

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:)

STATE RECORDS

FEB 14 2024

of Van Buren

Local Law No. 1 of the year 2024

DEPARTMENT OF STATE

A Local Law Imposing a Six (6) Month Moratorium on Smoke Shop Uses in the Town of Van Buren

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

County City Town Village
(Select one:)

of Van Buren as follows:

TOWN OF VANBUREN LOCAL LAW 1-2024

A LOCAL LAW IMPOSING A SIX (6) MONTH MORATORIUM ON SMOKE SHOP USES IN THE TOWN OF VAN BUREN

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

SECTION 1. Intent.

It is the intent of the Board of the Town of Van Buren to impose a six (6) month moratorium on the establishment, creation, maintenance, advertisement and/or operation of new smoke shop uses within the Town of Van Buren because of the exponential increase of the same within the Town of Van Buren.

SECTION 2. Legislative Purpose.

Pursuant to the statutory powers vested in the Town of Van Buren to regulate and control land use, and to protect the health, safety and welfare of its residents, the Town Board of the Town of Van Buren hereby declares a temporary moratorium on the establishment, creation, maintenance, advertisement and/or operation of new smoke shop uses within the Town of Van Buren.

Because of the exponential increase of smoke shop uses within the Town of Van Buren, the Town Board of the Town of Van Buren desires to address, in a careful manner, the issues raised by smoke shops on a comprehensive basis, rather than on an ad hoc basis, with the goal of adopting appropriate zoning or other land use laws or by amending its current laws to properly regulate the same.

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

SECTION 3. Definitions.

SMOKE SHOP – This term includes any premises dedicated to the display, sale distribution, delivery, offering, furnishing or marketing of tobacco and/or cannabis, tobacco and/or cannabis products, and/or tobacco and/or cannabis paraphernalia; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells tobacco and/or cannabis as an ancillary sale shall not be defined as a “smoke shop.”

SECTION 4. Moratorium.

A. Unless permitted pursuant to Section 5 hereafter, from and after the date of this Local Law, no application for a permit, zoning permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Town-level approval of any nature shall be accepted, processed, entertained, approved, approved conditionally, or issued by any board, employee, official agent of the Town of Van Buren, for the construction, establishment, use, creation, maintenance, advertisement and/or operation of any land, building or structure within the Town of Van Buren for any new smoke shop use, as defined above.

B. This moratorium shall be in effect for a period of six (6) months from the effective date of this Local Law and shall expire on the earlier of: (i) the date six (6) months from said effective date of this Local Law, unless renewed; or (ii) the enactment by the Town Board of the Town of Van Buren of a resolution indicating the Town Board of the Town of Van Buren is satisfied that the need for the moratorium no longer exists.

C. This moratorium shall apply to all zoning districts and all real property within the Town of Van Buren.

D. Under no circumstances shall the failure of the Town Board of the Town of Van Buren, the Planning Board/ Zoning Board of Appeals, or the Code Enforcement Office for the Town of Van Buren to take any action upon any application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Town-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

SECTION 5. Relief from provisions of this Local Law.

A. The Town Board of the Town of Van Buren reserves to itself the power to vary or adapt the strict application of the requirements of this Local Law in the case of unusual hardship which would deprive the owner of all reasonable use of the lands involved.

B. Application for relief shall be filed in triplicate with the Code Enforcement Office together with a filing fee of \$250.00. The application shall specifically identify the property involved, recite the circumstances pursuant to which the relief is sought and the reasons for which the relief is claimed. Any costs, including expert consulting fees or attorney’s fees, incurred by the Town, shall be reimbursed to the Town by the Applicant. The Town Board of the Town of

Van Buren shall apply Use Variance criteria as set forth in the New York State General Town Law, Section 267-b in reviewing any application for relief.

C. The Town Board of the Town of Van Buren may refer any applications for relief herein to the Town of Van Buren Planning Board/ Zoning Board of Appeals for its advice and recommendations, but all decisions on granting or denying such relief shall be made solely by the Town Board of the Town of Van Buren after determining whether the requested relief is compatible with any contemplated amendments to the Zoning Regulations. Unless completely satisfied that the proposed relief is compatible, the Town Board of the Town of Van Buren shall deny the application.

D. The Town Board of the Town of Van Buren shall conduct a public hearing on any request for relief within forty-five (45) days of receipt by the Code Enforcement Office and shall issue its final decision on requests for relief within thirty (30) days from the date of the public hearing.

SECTION 6. Penalties.

Any individual, partnership, firm or corporation that shall establish, construct, reconstruct, relocate, enlarge or modify any site to be used for a smoke shop use in violation of the provisions of this Local Law, shall be subject to:

A. A fine not to exceed One Thousand and 00/100 Dollars (\$1,000.00) or imprisonment for a term not to exceed fifteen (15) days, or both. Each day a violation continues shall be considered a new violation.

B. A civil action inclusive of injunctive relief in favor of the Town to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any constructions, improvements, or related items or byproducts which may have taken place in violation of this Local Law.

SECTION 7. Enforcement.

This Local Law shall be enforced by the Town of Van Buren Code Enforcement Office or such other zoning enforcement individual(s) as designated by the Town Board of the Town of Van Buren. It shall be the duty of the enforcement individual(s) to advise the Town Board of the Town of Van Buren of all matters pertaining to the enforcement of this Local Law.

SECTION 8. Validity and severability.

If any section or part of this Local Law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section of this Local Law.

SECTION 9. Effective date.

This Local Law shall be effective upon filing with the office of the Secretary of State.

(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. 4 of 2024 of the Town of Van Buren was duly passed by the Town Board on February 7, 2024, in accordance with the applicable provisions of law.

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 Town of Van Buren was duly passed by the Town Board on _____, 20__, and was (approved/not approved/ repassed after disapproval) by the Town Board and was deemed duly adopted 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 Town of Van Buren was duly passed by the Town Board on _____, 20__, and was (approved/not approved/ repassed after disapproval) by the Town Board on _____, 20__.

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 Town of Van Buren was duly passed by the Town Board on _____, 20__, and was (approved/not approved/ repassed after disapproval) by the Town Board on _____, 20__. Such local 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.~~

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 1 above.



Hon. Lynn Precourt, Town Clerk
Town of Van Buren

(Seal)

Date: February 8, 2024