

Sample Cannabis Local Law Opting Out of Retail Sales

[Pursuant to Cannabis Law § 131, a local law opting out of allowing retail cannabis dispensaries and/or on-site cannabis consumption establishments from locating within a municipality is subject to a permissive referendum. Consequently, any local law adopted pursuant to Cannabis Law § 131 may not be filed with the Secretary of State until either the applicable time period for filing a petition to trigger a referendum has elapsed or a referendum has been conducted approving the local law. Note that local governments may opt out of allowing BOTH retail cannabis dispensaries and on-site cannabis consumption establishments OR opt out of allowing EITHER retail cannabis dispensaries OR on-site cannabis consumption establishments.

Cannabis Law § 131 subjects local opt-out laws to permissive referendum. For cities, the permissive referendum is triggered if a petition is filed with the city clerk signed by qualified city electors in a number equal to at least 10% of the number of votes cast for governor in the city at the last gubernatorial election. For villages, the permissive referendum may be triggered either (a) by a petition being filed with the village clerk signed by qualified village electors in a number equal to at least 20% of the registered electors in the previous general village election, or (b) by the board of trustees adopting a resolution submitting the local law to a referendum of the voters for their approval. If a local government wishes to opt-out of both retail dispensaries and on-site consumptions establishments, local officials may wish to enact a separate local opt-out law for each type of retail business so that the public will be able to vote on opting out of each type of business separately.

For more information on the process and procedure of conducting permissive referenda, see NYCOM's publication *Enacting Local Legislation and Conducting Referenda*, available for download from the member's section at www.nycom.org]

Local Law No. 1 of the year 2021

City/Village of _____, County of _____

A local law adopted pursuant to Cannabis Law § 131 opting out of licensing and establishing retail cannabis dispensaries within the City/Village of _____.

Section 1. Legislative Intent

It is the intent of this local law to opt the City/Village of _____ out of hosting retail cannabis dispensaries establishments within its boundaries.

Section 2. Authority

This local law is adopted pursuant to Cannabis Law § 131, which expressly authorizes cities and villages to opt-out of allowing retail cannabis dispensaries establishments to locate and operate within their boundaries.

Section 3. Local Cannabis Retail Dispensary and/or On-Site Consumption Opt-Out

The City Council/Board of Trustees of the City/Village of _____, County of _____, hereby opts-out of allowing retail cannabis dispensaries establishments from locating and operating within the boundaries of the City/Village of _____.

Section 4. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective date

This local law shall take effect immediately upon filing with the Secretary of State. Pursuant to Cannabis Law § 131, this local law is subject to a permissive referendum and thus may not be filed with the Secretary of State until the applicable time period has elapsed to file a petition or a referendum has been conducted approving this local law.

Local Law No. 2 of the year 2021

City/Village of _____, County of _____

A local law adopted pursuant to Cannabis Law § 131 opting out of licensing and establishing retail cannabis dispensaries and/or on-site cannabis consumption establishments within the City/Village of _____.

Section 1. Legislative Intent

It is the intent of this local law to opt the City/Village of _____ out of hosting on-site cannabis consumption establishments within its boundaries.

Section 2. Authority

This local law is adopted pursuant to Cannabis Law § 131, which expressly authorizes cities and villages to opt-out of allowing on-site cannabis consumption establishments to locate and operate within their boundaries.

Section 3. Local Cannabis Retail Dispensary and/or On-Site Consumption Opt-Out

The City Council/Board of Trustees of the City/Village of _____, County of _____, hereby opts-out of allowing on-site cannabis consumption establishments from locating and operating within the boundaries of the City/Village of _____.

Section 4. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective date

This local law shall take effect immediately upon filing with the Secretary of State. Pursuant to Cannabis Law § 131, this local law is subject to a permissive referendum and thus may not be filed with the Secretary of State until the applicable time period has elapsed to file a petition or a referendum has been conducted approving this local law.