

# 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 Van Etten

Local Law No. 1 of the year 20<sup>23</sup>

A local law Regulation of Retail Cannabis Dispensaries in the Town of Van Etten  
(Insert Title)

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

County  City  Town  Village  
(Select one.)

of Van Etten as follows:

## SECTION 1 – TITLE.

This Local Law shall be known and cited as Local Law No. 1 of 2023 of the Town of Van Etten, Chemung County, New York, "Regulation of Retail Cannabis Dispensaries in the Town of Van Etten."

## SECTION 2 – AUTHORITY.

This Local Law is adopted pursuant to the Municipal Home Rule Law of the State of New York.

## SECTION 3 – PURPOSE.

It is recognized that Retail Cannabis Dispensaries, because of their nature, have serious objectionable characteristics under certain circumstances and can have an adverse effect on areas in which they are located. Accordingly, it is the purpose and intent of this Local Law to regulate within the Town of Van Etten the time, place, and manner of operation of Retail Cannabis Dispensaries, as herein defined, in order to:

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

- (1) Preserve the character of, and the quality of life within, the Town of Van Etten;
- (2) Control adverse secondary effects of Retail Cannabis Dispensaries on the surrounding areas, including, without limitation, decreased property values, attraction of transients, parking and traffic problems, increased crime, hindrance of economic development and loss of business for surrounding establishments, and general deterioration of neighborhoods.
- (3) Restrict access to Cannabis Products by minors and other Persons who are not Cannabis Consumers.
- (4) Maintain the general welfare and safety for residents of the Town of Van Etten.

#### SECTION 4 – APPLICATION.

This Local Law shall apply to all areas of the Town of Van Etten.

#### SECTION 5 – DEFINITIONS.

As used in this Law, the following terms shall have the meanings indicated:

5.1 “Cannabis” means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include hemp, cannabinoid hemp, or hemp extract as defined by the Cannabis Law of the State of New York or any drug products approved by the federal Food and Drug Administration.

5.2 “Cannabis Consumer” means an individual twenty-one (21) years of age or older consuming or otherwise using Cannabis in compliance with New York State law.

5.3 “Cannabis Product” or “Adult-Use Cannabis Product” means Cannabis, concentrated Cannabis, and Cannabis-infused products.

5.4 “Person” means an individual, proprietorship, partnership, association, corporation, limited liability company, or other legal entity.

5.5 “Retail Cannabis Dispensary” means the business premises of any Person who is licensed by the State of New York to engage in the retail sale of Cannabis Products.

## SECTION 6 – RESTRICTIONS ON SALE OF CANNABIS PRODUCTS.

Retail Cannabis Dispensaries shall be permitted within the Town of Van Etten, subject to each of the following restrictions:

A. Place of Worship: No Retail Cannabis Dispensary shall be located less than two hundred (200) feet from the entrance of a building that is occupied exclusively as a church, synagogue, or other place of worship.

B. School Grounds: No Retail Cannabis Dispensary shall be located less than five hundred (500) feet from a school grounds, as such term is defined in the Education Law.

C. Town Building or Park: No storefront of a Retail Cannabis Dispensary shall be located less than five hundred (500) feet from a Town building, park, or playground.

D. Proximity to Other Establishment: No storefront of a Retail Cannabis Dispensary shall be located less than two thousand (2,000) feet from the storefront of any other Retail Cannabis Dispensary within the Town.

E. Hours of Operation: A Retail Cannabis Dispensary located within the Town of Van Etten shall not open for business before 9:00 AM nor remain open for business after 9:00 PM Mondays through Saturdays, and shall not open for business before 12:00 PM nor remain open for business after 7:00 PM on Sundays.

Except as otherwise indicated, the distances of separation set forth herein shall be measured from the nearest exterior wall of the structure in which the Retail Cannabis Dispensary is, or is proposed to be, located.

No sale or other distribution of any Cannabis Product shall be permitted in the Town of Van Etten except through a Retail Cannabis Dispensary operating in accordance with this Local Law.

## SECTION 7 – ISSUANCE OF PERMIT.

No Retail Cannabis Dispensary shall be established in the Town of Van Etten until an operating permit shall have been issued therefor by the Code Enforcement Officer. Such operating permit shall be issued upon a determination by the Code Enforcement Officer that the operation of such Retail Cannabis Dispensary conforms to and complies with all provisions of this Local Law.

In order for the Code Enforcement Officer to make a determination regarding the issuance of a permit to operate a Retail Cannabis Dispensary within the Town, the applicant for such permit shall submit the following minimum information:

- A. A completed application on a form to provided by the Town of Van Etten, together with the applicable application fee;
- B. Documentation showing that the applicant is duly licensed by the State of New York to operate a Retail Cannabis Dispensary;
- C. A parcel location map; and
- D. A drawing, drawn to scale, indicating the portion of the parcel to be developed for and/or used in connection with the Retail Cannabis Dispensary, as well as all required appurtenances.

#### SECTION 8 – APPEAL OF CODE ENFORCEMENT OFFICER DETERMINATION.

Any Person aggrieved by a determination of the Code Enforcement Officer with respect to an application submitted under the foregoing Section 7 shall appeal such determination to the Town Board, in the form and manner prescribed by the Board. Such appeal shall be filed within thirty (30) days of Code Enforcement Officer's determination being filed with the Town.

#### SECTION 9 – PENALTIES FOR OFFENSES.

Any person committing an offense against any provision of this chapter shall be guilty of a violation punishable by a fine not exceeding five hundred dollars (\$500.00), or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this Local Law shall constitute, for each day the offense is continued, a separate and distinct offense. The Town may also maintain an action or special proceeding for an injunction or other equitable relief to compel compliance with, or to restrain the violation of, this Local Law. The use of any remedy shall not prevent the use of any other remedy hereunder. The listing of remedies herein shall not deprive the Town of the use of any other remedies provided by other provisions of law.

#### SECTION 10 – SEVERABILITY.

If any section, paragraph, subdivision, clause, phrase, or provision of this Local Law shall be judged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect the validity of this Local Law as a whole or any part or provision hereof other than the part so decided to be invalid or unconstitutional.

#### SECTION 11 – EFFECTIVE DATE.

This Local Law shall be effective upon its adoption and filing with the Secretary of State of the State of New York as required by law.

(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. 1 of 2023 of the ~~(County)(City)(Town)(Village)~~ of Van Etten was duly passed by the Town Board of the Town of Van Etten on May 11 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 \_\_\_\_\_ 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 *(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 \_\_\_\_\_<sup>1</sup> above.

*Dawn M. Rose*

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

Date: May 23, 2023

(Seal)