

# **TOWN OF WESTMORELAND**

## **Local Law #2 of 2022**

### **1. Authority**

Be it enacted by the Town of Westmoreland Town Board as follows: pursuant to sections 261-265 of the Town Law and section 20 of Municipal Home Rule Law of the State of New York, which authorize the Town Board to adopt zoning provisions that advance and protect the health, safety and welfare of the community.

### **2. Purpose**

This Local Law is adopted to amend The Town of Westmoreland's zoning regulations in that the Town of Westmoreland finds it is in the best interests of its residents (and in furtherance of Local Law #1 of 2022 which chose to opt the Town of Westmoreland out of cannabis retail dispensaries and on-site cannabis consumptions sites within the Town of Westmoreland) – to restrict the sale of marijuana related products, vaping products, vape shops, head shops and hookah lounges, to particular areas within the Town of Westmoreland.

### **3. Definitions**

Additional definitions shall be added to Article 1, Section 180-2 as follows:

**CBD** – Cannabidiol, a naturally occurring compound found in the resinous flower of cannabis.

#### **ELECTRONIC CIGARETTES**

Also known as e-cigarettes, e-vaporizers, or electronic nicotine delivery systems, are battery-operated devices that people use to inhale an aerosol, which typically contains nicotine, flavorings, and other chemicals.

#### **HOOCAH LOUNGES AND VAPE LOUNGES**

Any facility or location whose business operation includes the on-site indoor smoking of electronic cigarettes, vape pens, vapors, and pipes, as defined herein, e-liquids, or marijuana derivatives, including only CBD, as defined herein, or other substances, but not including THC, as defined herein. "Smoking" includes the inhalation of the smoke/e-liquid nicotine/vapors water pipe tobacco and other substances encased in electronic cigarettes, vape pens, vapors, and pipes commonly known as "hookah," "waterpipe," "shisha" and "narghile" or any similar device.

#### **HOOCAH PIPE**

A single or multi-stemmed instrument used by one or more persons to smoke tobacco or other substance, which hookah pipe is also commonly referred to as a hookah, waterpipe, shisha or narghile.

## **MARIJUANA**

Same definition ascribed to "marihuana" in NY Public Health Law § 3302: all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant, which seed is incapable of germination

## **MARIJUANA SHOP**

Any establishment which offers for sale or consideration, for on premises or off premises consumption, if allowed by law, marijuana or marijuana derivatives, which contain THC, in any form, including cigarettes, electronic cigarettes, pipes, vape pens, vapors, e-liquid, or any other product. This shall include recreational marijuana products including those that contain only THC or CBD.

## **VAPE SHOP**

Any establishment which offers for sale or consideration, electronic cigarettes, electronic pipes, vape pens, vapors, e-liquid, marijuana derivatives, including CBD or other substances, but not THC, as a substantial or significant portion of its business, merchandise and/or stock-in trade.

## **HEAD SHOP**

Any retail establishment specializing in paraphernalia used for the consumption of cannabis, marijuana, CBD, THC and items related to marijuana, cannabis, CBD and THC use or culture.

## **THC**

Tetrahydrocannabinol is the main psychoactive compound in cannabis that produces the high sensation.

## **4. Restrictions**

Article VII, B-1 Districts – General Business Districts, Section 180-43 , shall be amended to add a new subsection "M" under permitted uses as follows:

Hookah lounges, vape lounges, smoke shop, vape shop, head shop or marijuana shop uses shall be allowable only in a B-1 General Business District subject to issuance of a Special Use Permit by the Town of Westmoreland Consolidated Planning/Zoning Board of Appeals and subject to the following regulations:

- (1) The lot line of any property whereupon exists a hookah lounge, vape lounge, smoke shop, vape shop, head shop or marijuana shop shall not be located within one thousand five hundred (1,500) foot radius of the lot line of any lot

zoned for residential use, any school, park, playground, library or church or other place of worship.

- (2) Posting of Signs. (A) No person shall sell or continue to sell or distribute or continue to distribute electronic cigarettes, vape pens, vapors, e-liquids, hookah pipes, marijuana related products in the Town of Westmoreland unless a sign is posted at the point of sale in a conspicuous place, that warns of the dangers of e-cigarettes, vape pens, vapors, e-liquids, hookah pipes, or marijuana related products including, at a minimum, the following statement: WARNING: electronic cigarettes, vape pens, vapors, e-liquids, and marijuana products may contain nicotine. Nicotine is an addictive chemical. (B) Such sign shall be printed with letters at least one-half inch in height. Signs shall be protected from tampering, damage, removal or concealment.

## **5. Severability**

If any section, subdivision or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the section, subdivision or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law, or the application thereof to other persons or circumstances.

## **6. Effective Date**

This local law shall take effect immediately subject to this law being filed with the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

A public hearing regarding this local law was held on March 22, 2022 at 6:00 pm, immediately followed by a special meeting of the Westmoreland Town Board, where it was motioned by Councilperson Hebbard and seconded by Councilperson Rundle, to approve the legislation, after which it was a unanimous vote in favor of said motion, with all board members being present.

Sworn to and certified by the Town Clerk, this 22nd day of March 2022.

---

Jody Burdick, Town Clerk