

TOWN OF PINE PLAINS

LOCAL LAW NO. __ OF THE YEAR 2022

**A LOCAL LAW AMENDING CERTAIN PORTIONS OF CHAPTER 275 TO
REGULATE CANNABIS RETAIL DISPENSARIES WITHIN THE TOWN OF PINE
PLAINS**

BE IT ENACTED by the Town Board of the Town of Pine Plains as follows:

SECTION 1. TITLE.

This Local Law shall be entitled: “A Local Law Amending Certain Portions Chapter 275 to Regulate Cannabis Retail Dispensaries within the Town of Pine Plains”.

SECTION 2. LEGISLATIVE INTENT.

On March 31, 2021, the State of New York enacted the Marijuana Regulation and Taxation Act legalizing adult use cannabis (also known as marijuana or recreational marijuana) in the State of New York. The legislation created a new Office of Cannabis Management (OCM) governed by a Cannabis Control Board to oversee and implement the law. The OCM will issue licenses and develop regulations outlining how and when businesses can participate in this industry. The OCM will oversee the State’s medical marijuana program and cannabinoid program currently regulated by the Department of Health. The New York State law provided that towns can opt-out of allowing adult use cannabis retail dispensaries and/or on-site consumption facilities within their jurisdiction pursuant to a local law passed by December 31, 2021. The Town of Pine Plains did not exercise its authority not to opt-out of allowing retail dispensaries within its jurisdiction and, accordingly, cannabis retail dispensaries may be licensed and sited in Pine Plains by OCM. Accordingly, the Town has determined to enact this local law amending the zoning provisions of the Town Code to regulate such uses within the Town.

SECTION 3. STATEMENT OF AUTHORITY.

This Local Law is enacted pursuant to the authority of General Municipal Law §10; New York State Town Law and in accordance with Article XVII of the Town Code. To the extent the provisions of this Local Law are in conflict with §278 of the New York State Town Law, the Town Board asserts its intention to supersede §278 pursuant to the authority granted in Municipal Home Rule Law, §1(ii)(b)(3). In accordance with §22(1) of the MHRL, this Local Law supersedes §§267-a, 267-b, 274-a, 274-b, 276, 277 and 278 of the New York State Town Law.

SECTION 4. REVISIONS TO THE TOWN CODE.

- A. Section 275-116 (Terms Defined) of the Town Code is hereby amended to add the following definitions in the correct alphabetical order:

“Cannabis Retail Dispensary: any business which sells at retail any cannabis product, to cannabis consumers, 21 years and older. A retail dispensary license authorizes the acquisition, possession, sale, and delivery of cannabis from the licensed premises of the retail dispensary by such licensee to qualified cannabis consumers.

Permitting Authority: Cannabis Control Board (CCB) and the Office of Cannabis Management (OCM) established pursuant to MRTA Section 72 for regulatory jurisdiction over adult-use cannabis.”

Community Facility: a facility that may include, but not be limited to, a facility that provides day care to children; 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.

- B. Section 275-56 (Individual Standards for Special Uses) is hereby amended to add a new subsection “OO. Cannabis Retail Dispensary”, which shall read as follows:

- (1) A Cannabis Retail Dispensary is permitted in the Hamlet Business (H-BUS); Hamlet Main Street (H-MS); and Light Industrial (LI) districts pursuant to a special use permit and site plan review and approval by the Planning Board.
- (2) The applicant shall submit proof of licensure by the Permitting Authority.
- (3) A cannabis retail dispensary shall not be located and/or operated within 500 feet of: (i) house of worship; (ii) a building containing a child daycare establishment; (iii) any school property; (iv) a park; (v) a community facility (vi) a structural facility providing, whether wholly or partially, an essential public service; (vii) a building containing licensed premises as defined by §3 of the Alcohol Beverage Control Law of the State of New York as currently exists, and hereinafter amended from time to time. A cannabis retail dispensary shall not be located and/or operated within 2,000 feet of a building containing another cannabis

dispensary. Distances shall be measured from the center of the door to the center of the door of buildings with measurements made in a straight line without regard to intervening structures.

- (4) A cannabis retail dispensary shall not dispense products in the same location where the cannabis is manufactured.

- (5) All Cannabis Retail Dispensaries shall limit their hours of operation from 8:00 AM to 8:00 PM, Monday through Saturday, and from 12:00 Noon to 5:00 PM on Sunday.
- (6) A Cannabis Retail Dispensary must be located in a permanent, enclosed building and shall not include a drive-through.
- (7) The view of Marijuana plants, products, accessories, and associated paraphernalia shall not be permitted from a public sidewalk, public street, right-of-way, or any other public place. On-site storage of usable marijuana shall comply with applicable federal, state, and local laws and regulations.
- (8) The Cannabis Retail Dispensary must provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed within the business' exterior refuse containers.
- (9) The Cannabis Retail Dispensary shall be ventilated so that the odor of the marijuana cannot be detected by a person with a normal sense of smell at the exterior of the marijuana business or at any adjoining use or property.
- (10) The premises shall have in operation a security system approved by the Town of Pine Plains Police Department or Dutchess County Sheriff's Department including alarms and surveillance cameras designed to notify law enforcement officers that a crime or disorderly person's activity is in progress. The management of the Retail Dispensary must maintain camera surveillance data backup and retain such data for a minimum of 30 days. The Department shall be provided the name and phone number of a contact person to notify regarding suspicious activity during or after operating hours. A burglarproof drop safe that regulates an employee's access to cash shall be used on the premises.
- (11) The exterior portion of a Cannabis Retail Dispensary, including parking areas, shall be well lit during business hours. Said lighting shall be designed so as not to unduly interfere with any neighbor's reasonable use and/or enjoyment of the property. The Applicant shall indicate to the Planning Board the type of down lighting to be used

and indicate on the site plan that the lighting shall be reasonably contained on the site.

- (12) The Applicant should demonstrate to the Planning Board how the site is designed in such a way as to discourage loitering on the site that could affect the quality of life for neighboring properties.
- (13) The cannabis retail dispensary shall only dispense approved cannabis products in accordance with the applicable laws of New York State.
- (14) A landscaping plan, which includes sizes and types of vegetation, shall be submitted for review and approval. This plan shall include a buffer located adjacent to all contiguous lots of record containing a residential use. No recreational activities, parking and/or structures shall be allowed in this buffer.
- (15) The cannabis retail dispensary shall have its means of egress independent from any other use and shall directly discharge to a public way. For the purposes of this section, “means of egress” and “public way” are defined by the Uniform Code.
- (16) The cannabis retail dispensary shall submit evidence that all necessary licenses and/or permits have been obtained from New York State to the Town. Said licenses and/or permits shall be posted in a conspicuous place, near the main exit or exit access doorway.

C. Section 275, Attachment 1, Table A, Schedule of Use Regulations, is hereby amended as follows:

Add Cannabis Retail Dispensary (275-5600) to the table to denote it with a SU in the H-BUS and H-MS districts that the use is prohibited in all other districts.

D. Section 275 – Off-street Parking is amended as follows:

Use	Minimum Number of Required Parking Spaces
Cannabis Retail Dispensary	1 for each 250 sf gfa

SECTION 5. SEVERABILITY.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law, which shall be given effect without such part or parts.

SECTION 6. EFFECTIVE DATE.

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.