or significant portion of its business, merchandise and/or stock-in-trade.

**[3] Registration required.** No cannabis, hookah, vaping, or vape shop business shall operate in the Village of Depew unless and until it has first filed a registration application in accordance with the provisions of this chapter, has paid all fees required by this chapter, received a special use permit, and has received necessary licensing from the state.

**[a] State license.** An adult-use cannabis license or provisional from the NYS Office of Cannabis Management shall be required for any cannabis retail business or cannabis activity in which it is engaged. A business intending to sell vapor products shall be required to have a certificate of registration from the Department of Taxation and Finance.

**[b] Special use permit.** Any proposal to place, construct or modify a cannabis, hookah, vaping, or vape shop business in the Village of Depew requires the issuance and approval of a special use permit. All applications, plans, and documentation shall be submitted to the Village of Depew Planning Board and Code Enforcement Officer with site plan approval and special use permit review undertaken by the Planning Board and special use permit approval by the Village of Depew Board of Trustees.

**[c] Registration application.** Any applicant for a cannabis, hookah, vaping, or vape shop business shall provide no less than the following when submitting a registration application:

**[i]** Completed special use permit application and checklist;

**[ii]** Copy of NYSOCM Provisional or Operating License or NYS Department of Taxation and Finance certificate, if applicable;

**[iii]** Business plan and written description of day-to-day operations and hours of operation;

**[iv]** Complete site plan showing any alterations to the property;

**[v]** Floor plans certified by a licensed professional engineer or architect detailing ventilation as well as interior and exterior security plans in compliance with New York State law;



[vi] Sign application with all proposed building-mounted and freestanding signs; and

[vii] Any additional materials requested by the Planning Board during the review process.

[d] Registration null and void. A registration shall become null and void upon any of the following:

[i] Relocation of the cannabis, hookah, vaping, or vape shop business to a different location or premises;

[ii] One year after the issuance of the special use permit (SUP) unless renewed upon site inspection, at which time the SUP shall be valid for a period of two years;

[iii] Any attempt to assign, transfer or sell a registration without approval from the Village; or

[iv] Any violations of the terms or requirements of this chapter.

**[4] Operating regulations and conditions.** A cannabis, hookah, vaping, or vape shop business shall not create a nuisance to abutters or to the surrounding area, or create any hazard, including, but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent, or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

**[a] Proximity to public youth facilities, schools, and houses of worship.** At a minimum, no cannabis, hookah, vaping, or vape shop retail business shall be located within 500 feet of any public youth facility or school and shall not be located within 200 feet of any house of worship.

[i] The Planning Board shall also consider distance from other uses involving children when permitting the siting of cannabis retail businesses, including, without limitation, libraries, playgrounds, parks, martial arts and dance studios, houses of worship, pediatric medical offices, toy stores, government buildings for youth, and youth clubs.

[ii] The Planning Board may deviate from the proximity restrictions as necessary on good cause shown by the applicant balancing the need to foster and develop new businesses and of protecting the community and aforementioned locations.

[iii] In the event of a conflict between this law and the New York State Marihuana and Regulation and Taxation Act the law of the State of New York will control.



**[b] Hours of operation.** Any business operating under this chapter may open no earlier than 10:00 a.m. and shall close no later than 10:00 p.m. on the same day, unless modified by the Planning Board and specified in the special use permit.

**[c] Alcohol.** The sale or consumption of alcohol on licensed premises is prohibited, except for the sale of tinctures, which is permitted provided all products sold on site comply with applicable state rules and regulations.

**[d] Odor.** Each business operating under this chapter shall prevent the odor of tobacco or non-tobacco products from emanating beyond the walls of the premises by utilizing appropriate air purification systems and air scrubbers.

**[e] Outdoor smoking.** There shall be no cannabis smoking outside the premises of the business unless the outdoor smoking complies with the laws of the State of New York and the code of the Village of Depew.

**[f] Facade treatments.** Design of the cannabis, hookah, vaping, or vape shop business shall not detract from the sense of activity with opaque, unwelcoming facades at the ground floor. Where interior activities must be screened from public view, such areas should be screened by transparent, publicly accessible active business uses where possible. Opaque facades should be minimized, and where they are necessary, they should include changing public art displays or other measures to provide visual interest to the public.

**[g] Signage.** The Planning Board shall be responsible for approval of all signage for businesses operating under this chapter, pursuant to Village Code § 260-37 "Sign regulations," balancing the need for a well-maintained, safe and attractive community and the need for effective business identification, advertising and communication.

**[h] Security barriers.** All installations of any security gate or barrier must be preceded by the issuance of a building permit from the Building Department and must be in accordance with the standards set forth by the New York State Uniform Fire Prevention and Building Code and Village of Depew Planning Board, which shall be permitted to consider aesthetics of the exterior.

**[i] Security.** An application for a cannabis retail business must include written and graphic documentation showing the proposed facility will meet state standards, including but not limited to secure premises, secure room, secure entry, security lighting, security alarm systems, and video surveillance.

**[j] Buffer.** For any cannabis, hookah, vaping, or vape shop business that shall abut upon a residential-zoned parcel or any parcel used for residential purposes, there shall be a buffer strip five feet wide erected, planted and thereafter maintained on the plot pursuant to Planning Board requirements, unless the Planning Board shall require a greater or larger buffer strip. The Planning Board may deviate from the buffer restrictions as necessary on good cause shown by the applicant balancing the need to foster and develop new businesses and of protecting the community and aforementioned locations.

**[k] Fire hazards.** Smoking paraphernalia shall comply with such safety measures as may be prescribed to minimize the risk of fire associated with the use of such paraphernalia. Where smoking paraphernalia requires the use of lighted charcoal or any other solid or liquid flammable or combustible material, such material shall be stored, handled, and disposed in a manner approved by the Village of Depew Code Enforcement and Village of Depew Fire Department.

**[l] Drive-through.** No drive-through services or sales shall be permitted by any businesses operating under this chapter.

**[m] Storage, security, and management.** Cannabis, tobacco, and similar waste shall be stored, secured, and managed in accordance with applicable New York State laws.

**[5] Inspections and compliance.** The Village of Depew shall have the right to request entrance into any business operating under this chapter, during reasonable hours, for the purpose of conducting a physical inspection of the premises to determine if the premises complies with the requirements herein. Any cannabis, hookah, vaping, or vape shop business shall at all times strictly comply with all the provisions of this chapter.

**[6] Pre-Existing.** Any hookah, vaping, vape shop business, or cannabis retail business possessing NYSOCM Provisional or Operating License or NYS Department of Taxation and Finance certificate existing and actually conducting retail business prior to the effective date of this local law shall be considered pre-existing (or "Grandfathered") and permitted to remain in place without regard to the provisions of this section. Upon expiration of a 6 ("SIX") month pre-existing duration the applicant will be required to apply for a special use permit pursuant to this section. The Planning Board may, in its sole discretion, waive any proximity requirements for any business which has existed pursuant to this section when considering the special use permit.

(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 of 2023 of the (County)(City)(Town)(Village) of Deerw was duly passed by the Village Board of Trustees on 6/12 2023 in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**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 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.

\* 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.)**

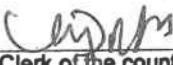
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority 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

Date: June 14, 2023

(Seal)