

# 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 Greenburgh

FILED  
STATE RECORDS  
DEC 22 2022

DEPARTMENT OF STATE

Local Law No. 18 of the year 2022

A local law creating a new Chapter 453 entitled "Tobacco Products and Smoking Paraphernalia:

(Insert Title)

Prohibition of Specified Sales, Display and Advertising" in the Code of the Town of

Greenburgh.

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

County  City  Town  Village  
(Select one.)

of Greenburgh

as follows:

(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. 18 of 2022 of the (County)(City)(Town)(Village) of Town of Greenburgh was duly passed by the Town Board on December 14 2022, 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\*)*

\* 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.)**

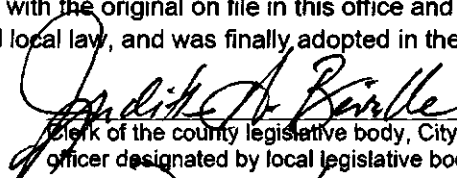
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority 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 1 above.

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

Date: December 21, 2022

(Seal)

**RESOLUTION ADOPTING A LOCAL LAW CREATING A NEW CHAPTER 453, ENTITLED “TOBACCO PRODUCTS AND SMOKING PARAPHENALIA: PROHIBITION OF SPECIFIED SALES, DISPLAY AND ADVERTISING,” IN THE CODE OF THE TOWN OF GREENBURGH [TB 22-17]**

**WHEREAS**, even though for health and safety reasons the sale of tobacco products is not permitted in New York to anyone under 21 years of age, new tobacco products are now being marketed in flavored varieties specifically intended to appeal to children under the age of 21; and

**WHEREAS**, the American Cancer Society advises that “no youth or young adults should begin using any tobacco product, including e-cigarettes,” and the U.S Surgeon General advises that nicotine exposure, including through e-cigarettes, can harm the developing brain, which continues to develop until about age 25; and

**WHEREAS**, under Article IX of the New York State Constitution, municipalities have the right (unless the State Legislature adopts, and the Governor signs, a limiting law) to legislate with respect to “conduct, safety, health and well-being of persons and property therein;” and

**WHEREAS**, pursuant to that authority to protect the health, safety and welfare of the Town’s children, the Town Board hereby finds it in the best interest of the Town to consider a local law which would restrict the sale, display and advertising of certain tobacco products and smoking paraphernalia in close proximity to schools, parks, and houses of worship; and

**WHEREAS**, a local law was prepared by Town staff, based upon input and research conducted by members of the community, including members of the Edgemont Community Council, a local civic association; and

**WHEREAS**, on October 26, 2022, the Town Board adopted Resolution CL-5 – 10/26/2022, declaring its intent to act as Lead Agency for review of the Amendment and all related actions under the State Environmental Quality Review Act (“SEQRA”); and

**WHEREAS**, on November 9, 2022, the Town of Greenburgh Town Board held a duly noticed public hearing on the proposed Code Text Amendment; and

**WHEREAS**, the public hearing notice was additionally sent to various interested businesses in the Town; and

**WHEREAS**, the Town Board conducted a coordinated SEQRA review (Westchester County, adjacent and Surrounding Municipalities - Interested Agencies) and analysis of the entire record, studying and documenting the potential environmental impacts associated with the proposed Zoning Text Amendment, and on December 14, 2022, in connection with adopted Resolution CD-1 – 12/14/2022 made a Negative Declaration with respect to SEQRA; and

**THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Greenburgh hereby adopts the attached Local Law creating a new Chapter 453 entitled “Tobacco Products and Smoking Paraphernalia: Prohibition of Specified Sales, Display and Advertising.”





## TOWN of GREENBURGH

Local Law No. /2022

A local law to amend the Code of the Town of Greenburgh, pursuant to the New York State Constitution Article IX and New York Municipal Home Rule § 10, by creating a new Chapter 453 entitled “Tobacco Products and Smoking Paraphernalia: Prohibition of Specified Sales, Display and Advertising” in the Code of the Town of Greenburgh.

**BE IT ENACTED** by the Town Board of the Town of Greenburgh:

- § 1. **Title.**
- § 2. **Legislative Findings and Intent.**
- § 3. **Amendment adding a new Chapter 453 to the Code of the Town of Greenburgh**
- § 4. **Supersession.**
- § 5. **Severability.**
- § 6. **Effective Date.**

**§ 1. Title.**

This local law is entitled “Tobacco Products and Smoking Paraphernalia: Prohibition of Specified Sales, Display and Advertising.”

**§ 2. Legislative Findings and Intent.**

The Town Board of the Town of Greenburgh finds it in the best interest of the Town to adopt a local law which would restrict the sale, display and advertising of certain tobacco products and smoking paraphernalia in close proximity to schools and parks.

**§ 3. Amendment adding a new Chapter 453 to the Code of the Town of Greenburgh**

The Code of the Town of Greenburgh is hereby amended by adding thereto a new chapter, Chapter 453, to read as follows (new text underlined):

**§ 453-1 Definitions.**

**Advertising**

Any words, pictures, photographs, symbols, graphics or visual images of smoking paraphernalia or specific tobacco products, as defined below, whether solid, liquid or gaseous, or a copy or likeness of an object or any communication of any nature intended to create an interest in or induce a person to purchase or use such an object.

**Display**

To show or place smoking paraphernalia or specific tobacco products, whether solid, liquid or gaseous, or a copy or likeness of it, in an exterior or interior location visible from any public road or sidewalk.

**Smoking Paraphernalia**

Any pipe, water pipe, hookah, rolling papers, vaporizer or other device, equipment or apparatus designed or used for the inhalation of tobacco or related smoking products.

**Specified Tobacco Products**

Tobacco heating systems, e-cigarettes, electronic nicotine delivery systems, vaping products, synthetic nicotine products, or any product containing synthetic nicotine, other than those available from pharmacies by prescription only.

**§ 453-2 Prohibited Activities.**

- A. The sale or offering to sell of any specified tobacco products and smoking paraphernalia is prohibited within 750 feet from any school which has students below the age of 21 or public park.
- B. The advertising or display of any specified tobacco products and smoking paraphernalia is prohibited within 1,500 feet from any school which has students below the age of 21 or public park.

The distances set forth in subsections A and B of this Section 453-2 shall be measured on a straight line from the nearest property line of the relevant school or public park to the building where the potential sales, display and/or advertising of specified tobacco products and/or smoking paraphernalia occurs.

**§ 453-3 Enforcement and Penalties.**

- A. The Town of Greenburgh Police Department and Building Inspector shall be charged with enforcement of Section 453-2A of this chapter. Any person violating this chapter shall, upon conviction, be guilty of a misdemeanor and subject to a fine of up to \$2,500 for the initial day and \$2,500 for each day the violation remains. Any person convicted of a second violation of this chapter within three years of a prior conviction under this chapter shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of twice that imposed for the first offense, up to \$5,000 for the initial day and \$5,000 for each day the violation remains.
  
- B. The Town of Greenburgh Police Department and Building Inspector shall have the authority to enforce Section 453-2B this chapter. Any person violating this chapter shall be subject to a \$1,000 fine for the first offense and \$5,000 for any subsequent offense.
  
- C. Nothing herein shall be deemed to preclude the Office of the Town Attorney from seeking the closure, for good cause shown, of any business found to be operating in violation of this chapter. For businesses that are lawfully selling, at the time of the enactment of this local law, specified tobacco products and/or smoking paraphernalia, such sales may continue for a period of one year from the date that the law is filed with the Secretary of State.

**§ 4. Supersession:**

Pursuant to New York Municipal Home Rule Law Section 22, this law is intended to supersede any other inconsistent provision of law.

**§ 5. Severability:**

If any clause, sentence, paragraph, subdivision, section or part of this law or the application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or its application to the person or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**§ 6. Effective Date:**

This law shall take effect immediately upon filing with the Secretary of State.