

VILLAGE OF PITTSFORD

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Village Hall ca 1855 (remodeled 1937)

Village of Pittsford Board of Trustees Meeting July 13, 2021, 6:30 PM

Tentative Agenda

Board Member - Conflict of Interest Disclosure & Open Meeting Compliance Certification

Department Reports

- Building Inspector Report
- DPW Report
- Village Attorney
- Treasurer's / Village Clerk Report
- Minutes

Meeting Items

- Non-Municipal Application – QR Codes Historic Pittsford
- 7 PM – Public Hearing, 10 N. Main Street, Buku Food Truck
- Resolution for Stewardship Committee
- Referral to PZBA Arboretum
- Marijuana Legalization
- Scott Harter – 33 Boughton Avenue & 44 Rand Creek

Member Items

Executive Session

Next Scheduled Meeting –Regular Meeting August 10, 2021 *Subject to Change Without Notice

Village Board Meeting

Department Reports

Building Inspector Report

Village Board Meeting

Department Reports

- DPW Report

DPW Report July 2021

Brush/Lawn Debris Pick-up:

- Approx. 120 cubic yards

Mowing/trimming lawns weekly

Hot Patch Asphalt:

- Milled and patched approx. 200 cubic feet of asphalt (15 tons)

Kubota RTV110X:

- Took delivery on Wednesday July 7.
- Working on getting it insured and registered
- Should be ready to be put to work on the week of July 12

Swept roads and parking lots every other week

Trimmed trees

Drinking fountains are up and running

Watered flowers daily

Weeded gardens

Catch Basins:

- Rebuilt 3 basins
- Replaced 16' of storm sewer pipe that failed causing a sink hole on Rand at St Louis

Trying to coordinate repairs to the canal bank and asphalt path that is eroding into the canal with the Canal Corp

Installed new catch basin at 19 Boughton Ave to alleviate storm water ponding on the road.

Flushed out storm sewer system at shop

Arboretum:

- Spread grass seed and straw mulch on the majority of the bare areas.
- Trimmed back weeds around the newly planted trees
- Removed the bulk of the loose stone on the sloped sections of trails

Village Board Meeting

Department Reports

Village Attorney

Village Board Meeting

Department Report

Treasurers / Village Clerk Report

- Bill Pay
- ARPA Coronavirus Local Fiscal Recovery

TREASURER'S REPORT

Submitted by

Brooklyn Thomas

7/13/2021

- Voucher for approval – Abstract #08
 - General fund (63-92) \$21,585.49
 - Sewer fund (87) \$113.42
 - **Total vouchers for approval: \$21,698.91**

Voucher amounts are subject to change as we attempt to pay all incoming invoices to avoid late fees and penalties.

From: dob.sm.localarpa (dob.sm.localarpa@budget.ny.gov)
To: villageclerk@villageofpittsford.com
Subject: Local ARPA Complete Submission Confirmation: Additional Details
Date: Thursday, July 1, 2021 3:16:37 PM



Division of the Budget

ANDREW M. CUOMO
Governor

ROBERT F. MUJICA JR.
Director of the Budget

July 1, 2021

Dorothea M. Ciccarelli
Village Clerk
Village of Pittsford
21 N. Main Street
Pittsford, NY 14534

Thank you for submitting your information and request for funds from the ARPA Coronavirus Local Fiscal Recovery Fund on behalf of your local government. Your request was received on 06/24/2021.

The following is a sample of the information collected from your request:

Village of Pittsford in Monroe County

NEU Recipient Number: NY2618

DUNS Number: 039550520

Taxpayer Identification Number: 166002504

All Funds Dollar Amount for Budget Containing 01/27/2020: \$1,721,280

Based on your All Funds Budget, your municipality is eligible for a total ARPA payment of **\$136,059**, of which half will be paid this Summer and half in the Summer of 2022.

The Office of the New York State Comptroller (OSC) intends to disburse these funds electronically using your municipality's existing banking information from the New York State Vendor File. You should have received instructions from OSC about how to confirm and provide any necessary updates/corrections of that information. If your municipality does not currently receive AIM or AIM-related payments electronically from the State, you should have received instructions from OSC for adding banking information to allow your municipality to receive these payments electronically. If you need further assistance, please contact epayment@osc.ny.gov.

In addition, please be advised of the following:

- **Retain NEU Recipient Number.** You must retain your NEU Recipient Number as an identifying number for the lifecycle of this program, including for reporting purposes.
- **Review Federal Reporting Requirements.** The Federal Government has established usage and reporting requirements for these funds. NEUs should visit the United States Department of Treasury website on NEUs for more information.
- **Register on SAM.gov.** In order to receive funds your municipality must not be excluded or disqualified from SAM.gov, and for reporting requirements, you will be required to be registered with SAM.gov. If your municipality is not registered, please do so as soon as possible.

As you may know, New York State has nearly 1,500 cities, towns and villages that are eligible for ARPA Coronavirus Local Fiscal Recovery Funds through New York State's Non-Entitlement Unit allocation. We are working expeditiously to collect information from each local government in order to fulfill the State's ARPA obligations. We appreciate your patience and cooperation in this important effort.



Coronavirus State and Local Fiscal Recovery Funds

The American Rescue Plan will deliver \$350 billion for state, local, territorial, and Tribal governments to respond to the COVID-19 emergency and bring back jobs.

The Coronavirus State and Local Fiscal Recovery Funds provide a substantial infusion of resources to help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery.

Funding Objectives

- **Support urgent COVID-19 response efforts** to continue to decrease spread of the virus and bring the pandemic under control
- **Replace lost public sector revenue** to strengthen support for vital public services and help retain jobs
- **Support immediate economic stabilization** for households and businesses
- **Address systemic public health and economic challenges** that have contributed to the unequal impact of the pandemic

Eligible Jurisdictions & Allocations

Direct Recipients

- States and District of Columbia (\$195.3 billion)
- Counties (\$65.1 billion)
- Metropolitan cities (\$45.6 billion)
- Tribal governments (\$20.0 billion)
- Territories (\$4.5 billion)

Indirect Recipients

- Non-entitlement units (\$19.5 billion)



Support Public Health Response

Fund COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff



Replace Public Sector Revenue Loss

Use funds to provide government services to the extent of the reduction in revenue experienced due to the pandemic



Water and Sewer Infrastructure

Make necessary investments to improve access to clean drinking water and invest in wastewater and stormwater infrastructure



Address Negative Economic Impacts

Respond to economic harms to workers, families, small businesses, impacted industries, and the public sector



Premium Pay for Essential Workers

Offer additional support to those who have and will bear the greatest health risks because of their service in critical infrastructure sectors



Broadband Infrastructure

Make necessary investments to provide unserved or underserved locations with new or expanded broadband access



For More Information: Please visit www.treasury.gov/SLFRP

For Media Inquiries: Please contact the U.S. Treasury Press Office at (202) 622-2960

For General Inquiries: Please email SLFRP@treasury.gov for additional information



Example Uses of Funds

Support Public Health Response

- **Services to contain and mitigate the spread of COVID-19**, including vaccination, medical expenses, testing, contact tracing, quarantine costs, capacity enhancements, and many related activities
- **Behavioral healthcare services**, including mental health or substance misuse treatment, crisis intervention, and related services
- **Payroll and covered benefits** for public health, healthcare, human services, and public safety staff to the extent that they work on the COVID-19 response

Replace Public Sector Revenue Loss

- **Ensure continuity of vital government services** by filling budget shortfalls
- **Revenue loss is calculated** relative to the expected trend, beginning with the last full fiscal year pre-pandemic and adjusted annually for growth
- **Recipients may re-calculate revenue loss** at multiple points during the program, supporting those entities that experience revenue loss with a lag

Water & Sewer Infrastructure

- **Includes improvements to infrastructure**, such as building or upgrading facilities and transmission, distribution, and storage systems
- **Eligible uses aligned to Environmental Protection Agency project categories** for the Clean Water State Revolving Fund and Drinking Water State Revolving Fund

Equity-Focused Services

- **Additional flexibility for the hardest-hit communities and families** to address health disparities, invest in housing, address educational disparities, and promote healthy childhood environments
- **Broadly applicable** to Qualified Census Tracts, other disproportionately impacted areas, and when provided by Tribal governments

Address Negative Economic Impacts

- **Deliver assistance to workers and families**, including support for unemployed workers, aid to households, and survivor's benefits for families of COVID-19 victims
- **Support small businesses** with loans, grants, in-kind assistance, and counseling programs
- **Speed the recovery of impacted industries**, including the tourism, travel, and hospitality sectors
- **Rebuild public sector capacity** by rehiring staff, replenishing state unemployment insurance funds, and implementing economic relief programs

Premium Pay for Essential Workers

- **Provide premium pay to essential workers**, both directly and through grants to third-party employers
- **Prioritize low- and moderate-income workers**, who face the greatest mismatch between employment-related health risks and compensation
- **Key sectors include** healthcare, grocery and food services, education, childcare, sanitation, and transit
- **Must be fully additive** to a worker's wages

Broadband Infrastructure

- **Focus on households and businesses** without access to broadband and those with connections that do not provide minimally acceptable speeds
- **Fund projects that deliver reliable service** with minimum 100 Mbps download / 100 Mbps upload speeds unless impracticable
- **Complement broadband investments** made through the Capital Projects Fund

Ineligible Uses

- **Changes that reduce net tax revenue** must not be offset with American Rescue Plan funds
- **Extraordinary payments into a pension fund** are a prohibited use of this funding
- **Other restrictions apply** to eligible uses

The examples listed in this document are non-exhaustive, do not describe all terms and conditions associated with the use of this funding, and do not describe all the restrictions on use that may apply. The U.S. Department of the Treasury provides this document, the State and Local contact channels, and other resources for informational purposes. Although efforts have been made to ensure the accuracy of the information provided, the information is subject to change or correction. Any Coronavirus State and Local Fiscal Recovery Funds received will be subject to the terms and conditions of the agreement entered into by Treasury and the respective jurisdiction, which shall incorporate the provisions of the Interim Final Rule and/or Final Rule that implements this program.

Village Board Meeting

Department Reports

Minutes

- Village Board Special Meeting, April 21, 2021
- Village Board Regular Meeting, April 27, 2021
- Village Board Regular Meeting, May 11, 2021

Village Board Meeting

Meeting Items

Agenda Item

Non-Municipal Application – QR Codes Historic
Pittsford



Village of Pittsford Non-Municipal Use Permit Application

Organization: Historic Pittsford

Event and Description: _____

Self-guided walking tour along Schoen Place and the canal path to learn more about the history of our village. We had this installation up last fall from October to November and would like to put it back up as soon as approved through November. There are currently 10 laminated signs, 2 will be affixed to the pavilions on either end of Schoen place with zip ties that will leave no damage to posts. The others are on wooden garden stakes next to trees and along the bushes by the canal path. We hope to create and place a few more over the summer.

Event Date(s): July 14, 2021 - November 15, 2021

Event Location: Along the canal at Schoen Place

Parking Location: Schoen Place, Library parking or foot traffic

Estimated Guest Count: Self-guided so no gatherings expected.

Organization Contact: Lori Leitgeb

Telephone: [REDACTED]

E-mail: [REDACTED]

Date Request Received: 7/8/21 dmc

Date Reviewed: _____ Approved Denied

Standard Conditions

- 1) If the request for the Non-municipal Permit was received without the required 45-day notice, the Board of Trustees will need to vote to waive the requirement for the permit.
- 2) The applicant will provide the Village of Pittsford with a certificate of liability insurance, naming the Village of Pittsford as additionally insured, on a primary and non-contributory basis. The certificate must reflect a single limit of liability for personal injury and property damage in the amount of \$1,000,000.00. The certificate must also name the event being covered.
- 3) The applicant will notify, in writing, the Monroe County Sheriff's Office, the Pittsford Volunteer Fire Department, the Pittsford Volunteer Ambulance and the Town of Pittsford Fire Marshal to notify them of the event and all of the details.

Village Board Meeting

Meeting Items

Agenda Item

7 PM – Public Hearing, 10 N. Main Street, Buku Food
Truck

**NOTICE OF PUBLIC HEARING
VILLAGE OF PITTSFORD**

Please take notice that a Public Hearing will be held before the Village of Pittsford Board of Trustees, at a meeting on Tuesday, July 13, 2021, at 7:00 PM at the Village Hall, 21 North Main Street, Pittsford, NY, to consider an application for a short-term business permit to be located 10 N. Main Street by Ronald Jurincie, owner of Buku Food Truck. for a food truck. If the meeting is unable to be held due to the Coronavirus pandemic it will be held on Tuesday, July 13, 2021, at 7:15 PM per video conferencing link identified.

Pursuant to Governor Cuomo's recent Executive Orders 202.1 and due to the Coronavirus pandemic, the Village Hall will be closed to the public during the public hearing. The Members of the Board of Trustees will be present at Village Hall or participating from their respective homes for this public hearing. If a Board member is participating from home, that home will be closed to the public as well for the reasons stated above. The Public Hearing will be made available for the public to view and hear thru video conferencing link. The public will be able to participate in the public hearing via comments submitted through the video conferencing link identified on the Village website and Facebook page.

Village of Pittsford
Board of Trustees
Dorothea M. Ciccarelli, Secretary

APPLICATION TO THE BOARD OF TRUSTEES
SHORT TERM RETAIL BUSINESS

VILLAGE OF PITTSFORD
21 NORTH MAIN STREET, PITTSFORD, NEW YORK 14534

Date: 5/7/2021

Fee: \$ 50

Property Address: ~~10 N~~ 10 N. Main Street, Pittsford N.Y. 14534

Tax Account Number: ~~85-20704010~~ 151-1803-31 Zoning District: L.O.R

Owners Address: 2 Grove Street, Pittsford NY Telephone: [REDACTED]

Owner's Email: [REDACTED]

Applicant: Ronald Jurincie Telephone: [REDACTED]

Applicant's Email: [REDACTED]

Applicant's Address: 2 Grove St. Pittsford NY 14534

Applicant is: Owner Lessee/Tenant Agent Other

If "Other" Please Explain:

1. Provide a description of the activity that is planned for this location: "Buku Food Truck"
Plan is to sell Asian Fusion Cusine from my Buku Food Truck
from approximately 7:30 PM - 8:15 PM (including prep and cleanup) 5 days/wk.

2. Describe how the proposed activity will affect existing parking:
The guests will use public parking behind. We anticipate around 70-80
guests per shift. should be spread out and have minimal effect
on parking.

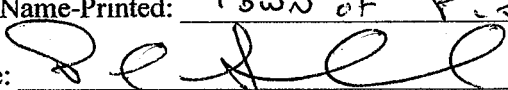
3. Describe how trash/refuse will be handled for the proposed activity:
We will provide trash and recycling recepticals which we will maintain
and police the grounds.

4. Proposed Hours of Operation:
13:30 - 4:30 prep / 4:30 - 7:30 selling / 7:30 - 8:15 cleaning /

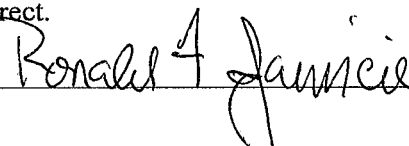
**APPLICATION TO THE BOARD OF TRUSTEES
SHORT TERM RETAIL BUSINESS**

**VILLAGE OF PITTSFORD
21 NORTH MAIN STREET, PITTSFORD, NEW YORK 14534**

Owner's Statement: I am the owner of the above property and I have read and approve this application. If the applicant is other than the owner, I authorize the applicant to proceed as agent.

Owner's Name-Printed: Town of Pittsford - Paul Schenkel
Signature:  Date: 6/14/2021

Applicant's Statement: I hereby certify that the information submitted is. To the best of my knowledge, true and correct.

Signature:  Date: 6/14/2021

NOTE: If any additional information is required by the Board, during the meeting, it is the responsibility of the applicant to provide such information, prior to the deadline of the subsequent meeting, or it will not be heard.

SEQUENCE:

1. This application will place you on the next available Board of Trustee meeting agenda.
2. The applicant will be notified by the Village Clerk as to the date that the application will be placed on the Board of Trustee's meeting agenda for final disposition. The date is dependent upon providing the required notification for a Public Hearing. Any use for which a short-term retail business permit is required shall be considered at a Public Hearing.
3. The applicant is encouraged to attach any additional information (drawings, layouts, seating plans, etc.) that will supplement this application.
4. The Village Board of Trustees may approve with or without modifications or conditions or deny an application for a short-term retail business permit.

Expiration of a Short-Term Retail Business Permit shall be for a period of a maximum of nine months.

Village Code Section 189 Short Term Retail Business in all zoning districts

§189.7. Application for permit.

A short-term business permit application shall include at a minimum the following:

- A. An application form provided by the Village Clerk's office including the name, address and signature of the applicant and property owner.
- B. A letter of intent that explains the general nature of the proposal. This letter shall include the following as applicable.
 1. A detailed description of the short-term business operation.
 2. The proposed hours of operation.
 3. The number of employees at maximum shift.
 4. The maximum seating capacity, if any.

Phone: 585-586-4332 • Fax: 585-586-4597 • Email: villageofpittsford@villageofpittsford.com
www.villageofpittsford.com • 21 North Main Street • Pittsford, New York 14534

Village Board Meeting

Meeting Items

Agenda Item

Resolution for Stewardship Committee

**RESOLUTION OF THE VILLAGE OF PITTSFORD
BOARD OF TRUSTEES
CREATING THE VILLAGE OF PITTSFORD
PARK LAND STEWARDSHIP COMMITTEE**

WHEREAS, by Resolution dated July 14, 2020, the Board of Trustees of the Village of Pittsford (hereinafter “the Board of Trustees”) created a 10-acre parcel of park land located on land owned by the Village in the northwest quadrant of the Village; and

WHEREAS, by Resolution dated March 23, 2021, the Board of Trustees designated and named such 10-acre parcel of park land the Robert C. Corby Arboretum and Wildlife Sanctuary (hereinafter “the Arboretum”); and

WHEREAS, to provide for the health, safety and welfare of the residents of the Village of Pittsford, it is the intention of the Board of Trustees to adopt a short, medium and long-term development and management plan (hereinafter “the plan”) for the Arboretum including any and all appropriate and required environmental, Monroe County planning, site plan, and any and all other reviews which may be required; and

WHEREAS, the Board of Trustees intends to create a Committee to assist the Board of Trustees with regard to the adoption of the plan and any and all required modifications thereof; and

WHEREAS, the Board of Trustees intends that such Committee shall engage with Village residents to obtain resident input with regard to such plan and any modifications thereto; and

WHEREAS, the Board of Trustees intends that such Committee will engage with any and all entities qualified to give input and advice with regard to the development of such plan and any modifications thereto, including but not limited to NYSDEC Forestry Management, the Village Engineer, the Village Stormwater Officer, the Seneca Park Zoo Society, Cornell Cooperative Extension, Partnership for Invasive Species Management (PRISM), and the Golisano Institute for Sustainability at RIT; and

WHEREAS, the Board of Trustees intends that such Committee shall provide the Board of Trustees with a written proposal for the plan; and

WHEREAS, the Board of Trustees intends that such Committee shall continue to provide reports and recommendations to the Board of Trustees with regard to any and all modifications, if any, of such above-mentioned plan.

NOW, THEREFORE, BE IT RESOLVED that the Board of Trustees hereby creates the Village of Pittsford Park Land Stewardship Committee (hereinafter, “the Committee”); and

BE IT FURTHER RESOLVED, that the Committee shall be composed of 7 members appointed by the Mayor of the Village of Pittsford with the approval of the Board of Trustees; and

BE IT FURTHER RESOLVED, that the Members of the Committee shall be Village residents who have a demonstrated knowledge, interest and commitment to the environment, conservation and best practices regarding sustainability; and

BE IT FURTHER RESOLVED, that the Committee shall meet at a minimum of 6 times per year or with such greater frequency as may be required to fulfill the obligations and duties of the Committee; and

BE IT FURTHER RESOLVED, that the Committee shall provide regular reports and minutes of its meetings to the Board of Trustees along with its recommendations for the plan and any subsequent amendments thereto; and

BE IT FURTHER RESOLVED, that the Committee shall provide the Board of Trustees within _____ months of the creation of such Committee, a written proposal for the plan.

A motion to adopt the foregoing was made by _____ and seconded by _____, and upon a roll call vote of the Board was duly adopted as follows:

Mayor Plummer	Yay_____	Nay_____
Trustee Stetzer	Yay_____	Nay_____
Trustee Lanphear	Yay_____	Nay_____
Trustee Keating	Yay_____	Nay_____
Trustee Leitgeb	Yay_____	Nay_____

Certification:

I, Dorothea M. Ciccarelli, the duly qualified and acting Clerk of the Village of Pittsford, New York, do hereby certify that the following motion was made on the _____ day of _____, 2021, has not been altered, amended or revoked and is in full force and effect.

Dorothea M. Ciccarelli, RMC, CMFO
Village Clerk
Village of Pittsford, New York

Village Board Meeting

Meeting Items

Agenda Item

Referral to PZBA Arboretum

Village Board Meeting

Meeting Items

Agenda Item

Marijuana Legalization



New York’s Marihuana Regulation and Taxation Act: The Legalization of Adult-Use Cannabis in New York

By Wade Beltramo, NYCOM General Counsel

Overview

On March 31, 2021, Governor Cuomo signed into law Chapter 92 of the Laws of 2021. Known as “the marihuana regulation and taxation act” (MRTA), this legislation was enacted with the stated purpose of creating a regulated and taxed cannabis industry in New York and to provide for social and economic justice related to the sale and use of cannabis. While the MRTA legalizes the possession and use of cannabis immediately, the actual sale of adult-use cannabis is not expected to begin until late 2022 or early 2023.

The MRTA enacts an entirely new chapter of the New York State Laws (Chapter 7-A, Cannabis Law) and substantially amends numerous other provisions of State law to provide for the implementation of adult-use cannabis. In addition, the MRTA establishes two new State agencies called the New York State Cannabis Control Board and the Office of Cannabis Management, which will administer the State’s adult-use and medical use programs, promulgating rules, issuing licenses, and investigating and enforcing infractions of the law. The regulatory framework created by the MRTA is in many ways similar to how the State currently regulates alcohol via the Alcoholic Beverage Control Law and the New York State Liquor Authority.

The MRTA creates a heavily regulated market requiring individuals and organizations to obtain a license before engaging in any of the myriad types of authorized cannabis businesses, including cultivating, processing, distributing, delivering, dispensing cannabis, or operating a cooperative, microbusiness, nursery, or on-site consumption establishment.

Legalization of Cannabis Use

The MRTA amends the NYS Penal Law, adding Article 222 Cannabis, which sets forth both legal and illegal activities regarding adult-use cannabis. Penal Law § 222.05 expressly states that any individual 21 or older may:

- (a) possess, display, purchase, obtain, or transport up to 3 ounces of cannabis and up to 24 grams of concentrated cannabis
- (b) transfer, without compensation, to another person 21 or older, up to 3 ounces of cannabis and up to 24 grams of concentrated cannabis;

- (c) use, smoke, ingest, or consume cannabis or concentrated cannabis unless otherwise prohibited by state law;
- (d) possess, use, display, purchase, obtain, manufacture, transport or give to any person 21 or older cannabis paraphernalia or concentrated cannabis paraphernalia;
- (e) plant, cultivate, harvest, dry, process or possess cultivated cannabis in accordance with Penal Law § 222.15; and
- (f) (i) assist another person who is 21 or older or (ii) allow property to be used in any of the acts described in the preceding paragraphs.

In addition, cannabis, concentrated cannabis, cannabis paraphernalia or concentrated cannabis paraphernalia involved in any lawful conduct under Penal Law § 222.05 are not contraband nor subject to seizure or forfeiture of assets. Moreover, conduct deemed lawful by Penal Law §222.05 may not be the basis for law enforcement approaching, searching, seizing, arresting or detaining an individual. These provisions of law took effect March 31, 2021.

Local Opt-Out of Retail Sales

General Provisions

Cities, villages, and towns may opt out of allowing retail dispensaries and/or on-site consumption establishments from locating and operating within their boundaries. To effectuate the opt-out, such local governments must adopt a local law subject to a permissive referendum on or before December 31, 2021. A town opt-out only applies to the area of the town outside of any village(s) located therein. No city, village, or town may opt out after December 31, 2021. However, a local government that, in 2021, opts out of allowing retail dispensaries and/or on-site consumption establishments from locating within their boundaries may repeal such opt-out at any time. The local government opt-out does not apply to other types of licensed activities under the Cannabis Law.

Conducting the Permissive Referendum in Cities

The Municipal Home Rule Law sets forth the process and procedures required to conduct mandatory and permissive referenda in cities. Failure to follow the procedure required by law for conducting a referendum may result in the city council's action being invalidated.¹

Any local law adopted by a city that is subject to permissive referendum will not take effect until:

1. 45 days after its adoption have passed; and
2. It is approved by the electors of the city, if a petition is filed requiring the law be approved by a majority vote of the electorate.²

Petitions must be made on separate sheets of paper and the signatures on each sheet must be signed and authenticated in the manner provided by the Election Law for the signing and authorizing of nominating petitions.³ These sheets, when fastened together and offered for filing, are deemed to constitute one petition.

Petitions must be filed in the city clerk's office within 45 days of the adoption of the local law. Petitions must be signed by a number of electors equal to 10% of the total number of votes cast in the city for governor at the last gubernatorial election.⁴ All signers of the petition must be qualified voters.⁵ A qualified voter is an individual who is currently registered to vote and was also registered during the previous general election.⁶

If a petition is filed, a proposition on the local law must be submitted to the voters at the next election of State or local government, not less than 60 days after the filing of the petition. The petition may also request that the city council direct a special election be held.⁷

Once the petition has been filed with the city clerk, he or she must examine it not later than 30 days after the date of filing, or 45 days before the date of the election where the referendum would appear on the ballot, whichever is earlier. The clerk then transmits a certificate to the city council attesting that he or she has examined the petition and stating whether the petition complies with the law's requirements.⁸

If within five days after the last day to file a certificate to the legislative body, a written objection to the clerk's certification is filed in the State Supreme Court in the county in which the city is located, the court must determine any question arising from the petition and issue an order. This proceeding must be heard and determined in the manner prescribed in Election Law § 16-116.

Conducting the Permissive Referendum in Villages

A local law adopted by a village that is subject to a permissive referendum under Municipal Home Rule Law § 24, or any other State statute, will be conducted pursuant to **Article 9 of the Village Law**.⁹ Under Article 9, a village board of trustees may bypass the petition process by submitting a permissive referendum to voters upon its own motion.¹⁰ Compliance with Article 9 is therefore consistent with the terms of the Municipal Home Rule Law. Additionally, Village Law § 9-900(1) states that whenever the Village Law provides that an act or resolution of the board of trustees is subject to a permissive referendum, the permissive referendum must be conducted as provided in Article 9.

Many referenda may be timed so that they are held during a regularly scheduled village election. The criteria for determining when a referendum is to be held is set forth in Village Law § 9-902. If the petition for a permissive referendum is filed after the first day of the month in which a general village election is to be held and before the first day of the month two months prior to the next general village election, the referendum must be held at a special election of the village to be held not less than 10, nor more than 60, days after the filing of the petition.¹¹

Within 10 days after the board of trustees adopts any local law or resolution that is subject to a permissive referendum, the village clerk must post and publish, in the same manner as provided for the notice of a general village election, a notice setting forth the date that the local law or resolution was adopted.¹² The notice must also contain an abstract of the local law or resolution stating its purpose and indicating that the local law or resolution is subject to a permissive referendum. If more than one referendum is to be voted upon, each must be separately and consecutively numbered.¹³

The purpose of this notice is to afford the electorate the opportunity to circulate a petition on the question. If the local law or resolution is subject to a mandatory referendum, this notice is not required.

For a vote to be held on a local law or resolution that is subject to a permissive referendum, a valid petition must be filed in the office of the village clerk within 30 days of the passage of the legislative act. If no petition is filed within the 30 days, the local law or resolution goes into effect by operation of law.¹⁴

The petition must be signed by a number of village electors equal to at least 20% of the electors of the village, as shown on the register of electors for the previous general village election.¹⁵ It must be noted that the percentage requirement is 20% of residents registered to vote, and not 20% of residents who actually voted.

If an act is subject to a permissive referendum, the board of trustees may, upon its own motion, submit the act to a referendum, eliminating the need for a petition.¹⁶ This is an alternative to the citizen-initiated petition process and expedites the vote by eliminating the petition’s “waiting period.” The remainder of the process would be the same as if a petition had been filed on the date that the board submits the act to the referendum.¹⁷

For 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. A sample local law opting out of hosting retain cannabis dispensaries and/or on-site cannabis consumption establishments can be found at the end of this document.

State Preemption & Local Time, Place, and Manner Restrictions

Counties, cities, villages, and towns are preempted from adopting any law, rule, ordinance, regulation or prohibition pertaining to the operation or licensure of registered organizations, adult-use cannabis licenses or cannabinoid hemp licenses. Cities, villages, and towns may nonetheless pass local laws and regulations governing the time, place and manner of the operation of licensed adult-use cannabis retail dispensaries and/or on-site consumption site, provided such laws or regulations do not make the operation of such licensed retail dispensaries or on-site consumption sites unreasonably impracticable as determined by the Cannabis Board. All adult-use licensees must comply with local zoning regulations.

Notwithstanding any local regulations, retail dispensary signage is prohibited except as authorized by the Cannabis Control Board. In addition, neither retail dispensaries nor on-site consumption establishments may be located within 500 feet of school grounds as such term is defined in the NYS Education Law or within 200 feet of a house of worship.

Notification to Location Governments of License Applications

Pursuant to Cannabis Law § 76, cultivators, processors, distributors, retail dispensaries, and on-site consumption license applicants must notify the municipality in which the applicant’s premises is located of their intent to file an application for that location. The notice must be filed with the municipal clerk not less than 30 days nor more than 270 days before filing the license application with the State. The notification must be made in the form prescribed by Cannabis Control Board. If a local government expresses an opinion for or against the granting of the registration, license or permit application, that opinion will be deemed part of the record upon which the Office of Cannabis Management makes its licensure recommendation to the Cannabis Control Board to grant or deny the application. The Cannabis Control Board must respond in writing to the municipality with an explanation of how such opinion was considered in granting or denying the application.

License applicants must notify the municipality by: (a) certified mail, return receipt requested; (b) overnight delivery service with proof of mailing; or (c) personal service upon the offices of the clerk or community board.

The form of the notification will include

- a) the trade name or “doing business as” name, if any, of the establishment;
- b) the full name of the applicant;
- c) the street address of the establishment, including the floor location or room number, if applicable;
- d) the mailing address of the establishment, if different than the street address;
- e) the name, address and telephone number of the attorney or representative of the applicant, if any;
- f) a statement indicating whether the application is for:
 - i. a new establishment;

- ii. a transfer of an existing licensed business;
- iii. a renewal of an existing license; or
- iv. an alteration of an existing licensed premises;
- g) if the establishment is a transfer or previously licensed premises, the name of the old establishment and such establishment's registration or license number;
- h) in the case of a renewal or alteration application, the registration or license number of the applicant; and
- i) the type of license being applied for.

Police Right to Inspect Licensed Operations

Pursuant to Cannabis Law § 79, peace and police officers will be able to inspect all licensed or permitted premises and all records of licensed operators. Such inspections may only be done in a manner so as not to interrupt ordinary business and not to compromise the licensees' safety and security procedures. Such inspections may include, but are not limited to, ensuring the licensee or permittee is complying with the NYS Cannabis Law, the regulations promulgated pursuant thereto, and other applicable State and local building codes, fire, health, safety, and other applicable regulations.

Local Revenues from Cannabis Sales

The MRTA adds a new Article 20-C to the New York State Tax Law, entitled Tax on Adult-Use Cannabis Products. Article 20-C imposes multiple State taxes on both the distribution and the retail sale of adult-use cannabis. In addition, Tax Law § 493(c) imposes a 4% local tax on the retail sale of adult-use cannabis which will be distributed to the county and the city, village, or town in which the sale occurs. Thus, if a city, village, or town has opted out of allowing retail cannabis dispensaries and on-site cannabis consumption establishments to locate within their boundaries, that municipality will not receive any revenue from the local cannabis sales tax.

The New York State Comptroller will distribute taxes collected pursuant to Tax Law § 493(c) to counties in which adult-use cannabis retail sales occur. The counties are entitled to retain 25% of the monies distributed by the Comptroller. The counties must distribute the remaining 75% of the monies to the cities, villages, and towns within the county in proportion to the sales of adult-use cannabis products by the retail dispensaries in such cities, villages, and towns.

If a retail dispensary is located in a village within a town that also permits cannabis retail sales, then the county must distribute the monies attributable to such retail dispensary to the town and village as agreed upon by the governing bodies of those local governments. In the absence of such an agreement, the county must evenly divide the monies between the town and village. The moneys will be distributed on a quarterly basis.

There are no restrictions placed on how the local governments may use these local revenues.

Programs Financed by the State

The MRTA establishes several funds consisting of revenues collected by the State pursuant to Article 20-C of the NYS Tax Law to finance myriad programs related to the legalization of cannabis. The New York State Cannabis Revenue Fund (Tax Law § 99-ii) will be used for Office of Cannabis Management and Cannabis Control Board operations, funding cannabis equity programs, researching the impacts of cannabis legalization, funding State Police and the Department of Motor Vehicles implementation of the MRTA (including expanding and enhancing the drug recognition expert training program and technologies utilized in the process of maintaining road safety), schools, and drug treatment and public education programs. The New York State

Drug Treatment and Public Education Fund (Tax Law § 99-jj) will be used by the Office of Addiction Services and Supports to develop and implement a youth-focused public health education and prevention campaign and a statewide public health campaign focused on the health effects of cannabis and legal use, and to provide substance use disorder treatment programs for youth and adults. The New York State Community Grants Reinvestment Fund (Tax Law § 99-kk) will be used to fund the awards by the State Cannabis Advisory Board to reinvest in communities disproportionately affected by past federal and State drug policies. The grants must be used to support job placement, job skills services, adult education, mental health treatment, substance use disorder treatment, housing, financial literacy, community banking, nutrition services, services to address adverse childhood experiences, afterschool and child care services, system navigation services, and legal services to address barriers to reentry.

Personal Cultivation of Cannabis

Pursuant to Penal Law § 222.15, individuals 21 or older may plant, cultivate, harvest, dry, process and possess up to three mature cannabis plants and three immature cannabis plants at their private residence at any one time. Cannabis must be securely stored by reasonable steps designed so that the plants are not accessible to any person under 21. No more than six mature and six immature cannabis plants may be cultivated within any private residence, regardless of the number of individuals 21 or older who reside there. Individuals may lawfully possess up to five pounds of cannabis in their private residence or on the grounds of their private residence, so long as they take reasonable steps designed to ensure that the cannabis is in a secured place not accessible to any person under 21. A violation of Penal Law § 222.15 is subject to a civil penalty of up to \$125 per violation.

Cities, villages, towns, and counties may enact reasonable regulations of personal cultivation and home possession. Violations of such regulations may constitute an infraction subject to a civil penalty of no more than \$200. Local governments may not adopt regulations that prohibit personal cultivation or possession as authorized under Penal Law § 222.15.

Personal cultivation of cannabis pursuant to Penal Law § 222.15 is not allowed until the Office of Cannabis Management issues regulations for home cultivation and storage. The Office must issue such regulations for home cultivation by certified cannabis patients no later than September 30, 2021. Regulations for personal cultivation by adult-use cannabis consumers must be promulgated no later than 18 months following the first authorized retail sale of adult-use cannabis products to a cannabis consumer. Consequently, legal home cultivation for recreational use is not likely to be allowed under the MRTA until 2024 or beyond.

Protections for Cannabis Users

In addition to the legal use of cannabis authorized under Penal Law §§ 222.05 and 222.15, Cannabis Law § 127 prohibits individuals from being discriminated against for engaging in conduct permitted under the Cannabis Law. Landlords are expressly prohibited from refusing to lease to and may not otherwise penalize an individual solely for conduct authorized by the Cannabis Law, except (a) if failing to do so would cause the landlord to lose a monetary or licensing-related benefit under federal law or regulations; or (b) if the property has in place a smoke-free policy, it is not required to permit the smoking of cannabis products on its premises, provided no such restriction may be construed to limit the certified medical use of cannabis.

Schools, colleges, and universities may not refuse to enroll and may not otherwise penalize individuals solely for conduct allowed by the Cannabis Law, except (a) if failing to do so would cause the school, college or university to lose a monetary or licensing-related benefit under federal law or regulations; or (b) if the school, college or university has adopted a code of conduct prohibiting cannabis use on the basis of a sincere religious belief of the school, college or university.

Sale of Cannabis

Cannabis may not be sold to anyone who is under the age of 21 or who is visibly intoxicated. Cannabis retailers may not sell cannabis products knowing or reasonably believing that the person to whom the cannabis products are being sold is acquiring the cannabis for the purpose of selling or giving it away in violation of State law or regulations.

Cannabis purchasers must provide written evidence of their age, which may consist of:

- a) a valid driver's license or non-driver identification card issued by the NYS Department of Motor Vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada, or
- b) a valid passport issued by the United States government or any other country, or
- c) an identification card issued by the United States armed forces.

Special Rules for Licensing of On-Site Consumption Establishments

In approving on-site consumption licenses, the Cannabis Control Board may consider various factors, including but not limited to:

- (a) the number, classes, and character of other licenses in proximity to the location and in the particular municipality;
- (b) whether there is a demonstrated need for spaces to consume cannabis;
- (c) any effect on pedestrian or vehicular traffic, and parking;
- (d) potential noise impact generated by the proposed premises; and
- (e) any other factors specified by law or regulation that are relevant to determine that granting a license would promote public convenience and advantage and the public interest of the community.

In addition to sales being restricted to individuals 21 years of age and older, no one under 21 years of age may be permitted on the premises of a cannabis on-site consumption facility.

Social Equity Program

One of the primary objectives of the MRTA is to promote social equity and justices. To that end, the Cannabis Law establishes programs to foster social equity and assist minority and women-owned businesses, distressed farmers, and service-disabled veterans. The Cannabis Law requires the State to develop a social and economic equity plan and an incubator program designed to promote racial, ethnic, and gender diversity when issuing licenses, with a goal of awarding 50% of adult-use cannabis licenses to social and economic equity applicants and to help communities disproportionately impacted by the enforcement of cannabis prohibition.

Law Enforcement Practices

In any criminal proceeding, no finding or determination of reasonable cause to believe a crime has been committed may be based solely on evidence of the following facts and circumstances, either individually or in combination with each other:

- (a) the odor of cannabis;
- (b) the odor of burnt cannabis;
- (c) the possession of or the suspicion of possession of cannabis or concentrated cannabis in the amounts authorized in Penal Law Article 222;
- (d) the possession of multiple containers of cannabis without evidence of concentrated cannabis in the amounts authorized in Penal Law Article 222;
- (e) the presence of cash or currency in proximity to cannabis or concentrated cannabis; or

- (f) the planting, cultivating, harvesting, drying, processing or possessing cultivated cannabis in accordance with Penal Law § 222.15.

The prohibition in Penal Law § 222.05(3)(b) with respect to the odor of burnt cannabis does not apply when a law enforcement officer is investigating whether a person is operating a motor vehicle, vessel or snowmobile while impaired by drugs. However, during such investigations, the odor of burnt cannabis does not provide probable cause to search any area of a vehicle that is not readily accessible to the driver and reasonably likely to contain evidence relevant to the driver's condition.

Public Consumption of Cannabis

With respect to smoking and vaping, cannabis is treated the same as smoking or vaping tobacco products. Consequently, pursuant to Public Health Law Article 13-E, cannabis may not be smoked or vaped in the following indoor areas:

- (a) places of employment;
- (b) bars;
- (c) food service establishments, except as provided in Public Health Law § 1399-q;
- (d) enclosed indoor areas open to the public containing a swimming pool;
- (e) public means of mass transportation, including subways, underground subway stations, and when occupied by passengers, buses, vans, taxicabs and limousines;
- (f) ticketing, boarding and waiting areas in public transportation terminals;
- (g) youth detention centers and facilities;
- (h) any facility that provides child care services;
- (i) child day care centers;
- (j) group homes for children;
- (k) public institutions for children;
- (l) residential treatment facilities for children and youth;
- (m) all public and private colleges, universities and other educational and vocational institutions, including dormitories, residence halls, and other group residential facilities that are owned or operated by such colleges, universities and other educational and vocational institutions, except that these restrictions do not apply in any off-campus residential unit occupied by a person who is not enrolled as an undergraduate student in such college, university or other educational or vocational institution;
- (n) general hospitals and residential health care facilities;
- (o) commercial establishments used for the purpose of carrying on or exercising any trade, profession, vocation or charitable activity;
- (p) indoor arenas;
- (q) zoos; and
- (r) bingo facilities.

In addition, smoking or vaping of cannabis is not permitted in the following outdoor areas:

- (a) ticketing, boarding or platform areas of railroad stations operated by the MTA;
- (b) on the grounds of hospitals and residential health care facilities or within 15 feet of a building entrance or exit.

Pursuant to Penal Law § 222.10 and Public Health Law Article 13-E, individuals may not smoke or vape cannabis on school grounds (as defined by Education Law 1125(10)), within 100 feet of entrance, exit or outdoor areas of an elementary or secondary school or of a public library (except this does not apply to smoking or vaping in a residence or within the real property boundary lines of residential real property), or in or on a school bus.

New York Courts have ruled that local governments are not preempted from imposing their own local smoking and vaping restrictions that are more stringent than what is mandated under Public Health Law Article 13-E (the “Clean Air Act”). Additionally, NYS Public Health Law § 1399-r provides in relevant part that “Nothing herein shall be construed to restrict the power of any county, city, town, or village to adopt and enforce additional local law, ordinances, or regulations which comply with at least the minimum applicable standards set forth in this article.”

Moreover, local governments may impose their own smoking and vaping restrictions for property owned or controlled by the municipality, including parks and playgrounds.

Local Officials’ Interest in Cannabis Operations

Cannabis Law § 137 prohibits any chief of police, police officer or subordinate of any police department in New York from having an interest, either directly or indirectly, in the cultivation, processing, distribution, or sale of cannabis products, or from offering for sale or recommending to any registered organization or licensee any cannabis products. This prohibition does not apply to the spouse or domestic partner of such an official. Elected village officials are not subject to these limitations unless they are assigned duties directly relating to the operation or management of the police department. This restriction is similar to NYS Alcoholic Beverage Control Law § 128, which prohibits police officers and village officials who manage the police department from having an interest in the manufacture or sale of alcoholic beverages.

Employer Concerns

The MRTA bars employers from discriminating against individuals for cannabis use (See Labor Law § 201-d). However, the MRTA amends Labor Law § 201-d to provide that notwithstanding its prohibitions against discrimination, employers are not be barred from discharging or disciplining an employee (a) if doing so is mandated by State or federal statute or regulation (e.g., CDL requirements) or (b) if the employee is impaired while on the job.

Illegal Possession, Use, and Sale of Cannabis

While the MRTA legalizes adult-use cannabis, it does impose penalties for activities that are not authorized by the Cannabis Law or the Penal Law. Individuals under the age of 21 who are found to be in possession of cannabis or cannabis products are subject to a \$50 civil penalty (Cannabis Law § 132). Additionally, Article 222 of the Penal Law makes possessing or selling various amounts of cannabis and cannabis concentrate subject to various penalties.

Licensees are subject to civil penalties and license suspension and revocation for myriad violations.

Expungement of Records

The MRTA provides extensive procedures for expunging criminal records for many previous cannabis related convictions. The NYS Division of Criminal Justice Services and the Office of Court Administration will be promulgating rules and guidance to facilitate expunging these convictions and the handling of any records related thereto.

¹ 1990 N.Y. Op. Atty. Gen. (Inf.) 35.

² M.H.R.L. § 24(1)(a).

³ M.H.R.L. § 24(1)(a).

⁴ Id.

⁵ General discussion as to number and qualifications of petitioners for a local law subject to a referendum on petition. 1978 N.Y.

Op. Atty. Gen. (Inf.) 291.

6 Id.

7 M.H.R.L. § 24(1)(a).

8 M.H.R.L § 24(1)(a).

9 M.H.R.L § 24(1)(b).

10 Village Law § 9-908.

11 Village Law § 9-902(5).

12 Village Law § 9-900(2).

13 Village Law § 9-904.

14 Village Law § 9-902(1).

15 Id.

16 Village Law § 9-908.

17 Id.

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.

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. _____ 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 retail cannabis dispensaries and/or 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 retail cannabis dispensaries and/or 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 licensing and establishing cannabis retail dispensaries and/or cannabis on-site consumption establishments within its boundaries.

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.

Village Board Meeting

Meeting Items

Agenda Item

Scott Harter - 33 Boughton Avenue & 44 Rand Creek