
(Use this form to file a local law with the Secretary of State)

Town of Herkimer

Local Law No. 2 of the year 2022

A local law **Amending the Town of Herkimer Zoning Ordinance to Establish Regulations Concerning Cannabis Retail Dispensaries, Cannabis On-Site Consumption Establishments, and Cannabis Use Within the Town of Herkimer.**

Be it enacted by the Town Board of the Town of Herkimer, as follows:

ARTICLE 1: Title.

This local Law shall be referred to as “A Local Law Amending the Town of Herkimer Zoning Ordinance to Establish Regulations Concerning Cannabis Retail Dispensaries, Cannabis On-Site Consumption Establishments and Cannabis Use Within the Town of Herkimer”.

ARTICLE 2: Legislative Authority.

This local law is enacted pursuant to the New York State Constitution, New York State Municipal Home Rule Law Section 10 and New York Cannabis Law Section 131.

ARTICLE 3: Legislative Intent.

This local law is to provide amendments to the Town of Herkimer Zoning Ordinance allowing adult-use cannabis retail dispensaries and cannabis on-site consumption in accordance with the New York State Cannabis Law Section 131. The amendments are necessary and desirable to protect the public health, safety, welfare, and environmental resources, provide a consistent regulatory pathway for the cannabis industry consistent with state regulations, foster a healthy, diverse and economically viable cannabis industry that contributes to the local economy, and ensure that environmental, public health, safety and nuisance factors related to the cannabis industry are adequately addressed.

ARTICLE 4: 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 can be given effect without such parts.

ARTICLE 5: Definitions.

The Town of Herkimer Zoning Ordinance is hereby amended by inserting the following definitions in alphabetical order:

CANNABIS RETAIL DISPENSARY(IES): A retail facility that sells at retail any cannabis product, the sale of which a license is required for an adult-use cannabis retail dispensary under the provisions of the New York State Marijuana Regulation and Taxation Act.

CANNABIS ON-SITE CONSUMPTION ESTABLISHMENT(S): a private location where the consumption of cannabis is permitted as licensed by the State of New York for that purpose.

PUBLIC PARK – An area to which the public is invited or in which the public is permitted.

ARTICLE 6: Town Cannabis Law

A. Hours of Operation: Cannabis establishments shall be permitted to operate within the Town of Herkimer during the following hours of operation:

i. Cannabis Retail Dispensary:

1. Sunday: 12:00 noon – 5:00 p.m.
2. Monday – Saturday: 8:00 a.m. – 7:00 p.m.

ii. Cannabis On-Site Consumption Establishment:

1. Hours permitted for on-premises consumption of alcohol in Herkimer County by the New York State Liquor Authority

B. Location of Cannabis Retail Dispensaries and Cannabis On-Site Consumption Establishments:

i. Cannabis Retail Dispensaries shall be permitted in the following Zoning Districts:

a. General Commercial District – C

ii. Cannabis On-Site Consumption Establishments shall be permitted in the following Zoning Districts:

a. General Commercial District – C

C. Location of Cannabis Retail Dispensaries and Cannabis On-Site Consumption Establishments Prohibited within certain distances of specified places:

a. In addition to those prohibitions set forth in the Cannabis Law, Cannabis Retail Dispensaries and Cannabis On-Site Consumption Establishments are prohibited within

- i. Five hundred (500) feet of any Public Park
- ii. Five hundred (500) feet of any School
- iii. Five hundred (500) feet of any House of Worship

b. Measurement of Distance

The distances provided in this local law shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the Cannabis Retail Dispensary or Cannabis On-Site Consumption Establishment is to be located to the nearest point of the parcel of property or the land use boundary line from which the Cannabis Retail Dispensary or Cannabis On-Site Consumption Establishment is to be separated.

D. Cannabis Use Prohibited.

Cannabis use is prohibited in all Public Parks within the Town of Herkimer and on all premises owned by the Town of Herkimer.

ARTICLE 7: Conflict with other Laws.

All Town of Herkimer Local Laws or Ordinances or parts of Local Laws or Ordinances in conflict with any part of this Local Law are hereby repealed. Where this Local Law differs or conflicts with other Laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or Federal Government, the more restrictive or protective of the Town of Herkimer and public safety will apply.

ARTICLE 8: Effective Date.

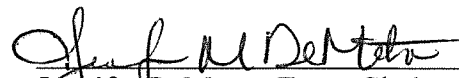
This Local Law shall take effect upon filing in the office of the New York State Secretary of State.

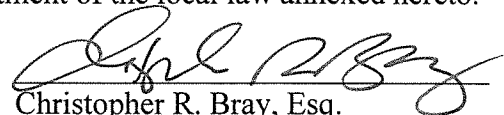
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1. I hereby certify that the local law annexed hereto, designated as Local Law No. 2 of 2022 of the Town of Herkimer, was duly passed by the Town Board on September 19, 2022 in accordance with the applicable provisions of law.
 2. I further certify 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 1 above.

(SEAL)

STATE OF NEW YORK
COUNTY OF HERKIMER

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Jennifer DeMetro, Town Clerk
Dated: 11/21/22


Christopher R. Bray, Esq.
Town Attorney
Town of Herkimer
Dated: 11/21/22