

**RESOLUTION AUTHORIZING ADOPTION OF LOCAL LAW NO. 2 OF 2022
LOCAL LAW TO ADOPT REGULATIONS PERTAINING TO CANNABIS RETAIL
DISPENSARIES AND CANNABIS ON-SITE CONSUMPTION ESTABLISHMENTS**

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Phelps for a public hearing to be held by said Town Board on April 11, 2022, at 7 p.m. at the Phelps Town Meeting Hall, 1331 NYS Route 88, Phelps, New York, to hear all interested parties on a proposed Local Law to Adopt Regulations Pertaining to Cannabis Retail Dispensaries and Cannabis On-Site Consumption Establishments; and

WHEREAS, notice of said public hearing was duly advertised in the official newspaper of the Town of Phelps, on March 31, 2022 and all other notices required by law to be given were properly served, posted or given; and

WHEREAS, said public hearing was duly held on April 11, 2022, at 7 p.m. at the Phelps Town Meeting Hall, 1331 NYS Route 88, Phelps, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law, or any part thereof; and

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law it has been determined by the Town Board that adoption of said Local Law would not have a significant effect upon the environment and could be processed by other applicable governmental agencies without further regard to SEQR; and

WHEREAS, the Town Board of the Town of Phelps, after due deliberation, finds it in the best interest of the Town of Phelps to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Phelps hereby adopts said Local Law No. 2 of 2022, entitled, "Local Law to Adopt Regulations Pertaining to Cannabis Retail Dispensaries and Cannabis On-Site Consumption Establishments", a copy of which is attached hereto and made a part of this resolution, and be it further

RESOLVED, that the Town Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Phelps, to give due notice of the adoption of said local law to the Secretary of State of New York, to publish an abstract of this local law in the Town's official newspaper and to post a copy of this local law on the Town of Phelps sign board.

I, Amy Sitterley, Deputy Town Clerk of the Town of Phelps do hereby certify that the aforementioned resolution was adopted by the Town Board of the Town of Phelps on April 11, 2022, by the following vote:

	<u>Aye</u>	<u>Nay</u>
Norman Teed	_____	X _____
Bill Wellman	X _____	_____
Kent Ridley	X _____	_____
John Duchesneau	X _____	_____
Ron Allen	X _____	_____

Dated: April 11, 2022



Amy Sitterley, Deputy Town Clerk

SEAL

LOCAL LAW FILING

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001

(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 of Phelps
Village

Local Law No. A of the year **2022**

A Local Law to Adopt Regulations Pertaining to Cannabis Retail Dispensaries and Cannabis On-Site Consumption Establishments

(Insert Title)

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

County
City
Town of Phelps
Village

as follows:

Section 1. Legislative intent and purpose

- A. In the development and execution of this local law, it is recognized that cannabis retail dispensaries and cannabis on-site consumption establishments, because of their very nature, have serious, objectionable, operational characteristics when concentrated under certain circumstances and can have a deleterious effect on adjacent areas.
- B. It is the purpose of this article to regulate the creation, opening, commencement and/or operation of cannabis retail dispensaries and cannabis on-site consumption establishments, as herein defined, in order to achieve the following:
 - 1. To preserve the character and the quality of life in the Town of Phelps' neighborhoods and business areas.
 - 2. To control harmful and adverse secondary effects on the surrounding areas as: decreased property values; attraction of transients; parking and traffic problems; increased crime; loss of business for surrounding businesses; and deterioration of neighborhoods.

3. To restrict minors' access.
4. To maintain the general welfare and safety for the Town of Phelps' residents, businesses and visitors.
5. To ensure that the adverse effects of these specific uses will not contribute to the blighting or downgrading of the surrounding neighborhood.
6. To prevent concentration of these uses.

Section 2. Section 115-1 (When required) of Chapter 115 (Site Plan Review) of the Code of the Town of Phelps is hereby repealed and a new Section 115-1 is hereby inserted in its place to read as follows:

§ 115-1 When required.

Site plan review and approval must be obtained from the Planning Board in the following instances:

- A. Before a building permit may be issued for any use except single- and two-family dwellings and permitted accessory uses relating thereto;
- B. Before any construction activity in the nature of site improvement shall be commenced on any lot or parcel within any zoning district that is intended to result in any use except a single- or two-family dwelling. For the purposes of this section, "construction activity" shall include, but not be limited to, any clearing, grading or grubbing, any earthmoving (excavating and/or filling) and/or any changes to the natural drainage on any lot or parcel.
- C. Before any lot, parcel, building, structure or portion thereof may be used for a particular use when the Town of Phelps Zoning Ordinance requires site plan review and/or approval as a condition of such use.

Section 3. Paragraph B. of Section 145-4 (Word usage; definitions) of the Town of Phelps Zoning Ordinance is hereby amended to add the following definitions:

CANNABIS RETAIL DISPENSARY

A retail facility that sells at retail any cannabis product authorized under the NYS Cannabis Law, and the sale for which a license is required.

CANNABIS ON-SITE CONSUMPTION ESTABLISHMENT

A business operating pursuant to a license issued pursuant to the NYS Cannabis Law that authorizes the consumption of cannabis in an area specified in such license.

Section 4. The Town of Phelps Schedule of Regulations, identified in §145-8 of the Town of Phelps Zoning Ordinance and attached at the end of the Town of Phelps Zoning Ordinance, is hereby amended with the insertion of a new Special Permitted Use in i) the C-1 Commercial District, ii) the C-2 Neighborhood Commercial District and iii) the M-1 Industrial District to read as follows:

Cannabis retail dispensaries and cannabis on-site consumption establishments, in accordance with § 145-20.1

Section 5. Article V (Special Uses) of The Town of Phelps Zoning Ordinance is hereby amended with the insertion of a new Section 145-20.1 to read as follows:

§ 145-20.1 Cannabis retail dispensaries and cannabis on-site consumption establishments

- A. Site preparation or construction of a cannabis retail dispensary or a cannabis on-site consumption establishment shall not commence nor shall any existing structure be occupied or used as a cannabis retail dispensary or a cannabis on-site consumption establishment until final site plan approval has been granted by the Planning Board and a special use permit has been granted by the Zoning Board of Appeals.
- B. All applicants for site plan approval and a special use permit for a cannabis retail dispensary or a cannabis on-site consumption establishment shall submit the following to the Code Enforcement Officer:
 - 1. A completed application on a form to be provided by the Town and application fee.
 - 2. A parcel location map.
 - 3. A drawing, drawn to scale, indicating the portion of the parcel to be developed in the regulated use, as well as all required appurtenances.
 - 4. A clear and concise description of the proposed use.
 - 5. All plans and documents required by Chapter 115 (site plan review).
 - 6. Subject to applicable law, copies of all information and documentation submitted to the State of New York as part of its application for a license to operate under the Cannabis Law.
- C. No cannabis retail dispensary or cannabis on-site consumption establishment shall be allowed within 500 feet of the boundary of any residential zoning district in the town, as measured from the nearest exterior wall of the portion of the structure

containing the cannabis retail dispensary or cannabis on-site consumption establishment.

- D. No cannabis retail dispensary or cannabis on-site consumption establishment shall be allowed within 500 feet of the property line of a parcel, within the town, containing a church, synagogue, other place of worship, library, school, nursery school, day-care facility, park, playground or substance abuse treatment site, as measured from the nearest exterior wall of the portion of the structure containing the cannabis retail dispensary or cannabis on-site consumption establishment.
- E. No cannabis retail dispensary or cannabis on-site consumption establishment shall be allowed on the same parcel as another cannabis establishment.
- F. No cannabis retail dispensary or cannabis on-site consumption establishment shall be allowed within 1,000 feet of the property line of another cannabis retail dispensary, cannabis on-site consumption establishment or other cannabis establishment, as measured from the nearest exterior wall of the portion of the structure containing the cannabis retail dispensary or cannabis on-site consumption establishment that is the subject of the application, whether or not such other establishment is located in the Town of Phelps.
- G. No cannabis retail dispensary or cannabis on-site consumption establishment may be considered an on-premises business, as defined in § 145-71 of this Chapter.
- H. No cannabis retail dispensary shall open or conduct any business prior to 9am nor remain open or conduct any business after 9pm.
- I. No cannabis on-site consumption establishments shall open or conduct any business prior to 9am nor remain open or conduct any business after 9pm, Mondays through Saturdays, and shall not open or conduct any business prior to 12pm nor remain open or conduct any business after 7pm on Sundays.
- J. No cannabis retail dispensary or cannabis on-site consumption establishment shall operate and no special use permit for a cannabis retail dispensary or cannabis on-site consumption establishment issued pursuant to this Chapter shall be valid until the applicant has obtained all licenses and permits issued by New York State and/or any of its agencies for it to conduct such business. This shall pertain to any promotions, giveaways and associated propaganda.
- K. A special use permit for a cannabis retail dispensary or cannabis on-site consumption establishment shall have a term limited to the duration of the applicant's ownership and use of the premises as a cannabis retail dispensary or cannabis on-site consumption establishment, as applicable. A special use permit may be transferred only with the approval of the Zoning Board of Appeals in the form of an amendment to the special use permit.

- L. Any violation of this Section shall be grounds for revocation of a special use permit issued under this Chapter.
- M. A revocation of the cannabis retail dispensary license or cannabis on-site consumption establishment license, as applicable, by New York State and/or any of its agencies shall be grounds for revocation of the special use permit.

Section 6. The definition of “on-premises business” contained in § 145-71 (Definitions) of Article XIV (On-Premises Businesses) of The Town of Phelps Zoning Ordinance is hereby amended with the insertion of following sentence at the end of the existing definition:

“Under no circumstances shall a cannabis retail dispensary or a cannabis on-site consumption establishment be considered, operated or approved as an “on-premises business”.

Section 7. If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 8. This local law shall take effect immediately upon filing with the Secretary of State.