

# 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 Hamburg

Local Law No. 7 of the year 2023

A local law to amend Chapter 280 of the Hamburg Town Code, entitled Zoning by adding a  
*(Insert Title)*  
new Article to be known as "Adult-Use Cannabis"  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

County  City  Town  Village  
(Select one:)

of Hamburg as follows:

Section 1:

This local law amends the Hamburg Town Code, Chapter 280, entitled Zoning, to add a new Article entitled "Adult-Use Cannabis."

(Complete text of new Article follows this page)

Section 2:

This local law takes effect immediately after proper filing, including with the Department of State.

Dated: October 23, 2023

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

## **ADULT-USE CANNABIS**

**Amend Chapter 280 (Zoning) of the Code of the Town of Hamburg, 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, and 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 Hamburg 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.

**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 Hamburg 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 General Commercial (C-2) district.

A. Applications for adult-use cannabis retail dispensaries shall follow the application procedure for special use permits set forth in §280-313 of the Town Code.

B. Special Use Permit Standards.

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

a. 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.

b. 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.

c. 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.

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

3) Hours of operation. An adult-use cannabis retail dispensary may operate only between 8 a.m. and 10 p.m. on weekdays and Saturdays, and 12 p.m. and 9 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).

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

On-site cannabis consumption lounges are not permitted in the Town of Hamburg.

## **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 Light Industrial (M-2) district.

A. Applications for microbusinesses shall follow the application procedure for special use permits set forth in §280-313 of the Town Code.

B. Special Use Permit Standards.

1) Setbacks. Microbusinesses shall not be located:

a. 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.

b. 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.

c. 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.

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

3) Hours of operation. A microbusiness may operate only between 8 a.m. and 10 p.m. on weekdays and Saturdays, and 12 p.m. and 9 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).

## **7. 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.

## **8. 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.

(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. 7 of 2023 of the ~~(County)(City)(Town)(Village)~~ of Hamburg was duly passed by the Town Board on Oct. 23, 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 \_\_\_\_\_ 2023, 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.

\* 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.

*Catherine A. Pufszynski*  
Clerk of the county legislative body (City/Town or Village Clerk or officer designated by local legislative body)

(Seal)

Date:

10-24-23