

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.

FILED
STATE RECORDS

County City Town Village
(Select one.)

OCT 04 2021

of Fabius

DEPARTMENT OF STATE

Local Law No. 2 of the year 2021

A local law A LOCAL LAW OPTING OUT OF ALLOWING ADULT USE CANNABIS LICENSES FOR
(Insert Title)
DISPENSARIES AND ON-SITE CONSUMPTION IN THE TOWN OF FABIUS

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

County City Town Village
(Select one.)

of Fabius

as follows:

See Attached

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

**TOWN OF FABIUS
LOCAL LAW NO. #2 OF 2021
A LOCAL LAW OPTING-OUT OF ALLOWING
ADULT-USE CANNABIS LICENSES FOR RETAIL DISPENSARIES
AND ON-SITE CONSUMPTION IN THE TOWN OF FABIUS**

Be it enacted by the Town Board of the Town of Fabius as follows:

1. TITLE. This Local Law shall be known and may be cited as the Town of Fabius “Opting-Out of Allowing Adult-Use Cannabis Licenses for Retail Dispensaries and On-Site Consumption Law” (hereinafter referred to as the “Local Law”).

2. LEGISLATIVE INTENT. The Town Board of the Town of Fabius (the “Town Board”) recognizes that New York State’s recently enacted Marijuana Regulation & Taxation Act (MRTA) legalized adult cannabis possession and use by adults at least 21 years of age. Although the Town of Otisco cannot opt-out of adult-use legalization of cannabis, MRTA provides that the Town is able to opt-out of allowing adult-use cannabis retail dispensaries or on-site consumption licenses within its jurisdiction by the enactment of an opting-out local law by December 31, 2021. Pursuant to MRTA, such opting-out local law must be subject to a permissive referendum on petition as governed by Section 24 of the Municipal Home Rule Law. The Town Board intends to timely enact a local law subject to permissive referendum to opt-out of MRTA by requesting that the Cannabis Control Board prohibit the issuance of retail dispensary licenses and on-site consumption licenses within the Town. It is hereby declared to be the policy of the Town Board to opt-out of allowing cannabis retail dispensaries and on-site consumption licenses within the jurisdiction of the Town so as to preserve, protect and promote the public health, safety and welfare within the Town.

3. AUTHORITY. This Local Law is enacted pursuant to MRTA, which provides for New York municipalities to opt-out of allowing adult-use cannabis retail dispensaries and on-site consumption locations within their respective jurisdictions, if done by the adoption of a local law subject to a permissive referendum on or before December 31, 2021.

4. OPTING-OUT OF ALLOWING ADULT-USE CANNABIS RETAIL DISPENSARIES AND ON-SITE CONSUMPTION LICENSES WITHIN THE TOWN.

The Town Board hereby adopts this Local Law subject to a permissive referendum on petition, to opt-out of allowing adult-use cannabis retail dispensaries and on-site consumption licenses within the Town of Fabius, to preserve, protect and promote the public health, safety and welfare within the Town.

5. CONFLICT WITH OTHER LAWS. This Local Law is enacted pursuant to the provisions of New York State Town Law, Municipal Home Rule Law, and MRTA. During the duration of times that this Local Law is in effect, to the extent permitted by law, it shall take precedence over and shall be considered controlling over contrary laws, rules, ordinances, and common law.

6. SEVERABILITY. If any clause, sentence, paragraph, section, article, subdivision, provision, or part of this Local Law shall be adjudged by any Court of competent jurisdiction in the State of New York to be void, unconstitutional, invalid, ineffectual, or unenforceable, such adjudication or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operations and only apply to the clause, sentence, paragraph, section, article, subdivision, provision, or part thereof directly involved in the controversy in which such adjudication or judgment shall have been rendered or so adjudged, and not deemed to affect, impair, or invalidate the remainder of this Local Law shall remain valid and in full force and effect.

7. PRIOR LAW. Upon the effective date of this Local Law, this Local Law shall repeal any prior provision of law, rule, regulation, ordinance, or resolution of the Town of Fabius which is inconsistent with the provisions of this Local Law.

8. EFFECTIVE DATE. This Local Law is subject to a permissive referendum on petition. If a proper petition is timely filed with the Fabius Town Clerk within 45 days of the Town Board's adoption of this Local Law requiring a referendum by the Town's electorate, the Town Clerk shall not file this Local Law with the New York State Secretary of State until after the results of such vote by the electorate at a general or special election, as the case may be under applicable Law, to determine whether Local Law # 2 of 2021 is approved or disapproved by a majority of the Town's electorate. If, a majority of the Town's electorate approved Local Law # 2 of 2021 at an election, or if no proper petition was filed with the Town Clerk within 45 days of the adoption of this Local Law by the Town Board, as the case may be, then this Local Law shall become effective 20 days after its filing with the New York State Secretary of State in accordance with the provisions of New York State Municipal Home Rule Law §27.

Town Board of the Town of Fabius, August 16, 2021

Be it so Ordered by the Town Board of the Town of Fabius

(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. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, 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. 2 of 20²¹ of the (County)(City)(Town)(Village) of Fabius was duly passed by the Town Board on August 16th 20²¹, 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 September 25 2021, in accordance with the applicable provisions of law. *(Elective Chief Executive Officer*)*

* 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.)

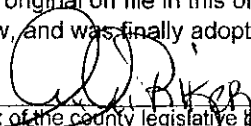
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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 4 above.



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

Date: 8/17/2021

(Seal)