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LEGISLATION INFORMATION AND HISTORY

(for use with Local Laws, Ordinances, Bylaws, general and permanent Resolutions)

Name of Municipality: Town of Marlborough

Type of enactment (ord., res., bylaw, local law): Local Law

Number: 1

Short Title: Amending chapter 155 "Zoning" of Town of Marlborough - Amending section 155-1 Adding def for "Cannabis" establishment, on-site Consumption, products, dispensary, Section 155-12 "use regulations" & Adding section 155-32.5 "Cannabis" Marijuana Retail sales and lounges.

Relationship to Code:

Amends Chapter No. 155-1, § Nos. Sec. 155-12
Repeals Chapter No. _____, § Nos. _____
Adds Chapter No. _____, § Nos. Adding section 155-32.5

Action	Date of Action	Page Number in Minutes
Introduction	<u>Feb. 12th 2024</u>	<u>pg. 170</u>
Publication	<u>Feb. 13 2024</u>	
Public Hearing	<u>Feb. 26 2024</u>	<u>pg. 175</u>
Adoption	<u>Feb. 26 2024</u>	<u>pg. 192</u>
Publish Notice of Adoption	<u>Feb. 27 2024</u>	
Signed by Mayor or Exec.	<u>Feb. 27 2024</u>	
Signed by Clerk or Sec'y	<u>Feb. 27 2024</u>	
Filed with State (Sec'y. of St., Atty. Gen., DOT)	<u>Feb. 29 2024</u>	

Copy sent to General Code Publishers Date March 13th 2024

(see other side for Veto and Referenda information)

NOTE: A copy of this form may be made and placed with the Clerk's or Secretary's file copy of legislation at the time of introduction. The legislative history can then be compiled as the legislation passes through the required procedures. A copy of the form should be sent with the legislation to General Code Publishers for them to keep with your code files, the original being retained as a record in the Clerk's or Secretary's files.

February 26, 2024

A). Resolution # 30 To Adopt Local Law No.1 of 2024, entitled A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK, AMENDING CHAPTER 155 “ZONING” OF THE TOWN OF MARLBOROUGH TOWN CODE AS FOLLOWS: AMENDING SECTION 155-1 ADDING DEFINITIONS FOR “CANNABIS”, “CANNABIS ESTABLISHMENT”, “CANNABIS ON-SITE CONSUMPTION ESTABLISHMENT”, “CANNABIS PRODUCTS” AND “CANNABIS RETAIL DISPENSARY”, SECTION 155-12 “USE REGULATIONS”, AND ADDING SECTION 155-32.5 “CANNABIS/MARIJUANA RETAIL SALES AND LOUNGES.”

Supervisor Corcoran proposes the following:

WHEREAS, on or about December 11, 2023, a local law was introduced proposing to amend various provisions of Chapter 155 “Zoning” of the Marlborough Town Code as follows: Amending Section 155-1 adding definitions for “Cannabis”, “Cannabis Establishment”, “Cannabis On-Site Consumption Establishment”, “Cannabis Products” and “Cannabis Retail Dispensary”, Section 155-12 Use Regulations, and adding Section 155-32.5 “Cannabis/Marijuana Retail Sales and Lounges”; and

WHEREAS, the Town Board of the Town of Marlborough referred this matter to the Town of Marlborough Planning Board in accordance with Town Code § 155-49, with comments being received dated January 8, 2024; and

WHEREAS, the Town Board of the Town of Marlborough referred this matter to the Ulster County Planning Board in accordance with General Municipal Law 239-m, with comments received dated January 3, 2024; and

WHEREAS, on or about January 8, 2024, at 7:00 p.m. prevailing time, a public hearing was held for the proposed Local Law; and

WHEREAS, notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York; and

WHEREAS, substantial changes were made to the proposed local law and as such on or about February 12, 2024, the Town Board of the Town of Marlborough re-introduced the proposed local law as amended; and

WHEREAS, said local law has been on the desks of the members of the Town Board of the Town of Marlborough for at least seven (7) days, exclusive of Sunday;

WHEREAS, the local law involves the involves an amendment to various provisions of Chapter 155 Zoning of the Town of Marlborough Zoning Code as it pertains to regulating the time, place, and manner of cannabis/marijuana retail sales and consumption establishments; and

WHEREAS, these amendments are consistent with the goals, objectives and recommendation of the Town of Marlborough Comprehensive Plan; and

WHEREAS, on or about December 11, 2023 the Town Board declared its intent to Act as Lead Agency and referred the petition to the Town of Marlborough Planning Board (Planning Board) in accordance with Town Code Section 155-49; and

WHEREAS, on or about February 12, 2024 the Town Board reaffirmed their intent to Act as Lead Agency; and

WHEREAS, it has previously been determined that the adoption of this Local Law is classified as a Type I action under the New York State Environmental Quality Review Act and its implementing regulations, 6 NYCRR Park 617, (“SEQRA”), **and the Town Board, as lead agency, hereby determines that the proposed action will not result in a significant adverse impact on the environment and thus declares, authorizes and approves that a negative declaration be issued.**

NOW, THEREFORE, BE IT ENACTED by the Town Board of the Town of Marlborough that the Town Code is amended as follows:

Section 1. Purpose

This Local Law is enacted for the purpose of amending Chapter 155 Zoning, as follows; and

Section 2. The Town of Marlborough Code entitled Chapter 155. ZONING, Article I DEFINITIONS AND WORD USAGE. shall be and hereby is amended by this Local Law, which shall read in its entirety as follows [deletions are stricken and additions are underscored]:

CANNABIS

As used herein, cannabis shall have the same definition as that found in New York Cannabis Law (Chapter 7-A of the Consolidated Laws of New York) in § 3 thereof. Cannabis may also be referred to as “marijuana” or “marihuana.”

CANNABIS ESTABLISHMENT

A single physical location where a licensed Cannabis retailer engages in the retail of cannabis, any other type of licensed cannabis-related business, or any combination thereof.

CANNABIS ON-SITE CONSUMPTION ESTABLISHMENT

A single location where an entity or individual licensed by the New York State Office of Cannabis Management to allow for the on-site consumption of cannabis products on the premises. A “cannabis on-site consumption establishment” does not include a “cannabis retail dispensary.”

CANNABIS PRODUCTS

Cannabis, concentrated cannabis, and cannabis-infused products, and includes made or manufactured products that contain either cannabis or concentrated cannabis and other ingredients and are intended for personal use or consumption.

CANNABIS RETAIL DISPENSARY

An establishment that is licensed by the New York State Office of Cannabis Management to sell or otherwise distribute cannabis products directly to consumers for use off the premises. A cannabis retail dispensary may be licensed to operate as an adult-use cannabis retail dispensary or as a medical cannabis dispensary, or both. A “cannabis retail dispensary” does not include a “cannabis on-site consumption establishment.”

A. CANNABIS DISPENSARY, MEDICAL

A cannabis retail dispensary that sells or otherwise distributes cannabis products and related supplies to registered practitioners, certified patients, or designated caregivers for medical use in accordance with Title 5-A of Article 33 of the New York Public Health Law and Article 3 of the New York Cannabis Law.

B. CANNABIS RETAIL DISPENSARY, ADULT-USE

A cannabis retail dispensary that sells or otherwise distributes cannabis products and related supplies to consumers for non-medical use in accordance with Article 4 of the New York Cannabis Law.

Section 3. Section 155-12(E)(4) of the Town Code of the Town of Marlborough is amended as follows [deletions are stricken and additions are underscored]:

(n) Cannabis On-Site Consumption Establishment.

(o) Cannabis Retail Dispensary.

Section 4. Section 155-32.5 of the Town Code of the Town of Marlborough is added to read as follows [deletions are stricken and additions are underscored]:

Section 155-32.5 Cannabis/marijuana retail sales and lounges

Each owner of a Cannabis Retail Dispensary or Cannabis On-Site Consumption Establishment must be licensed in accordance with New York State Law, must obtain an annual operating permit from the Building Department, must pay any related permitting/inspection fees, and shall comply with each of the requirements of this section.

- A. Findings. The Town of Marlborough finds that the orderly development of commercial business is essential to maintaining and protecting the health, safety and welfare of the residents of the Town. The Town also finds that businesses which cater to adults should be located and regulated to minimize the potential adverse impact to residents.
- B. Purpose. The purpose of this section is to regulate the siting, design, placement, security, safety, monitoring and modification of cannabis establishments to insure the placement of cannabis establishments in appropriate locations and to minimize the adverse impacts of cannabis establishments on residential neighborhoods, schools and other such places where children commonly frequent and congregate.
- C. Applicability. These regulations shall apply to all structures and uses of retail sales and/or consumption lounges where cannabis can be purchased and/or consumed.
- D. General Requirements.

- (1) No Cannabis Establishment shall be operated except in compliance with the provisions of this chapter.
- (2) When a Cannabis Establishment is proposed to be in an existing building, regardless of any prior site plan approval (including but not limited to approval for retail sales on the property), the owner shall be required to obtain a special use permit/site plan approval for cannabis related use, retail or onsite consumption establishments.
- (3) The location of Cannabis Establishments shall be authorized in conformity with § 155-12, Use Regulations, of the Town of Marlborough Zoning Code.
- (4) A Cannabis Establishment shall be wholly contained within a building or structure. No outdoor onsite consumption establishments shall be permitted.
- (5) The hours of operation of Cannabis Establishments shall be set by the Town of Marlborough Planning Board as a condition of the special use permit and/or site plan approval.
- (6) Cannabis Establishments shall not be located within a 500-foot radius from:
 - (a) Any school pre-k through grade 12;
 - (b) Any day-care center, or any facility where children commonly congregate. A facility is not, however, limited to a building. Such a facility may include but is not limited to: a public park; a playground; a public swimming pool; a library; or a center or facility where the primary purpose of which is to provide recreational opportunities or services to children or adolescents;
 - (c) Any other Cannabis Establishment;
 - (d) Any drug or alcohol rehabilitation facility;
 - (e) Any correctional facility, half-way house or similar facility; or
 - (f) Any building containing a place of worship; or
 - (g) Any Town building or Town park.
- (7) No Cannabis Establishment shall be located inside a building containing residential units, including transient housing which includes but is not limited to hotels, motels, dormitories, bed and breakfasts and short-term rentals.
- (8) Cannabis Establishments shall be located within a permanent building and may not be located in a trailer, cargo container, motor vehicle or other similar nonpermanent enclosure.
- (9) No outside storage of Cannabis, related supplies or promotional materials shall be permitted. Any signage must be in conformity with this chapter.
- (10) On-site consumption of Cannabis Products is prohibited within or on the grounds of a permitted Cannabis Retail Dispensary.
- (11) Cannabis-related land uses shall not be permitted as home occupations or accessory uses in any zoning district.

E. Approvals required.

- (1) All Cannabis On-Site Consumption Establishments and Cannabis Retail Dispensaries shall be subject to the granting of a special use permit pursuant to § 155-32 of this Chapter.
- (2) All Cannabis On-Site Consumption Establishments and Cannabis Retail Dispensaries shall be subject to site plan review pursuant to § 155-31 of this Chapter.

F. Additional requirements for Cannabis On-Site Consumption Establishments and Cannabis Retail Dispensaries.

- (1) Provide sufficient lighting during and after hours of operation.

- (2) Adequate facilities and personnel for secure disposal of trash and other debris.
- (3) Continuing maintenance of the exterior of the building and the grounds, including landscaping, signs and policing of litter.
- (4) Sales product and paraphernalia items related to the preparation or consumption of cannabis products shall not be visible offsite or from a public right of way.
- (5) Outdoor use of sound reproduction devices, including but not limited to loudspeakers and amplifiers on the premises shall be prohibited.

G. Signs.

- (1) Any signs shall be governed by the signage requirements applicable to the zoning district where the Cannabis Establishment is located pursuant to § 155-28 of this Chapter.
- (2) No image depicting any part of a marijuana plant or any product or use of the marijuana plant shall be allowed on any outdoor signage.

H. State approval. All Cannabis Establishments approved pursuant to this section must be licensed in accordance with Article 4 of the New York State Cannabis Law. An expiration or revocation of a license by the State shall be deemed to automatically terminate the special use permit or other Planning Board approvals permitting use.

Section 5. Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of this Local Law, as declared by the valid judgment 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 of this Local Law, which shall remain in full force and effect.

Section 6. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 7. Authority

This Local Law is enacted pursuant to the Municipal Home Rule Law. This Local Law shall supersede the provisions of Town Law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.

Section 8. Effective Date

This law shall become effective upon filing with the office of the New York State Secretary of State in accordance with the Municipal Home Rule Law.

The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Corcoran	Yes
Councilman Molinelli	Absent
Councilman Cauchi	Yes
Councilwoman Sessa	Yes
Councilman Zambito	Yes

DATED: Milton, New York
February 26, 2024


COLLEEN CORCORAN, TOWN CLERK