

## Local Law Filing

New York State Department of State  
162 Washington Avenue, Albany, New York 12231

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.

Town of Fowler

Local Law No. 5 of the year 2021

A local law to Opt Out of Allowing Cannabis Retail Dispensaries and On-Site Consumption Sites as Otherwise Authorized Under Article 4 of the Cannabis Law of the State of New York.

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

Town of Fowler as follows:

The Town Board of the Town of Fowler hereby adopts a local law entitled "Cannabis Regulation", initially for the purpose of requesting that the New York State Cannabis Control Board prohibit the establishment of retail dispensary licenses and/or on-site consumption licenses contained in Article 4 of Chapter 7-a within the jurisdiction of the Town of Fowler. As adopted, this Local Law shall read as follows:

### ARTICLE I. Town Opt-out

#### Section 1. Legislative Intent

It is the intent of this local law to request the Cannabis Control Board of the State of New York ("Cannabis Control Board"), as established pursuant to the New York Cannabis Law, Chapter 7-a of the Consolidated Laws of the State of New York ("Cannabis Law"), to permit the Town of Fowler ("Town") to opt out of allowing cannabis retail dispensaries and on-site cannabis consumption sites within the unincorporated areas of the Town of Fowler that would otherwise be allowed under Article 4 of the Cannabis Law.

The recently established Cannabis Law, Chapter 7-a provides in Article 6, §131 that the licensure and establishment of a retail dispensary license and/or on-site consumption license under the provisions of Article Four of Chapter 7-a shall not be applicable to a town, which, after the effective date of the Cannabis Law, which was March 31, 2021, and before December 31, 2021, adopts a local law, subject to permissive referendum as governed by §24 of the Municipal Home Rule Law of the State of New York, requesting the Cannabis Control Board to prohibit the establishment of such retail dispensary licenses and/or on-site consumption licenses contained in Article Four of the Cannabis Law, within the jurisdiction of the Town.

The Town Board finds that, at the current time, it is in the best interests of the residents of the Town of Fowler to adopt a local law as per Cannabis Law §131 prohibiting and requesting the Cannabis Control Board to prohibit the establishment of retail dispensary licenses and on-site consumption licenses that would otherwise be allowed under Article 4 of the Cannabis Law. The Town Board finds that permitting such establishments without reviewing the unique and novel

impact that the establishment of such businesses would have on the health, safety and welfare of the residents of the Town of Fowler, giving, among other things, the relative close proximity of commercial locations within which such establishments might be located to parks, school, churches and residential zones throughout the Town, coupled with as yet unresolved issues addressing enforcement of the new laws and guidelines related to cannabis use, would not be, at the current time, in the interests of Town residents. The Town adopts this local law in accordance with the timeframe and guidelines as set forth in Chapter 7-a, subsequent to March 31, 2021 and prior to December 31, 2021.

#### Section 2. Authority

This local law is adopted pursuant to Cannabis Law §131 which expressly authorizes a town board to adopt a local law requesting the Cannabis Control Board to prohibit the establishment of cannabis retail dispensary licenses and/or on-site consumption licenses within the jurisdiction of the Town and is subject to a permissive referendum, the procedure of which is governed by Municipal Home Rule Law §24.

#### Section 3. Local Opt-out

The Town Board of the Town of Fowler hereby opts out from allowing the establishment of retail cannabis dispensaries and on-site cannabis consumption sites within the unincorporated areas of the Town and requests the Cannabis Control Board prohibit the licensing and establishment of such dispensaries and consumption sites within the Town of Fowler.

#### Section 4. Severability

If any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstances, shall be adjusted by any Court of competent jurisdiction to be invalid or unconstitutional, such Order or Judgment shall not affect, impair, or invalidate the remainder thereof, 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. Permissive Referendum

This local law is subject to a referendum on petition in accordance with Cannabis Law §131 and the procedure outlined in Municipal Home Rule Law §24.

#### Section 6. Effective Date

This local law shall take effect in accordance with Municipal Home Rule Law §24, namely, 45 days after its adoption and upon filing with the Secretary of State within 20 days after the time period for filing a petition in accordance with Municipal Home Rule §24 has expired. In the event a valid petition protesting against this local law is filed within 45 days after its adoption, then this local law shall not be effective until approved by the affirmative vote of a majority of the qualified electors of the Town of Fowler voting on a proposition for its approval in accordance with the requirements of Municipal Home Rule §24.

*(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. \_\_\_\_ of \_\_\_\_ of the Town of \_\_\_\_\_ was duly passed by the Town Board on \_\_\_\_\_, 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 (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_, and was (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ and (Elective Chief Executive Officer\*) 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. 5 of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_, and was (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ on (Elective Chief Executive Officer\*) \_\_\_\_\_, 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. 5 of 2021 of the Town of Fowler was duly passed by the Town Board on \_\_\_\_\_, 2021, and (Name of Legislative Body) was approved) by the Hon. Ricky Newvine, Supervisor on \_\_\_\_\_, 20\_\_\_\_. (Elective Chief Executive Officer\*)

Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_, 2022, in accordance with the applicable provisions of law.

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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 chairman 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 of 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 4 above.

(Seal)

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

Tami Gale

Date: December , 2021

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK )  
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COUNTY OF ST. LAWRENCE) .ss

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.

Henry J. Leader, Esq.

Town Attorney

Town of Fowler

Date: December , 2021