

AS ACTED UPON DURING A DULY NOTICED OPEN MEETING OF THE TOWN BOARD OF THE TOWN OF HENRIETTA, COUNTY OF MONROE, STATE OF NEW YORK, HELD AT THE HENRIETTA TOWN HALL AT 475 CALKINS ROAD, HENRIETTA, NEW YORK ON JULY 31, 2024 AT 6:00 P.M.

RESOLUTION #16-243/2024 To adopt Local Law No. 4 of 2024 to amend the Zoning Code of the Town of Henrietta to accommodate the evolving license classifications for the production and distribution of cannabis as promulgated by the New York State Office of Cannabis Management.

On Motion of
Councilmember Barley

Seconded by
Councilmember Page

WHEREAS, the New York State Office of Cannabis Management (OCM) has included additional licensed businesses under the State’s non-medical cannabis laws; and

WHEREAS, previously Henrietta’s Zoning Laws have only addressed adult-use cannabis dispensaries and on-site consumption businesses; and

WHEREAS, the Town wishes to include the additional non-medical cannabis businesses, including but not limited to businesses operating under an OCM cultivator license, processor license, distribution license, or microbusiness license, into our Town Zoning Laws; and

WHEREAS, Town Board Resolution #14-216/2024 called for a public hearing to be held on July 31, 2024, at 6:00 p.m. for the purpose of gathering feedback with regards to said proposed Local Law and that a public notice be sent out in a manner consistent with law; and

WHEREAS, the Henrietta Town Board, after due deliberation, finds it in the best interest of the Town to adopt said Local Law, specifically to include non-medical cannabis businesses to our Town Zoning Laws.

THEREFORE, BE IT RESOLVED, that the Henrietta Town Board hereby adopts said Local Law No. 4 of 2024 to amend the Zoning Code of the Town of Henrietta to accommodate the evolving license classifications for the production and distribution of cannabis as promulgated by the New York State Office of Cannabis Management.

BE IT FURTHER RESOLVED, that the Town Clerk of the Town of Henrietta be and hereby is directed to enter said Local Law into the minutes of this meeting and to give due notice of the adoption of said Local Law to the Secretary of State of the State of New York.

Duly put to a vote:
Councilmember Page Aye
Councilmember Bellanca Aye
Councilmember Barley Aye
Councilmember Stafford Aye
Supervisor Schultz Aye

RESOLUTION ADOPTED

LOCAL LAW No. 4 of 2024

A Local Law to amend the Zoning Code of the Town of Henrietta to accommodate the evolving license classifications for the production and distribution of cannabis as promulgated by the New York State Office of Cannabis Management.

Be it enacted by the Town Board of the Town of Henrietta, Monroe County, State of New York, as follows:

Section I. Authorization

The adoption of this Local Law is in accordance with Municipal Home Rule Law § 10.

Section II. Title and Purpose

This law shall be known as and may be cited as Local Law No. 4 of 2024 to amend the Zoning Code of the Town of Henrietta to accommodate the evolving license classifications for the production and distribution of cannabis as promulgated by the New York State Office of Cannabis Management.

Section III. Legislative Finding

The Town Board of the Town of Henrietta finds and hereby determines that the New York State Office of Cannabis Management has promulgated regulations creating new adult-use licenses not presently addressed by the Henrietta Zoning Code. As a result, the Town Board finds that the proposed amendments to the Zoning Code which accommodate the now available licenses for the production and distribution of cannabis products are necessary and appropriate.

Section IV. Amendment

Section 295-2(B) of the Henrietta Town Code containing the definition of "on-site consumption site" is hereby modified to read as follows:

CANNABIS ON-SITE CONSUMPTION SITE

As identified in the New York State Cannabis Law, an establishment involving the consumption of cannabis on premises and licensed by New York State as an on-site consumption site.

Section 295-2(B) of the Henrietta Town Code is hereby modified to include the following definitions:

CANNABIS PRODUCTION, MINOR

Based on licenses from the New York State Cannabis Law, an establishment involving the cultivation and/or processing of cannabis, limited to a microbusiness license or to Tier 1 under a cultivator license.

CANNABIS PRODUCTION, MAJOR

Based on licenses from the New York State Cannabis Law, an establishment involving the cultivation and/or processing of cannabis, including Tiers 2, 3, and 4 under a cultivator license, a business with a processor license that processes cannabis from other cultivators, and/or a business with a distributor license that distributes cannabis from other cultivators.

CANNABIS BUSINESS, NON-MEDICAL

Based on licenses from the New York State Cannabis Law, an establishment involving the cultivation, processing, distribution, retail dispensing or on-site consumption of cannabis, or other adult use operation, but not including operations exclusively licensed for medical cannabis.

Section 295-21 of the Henrietta Town Code setting forth permitted uses in the ILCD, Industrial/Limited Commercial Districts, is modified to add subsection T as follows:

- T. Cannabis Production, minor or major, or other non-medical cannabis business subject to obtaining a special use permit in accordance with § 295-54.1

Section 295-14(B) (13) of the Henrietta Town Code regarding permitted uses in B-1 Districts is hereby modified to read as follows:

- (13) Cannabis retail dispensaries or minor cannabis production, subject to obtaining a special use permit, but only on lots with zoning street frontage sufficient for ingress/egress to the dispensary on: (a) Jefferson Road, between John Street and Winton Road; or (b) West Henrietta Road, between Dorschel Parkway and the CSX Rail overpass north of Jefferson Road.

Section 295-25(A)(25) of the Henrietta Town Code regarding permitted uses in the I Industrial Districts is hereby modified to read as follows:

- (25) Cannabis retail dispensaries or minor cannabis production, subject to obtaining a special use permit, but only on lots with zoning street frontage sufficient for ingress/egress to the dispensary on: (a) Jefferson Road, between John Street and Winton Road; or (b) West Henrietta Road, between Dorschel Parkway (the private road situated at the southern edge of 3755 West Henrietta Road, Parcel ID 161.15-1-27.11) and the CSX Rail overpass north of Jefferson Road.

Section 295-15(O) of the Henrietta Town Code regarding prohibited uses in the B-1 District is hereby modified to read as follows:

- (O) Cannabis retail dispensaries or other non-medical cannabis business, except only as otherwise specially permitted at § 295-14B(13).

Section 295-16 (B)(21) of the Henrietta Town Code regarding prohibited uses in the B-2 District is hereby modified to read as follows:

- (21) Cannabis retail dispensaries or other non-medical cannabis business.

Section 295-26 of the Henrietta Town Code regarding prohibited uses in the I Industrial District is hereby modified to add subsection I as follows:

- (I) Cannabis retail dispensaries or other non-medical cannabis business, except only as otherwise specially permitted at § 295-25(A)(25).

Section 295-54.1 of the Henrietta Town Code regarding specific special permit uses is hereby modified to add § G as follows:

- (G) Cannabis Production Facility:
 - (1) State approvals: Any approval of a cannabis production facility shall be conditioned upon proof of any required state or other governmental approvals, including but not limited to licensure by the Cannabis Control Board.
 - (2) Increased Buffer:
 - (a) Cannabis production facilities may be established no less than 1,000 feet from any: a) school or school grounds; b) park or playground; c) church/house of worship; d) residence; or e) business which is primarily focused on providing services/products to children, including, for example, child-care facilities or recreational facilities with a significant youth component. Whether a use qualifies as one of the forementioned, and thus requires an increased buffer, shall be assessed by the Town Board as part of the special use permit process. Such 1,000-foot setback shall be measured from the closest portion of the dispensary premises (inclusive of the dispensary building or leased tenant space, as well as any exterior portions where the actual dispensing might take place, such as outdoor sales locations or a drive through window) to the nearest portion of the buffered use (inclusive of, for example, outdoor spaces utilized by schools, for parks, etc.).
 - (b) This buffer requirement may be reduced by the Town Board by up to any lesser minimums otherwise required by the state. In considering whether the reduction may be appropriate and the extent to which it may be reduced, the Town Board shall consider: whether there is a sufficient physical barrier between the dispensary and the buffered use; whether and to what extent advertising, signage, and/or other activity associated with the same which would be visible from the buffered use; and to what extent any reduced buffer might otherwise negatively impact the buffered use.
 - (3) In no event shall any buffer be any less than otherwise required by state law or any other government agency with jurisdiction over the dispensary.
 - (4) Odor Control:
 - (a) Minor cannabis production facilities must implement stringent odor control measures such that the odor is minimally detectable outside the production facility. Such measures for consideration include active odor elimination systems as well as not allowing the cannabis plants to flower.
 - (b) Major cannabis production facilities must implement enough odor control measures to not create noxious, offensive, or injurious odor emissions.
 - (5) Additional special use permit factors: In considering a special use permit for a cannabis production facility, the Town Board shall additionally consider how the § 295-54 special use permit factors apply specifically to any surrounding properties within a 250-foot distance, measured door-to-door. When measuring door-to-door, the nearest doors shall be used (not including emergency exit-only doors).

Section V. Validity and Severability

Should any word, section, clause, paragraph, sentence, part, or provision of this local law be declared invalid by a court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.

Section VI. Repeal, Amendment, and Supersession of Other Laws

All other ordinances or local laws of the Town of Henrietta which are in conflict with the provisions of this local law are hereby superseded or repealed to the extent necessary to give this local law force and effect during its effective period.

Section VII. Effective Date

This Local Law will take effect upon filing in the office of the New York State Secretary of State.