

**TOWN BOARD MEETING
TOWN HALL, MAHOPAC, N.Y.**

A Regular Meeting of the Town Board of the Town of Carmel was called to order by Supervisor Kenneth Schmitt on the 14th day of July, 2021 at 7:07 p.m. at Town Hall, 60 McAlpin Avenue, Mahopac, New York. Members of the Town Board present by roll call were: Councilman Schanil, Councilman Barile, Councilwoman McDonough and Supervisor Schmitt. Councilman Lombardi was absent.

The Pledge of Allegiance to the Flag was observed prior to the start of official business. A moment of silence was held to honor those serving in the United States Armed Forces and for those who have died serving our country in the past.

Supervisor Schmitt dedicated the Town Board meeting in memory of long-time Town of Carmel resident Dr. Patrick Delamere as well as Councilman Lombardi's beloved father, Osvaldo Lombardi.

Supervisor Schmitt announced that the Town Board met in Executive Session at 6:00 p.m. with Police Chief Anthony Hoffmann to discuss a contractual matter in connection with the department's traffic and safety detail. In addition, Councilman Barile and Councilman Schanil provided an update with regard to the ongoing PBA contract negotiations. He noted that the Town Board ran out of time for the scheduled CSEA contract negotiations update from Councilwoman McDonough and will address the matter at their next meeting.

PUBLIC HEARING HELD - PROPOSED LOCAL LAW TO AMEND THE CODE OF THE TOWN OF CARMEL TO ADD CHAPTER 60 TO OPT OUT OF ALLOWING CANNABIS RETAIL DISPENSARIES AND ON-SITE CONSUMPTION SITES UNDER NEW YORK STATE CANNABIS LAW ARTICLE 4

Supervisor Schmitt asked the Town Clerk to read the following Notice of Public Hearing as published in the Town's official newspapers:

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Carmel will conduct a Public Hearing at the Town Hall, 60 McAlpin Avenue, Mahopac, New York 10541 on Wednesday, July 14, 2021 at 7:00 p.m. or as soon thereafter that evening as possible on a proposed Local Law enacting Chapter 60 of the Code of the Town of Carmel, entitled "NYS Cannabis Law Opt-Out Legislation"; as follows:

**PROPOSED LOCAL LAW # ____ OF THE YEAR 2021
A LOCAL LAW TO AMEND THE CODE OF THE TOWN OF CARMEL
TO ADD CHAPTER 60 TO OPT OUT OF ALLOWING CANNABIS RETAIL DISPENSARIES AND ON-SITE
CONSUMPTION SITES UNDER
NEW YORK STATE CANNABIS LAW ARTICLE 4**

SECTION 1: AUTHORITY
This chapter is adopted pursuant to the authority, of Article 2, §10 of the New York State Municipal Home Rule Law and NY State Cannabis Law §131.

SECTION 2: ENACTMENT OF CHAPTER 60 OF TOWN OF CARMEL TOWN CODE ENTITLED NYS CANNABIS LAW OPT-OUT LEGISLATION
Chapter 60 of the Code of the Town of Carmel entitled "NYS Cannabis Law Opt-Out Legislation" is hereby enacted as follows:

§60-1 LEGISLATIVE INTENT
It is the intent of this local law for the Town of Carmel to opt out of allowing cannabis retail dispensaries and on-site cannabis consumption site within the Town of Carmel that would be otherwise allowed under New York State Cannabis Law Article 4.

§60-2 AUTHORITY
This local law is adopted pursuant to New York State Cannabis Law §131 which expressly authorizes the 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 of Carmel and is subject to a permissive referendum, the procedure of which is governed by NY Municipal Home Rule Law §24.

§60-3 LOCAL OPT-OUT
The Town Board of the Town of Carmel hereby opts out of allowing cannabis retail dispensaries and on-site cannabis consumption sites from being established and operated within the Town's jurisdiction.

§60-4 SEVERABILITY
If any part or provision of this Local Law or the application thereof to any person or firm or corporation or circumstance be shall adjudged invalid or unconstitutional by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which 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, firm corporation or circumstance, and the Town Board of the Town of Carmel hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

§60-5 PERMISSIVE REFERENDUM/REFERENDUM ON PETITION
This local law is subject to a referendum on petition in accordance with New York State Cannabis Law §131 and the procedure outlined in New York Municipal Home Rule Law §24.

§60-6 EFFECTIVE DATE
This Local Law shall take effect immediately upon filing in the office of the Secretary of State.

At said Public Hearing, all interested persons shall be heard on the subject thereof. The Town Board will make every effort to assure that the Public Hearing is accessible to persons with disabilities. Anyone requiring special assistance and/or reasonable accommodations should contact the Town Clerk.

By Order of the Town Board
of the Town of Carmel
Ann Spofford, Town Clerk

14 JULY 2021
TOWN BOARD MEETING

(Cont.)

Supervisor Schmitt opened the Public Hearing for public comment at 7:12 p.m. Twelve (12) people were in attendance.

Town of Carmel resident Scott Centofonti inquired if the Town Board had already made their decision to opt out of allowing cannabis retail dispensaries and on-site cannabis consumption sites within the Town.

Supervisor Schmitt replied no and that a formal vote has not been taken yet.

Mr. Centofonti noted that the proposed Local Law is drafted with the intent to opt out.

Legal Counsel Gregory Folchetti explained that at the conclusion of the Public Hearing, if a Town Board member makes a motion to adopt the Local Law, there can be a vote taken on it. The Town Board does not have to adopt the Local Law.

Councilwoman McDonough explained that at Public Hearings, comments from the public are considered. If the Town Board has questions and would like to keep the Public Hearing open, they will, or they can choose to adopt the legislation at the Public Hearing as drafted.

Councilman Schanil added that New York State is mandating each local jurisdiction to opt out or they will be open to allowing cannabis retail dispensaries and on-site cannabis consumption sites. There is no option to opt in, only to opt out.

Mr. Centofonti asked that the Town Board take into consideration the vacant storefronts within the Town as well as the laws enacted in New York State allowing cannabis retail dispensaries and on-site cannabis consumption sites. He commented that deciding the matter at one meeting would be an injustice and asked that the Public Hearing be kept open to allow other people to come forward.

Mr. Centofonti stated that he would like to see statistics as to what other towns have experienced who permit sales. He cited the Berkshires in Massachusetts and how cannabis sales have helped them grow their economy and add them as a destination place. He stated that he would like to see this Town benefit financially in order to reduce taxes.

Mr. Centofonti reiterated his request for statics. He questioned how many liquor stores and bars there are in the Town, noting that they have less of a security aspect to them than retail dispensaries as customers must provide identification before making a purchase in a dispensary.

Councilman Schanil pointed out that New York State is putting together a cannabis commission to provide guidance, including what types of products can be sold. He noted that none of that has been discussed yet. Councilman Schanil stated his concern that opting in would be opting in to something with many unknowns, such as whether or not cannabis gummies modeled after children's candy will be allowed.

Mr. Centofonti asked if that was something that the local jurisdiction could place a restriction on.

Councilman Schanil replied that he did not know.

Mr. Centofonti conceded that there are many unknowns. He stated that maybe this is why the matter should be tabled to a time when further information is available as deadline to adopt the legislation is December 31, 2021.

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Supervisor Schmitt pointed out that in order to get the matter on the November ballot in connection with a public referendum, the Town Board must act on the matter before July 19th. He explained that residents must submit a petition to the Town Clerk with 1278 signatures representing 10% of Town of Carmel voters in the last gubernatorial election within forty-five (45) days of adoption of the Local Law.

Councilwoman McDonough expressed her frustration that New York State is requiring municipalities to make a decision without providing the regulations and all necessary information.

Mr. Centofonti asked if this is the first Public Hearing on the topic.

Councilwoman McDonough replied that it was.

Supervisor Schmitt commented that the way the law is written, it makes more sense to initially opt out if there is any uncertainty because the Town can go back and allow the sites at any time. However, if the Town opts in, they can never opt out. He noted that if the Town Board acts to opt out at this meeting, at any point going forward, this or any future Town Board can opt in. Supervisor Schmitt commented that a lot more needs to be learned as the yet to be assembled New York State Cannabis Control Board will set the rules and regulations pertaining to dispensaries and consumption sites.

Councilman Schanil stated that he was surprised that more people were not in attendance at the Public Hearing.

Mr. Centofonti commented that he did not think that many people knew about it and that getting the word out needs to be worked on.

Supervisor Schmitt noted that the only thing that the Town Board is considering at this time is whether or not to opt out of allowing cannabis retail dispensaries and on-site cannabis consumption sites within the Town. The rest of the cannabis legislation is already law.

Legal Counsel Gregory Folchetti stated as a point of clarity that all towns are in until they opt out. He explained that the reason for scheduling the Public Hearing to consider the proposed Local Law at this time is if the Town Board decides to opt out of one or both, the proposed Local Law calls for opting out of both retail dispensaries and on-site cannabis consumption sites, then if a petition is filed timely, the referendum can be done as a proposition on the November ballot. He further explained that the Town Board may wait until December, however if there is a petition, the Town will have to pay to hold a special election which most towns would rather not do.

Legal Counsel Folchetti went on to mention that one basis other municipalities have used for opting out was to put the choice in the hands of the people. He explained that if the Town has opted out, and there is a petition for referendum, and the matter goes on a ballot, then the people who vote in the general election make the decision rather than the five Town Board members.

Legal Counsel Folchetti pointed out that there are nine (9) types of licenses that the New York State Office of Cannabis Management are going to issue. The localities have control over two of them. Everything else will be decided exclusively by New York State. He added with regard to the Town's Master Plan, that if the Town Board decides not to opt out, or if it is decided by referendum, or if this Town Board or a future one repeals the law at a later time to opt back in, they can legislate where they go. The Town Board cannot legislate them out if they have not opted out.

Councilman Barile stated that whatever this Town Board does tonight, residents have the ability to change with a petition of 10% of the number of voters in the last gubernatorial election, which he believed to be between 500 and 600 signatures.

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Supervisor Schmitt clarified that the petition would require 1,278 signatures.

Councilman Barile stated that with 1,300 signatures, the decision can be placed in the hands of the people.

Thom Ianniccari commented that based on his reading on the matter, when towns opt out and see a neighboring town fixing sidewalks and amenities, they may regret not getting the tax revenue. He commented that if the Town opts out and waits until next year to see what happens in Albany, people may miss out on the finite number of licenses to be allowed by the State of New York. Mr. Ianniccari reported that crime seems to be lower near dispensaries due to the extra security. He further reported that dispensaries create jobs and bring back distressed areas because usually they are forced into buildings that others prefer not to have.

Mr. Ianniccari commented that there is greater security at dispensaries than at liquor stores and tobacco shops. He suggested that there is no way that a minor could enter a dispensary and could only obtain cannabis from one if purchased by a wayward adult.

Mr. Ianniccari went on to speak about how local municipalities can benefit financially, pointing out that over the last couple of years, adult use cannabis in Massachusetts has eclipsed more than \$1 billion in gross sales. He stated that opting in to these sites can attract multi-state operators to open businesses, and that these businesses with their accessible cash are the most likely to donate to local charities.

Mr. Ianniccari reported that more than half of the people who participated on the Halston Media Zoom chat in connection with the matter voted to approve dispensaries. He proposed with regard to the State's yet to be provided regulations, that they would not be less than the current regulations now in force in connection with medical dispensaries.

Scott Reing, Town of Carmel resident, acknowledged that the Town may benefit financially from cannabis sales, however, voiced his disapproval that Putnam County does not share a portion of sales tax revenue with the Town. He went on to point out that the law as stated requires union workers at dispensaries and in turn, would provide well-paying jobs. He noted that because of the way this matter is legislated federally, there is a lot of cash and because of that, there is a lot of security which protects the cash from thieves and keeps people not allowed to purchase cannabis, including minors, out.

Mr. Reing addressed Councilman Schanil's concern with regard to cannabis gummy products being dangerous around children. He reasoned that if a child unknowingly consumes a cannabis gummy, bad parenting is to blame the same way that bad parenting allows a child to get hold of their parent's gun.

Mr. Reing agreed with Councilman Barile in that the matter should be decided by the people. He suggested that since the Town Board would most likely be voting to opt out of allowing cannabis sites, that they should help get signatures to get the referendum on the ballot. Mr. Reing proposed that is a tremendous opportunity for the Town as Putnam Valley, Somers and Yorktown have already voted to opt out and that if the Town of Carmel decides not to opt out and allow dispensaries, this is where a license will go and this is where the money will go.

Mr. Reing addressed the Putnam County Sheriff's argument against legalization in general because of concerns about driving while high and noted that the states that have the highest vehicular fatalities are Montana, Alaska and North Dakota. Not because they have the most drinkers or drug users, but because they do the most driving. He suggested that opting out is not going to stop the consumption of cannabis, nor reduce the number of people driving high.

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Mr. Reing stated that children are not going to be obtaining cannabis from a dispensary and suggested that it is easier for them to illegally obtain marijuana than alcohol. He concluded that all of the negatives are not stopped by opting out, however, all of the positives are stopped by opting out.

Supervisor Schmitt reiterated the timeline in connection with the matter. He stated that if a petition is filed by the voters, a proposition for the approval of the local opt out law must be submitted at the next general election not less than sixty (60) days after the filing of such petition in order for it to be on the November 2, 2021 ballot. The Local Law must be adopted no later than July 19, 2021 and a petition must be filed with the Town Clerk no later than Thursday, September 2, 2021.

Mr. Reing said that he was not criticizing the timeline and that because the Town Board is experienced in getting signatures, that they should help to get signatures to make sure it gets on the ballot. He went on to add that one of the things that towns can do is restrict the locations of the licensees and though the Town may not benefit greatly from sales tax revenue, by restricting the licensees only to Putnam County or Carmel, it guarantees that the money stays here. Mr. Reing predicted that if not now, there will eventually be dispensaries in the Town.

Thom Iannicari suggested that the Town Board impose a community impact fee until a dispensary proves that it can be part of the community and at some point, the fee can be dropped similar to communities in Massachusetts.

Jean Hopper asked who will be disseminating the information from the State to the Town.

Supervisor Schmitt stated that the Office of Cannabis Management will be providing the information once they are established.

Jean Hopper questioned if the Town opts out and later decides to opt in, will licenses still be available, and if the licenses will be issued by the State demographically.

Councilwoman McDonough stated that it was unknown at this time.

Ms. Hopper expressed her concern that licenses will not be available at a later time.

Councilwoman McDonough suggested that if the State can generate additional revenue from them, additional licenses would most likely be issued.

Ms. Hopper asked if opting in means that there will definitely be a dispensary coming to the Town.

Supervisor Schmitt indicated that it was unknown at this time.

Ms. Hopper asked if dispensaries also fill prescriptions for medical marijuana.

Councilwoman McDonough believed medicinal dispensaries to be separate from recreational dispensaries as they were not detailed in the information provided by the State.

Ms. Hopper concluded that she viewed allowing cannabis dispensaries as a business opportunity and as an opportunity for growth in the Town.

Joan Goldberg, Town of Carmel resident, as well as vacation homeowner in the Berkshires said that she feels like there is a dispensary there on every other corner and that crime has not increased. She spoke about an entertaining tour she had taken of a dispensary with friends. Ms. Goldberg stated that she absolutely supports dispensaries in the Town. However, she was not sure that she would like to see a cannabis lounge here.

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Ms. Goldberg commented that it is all about the safety for her and that the horror stories she has been made aware of in connection with youths having bad experiences with cannabis were a result of the cannabis being bought from a street dealer which was laced with something. She stated that cannabis from dispensaries is regulated as to how much THC can be included, noting that in Massachusetts gummies have a limit of 5%. She reiterated earlier comments about the financial benefits to the Town and the potential to ease residents' property tax burden.

Ms. Goldberg commented that in Massachusetts, abandoned paper mills are being taken over and turned into grow houses with the properties returning back on to the tax rolls. She suggested that if the Town has vacant parcels to grow the cannabis it would be a better use of the property than putting up more houses subsequently adding children to the schools. She commented that in Massachusetts, people do not go into a dispensary, purchase their cannabis and then light up in the car. Similar to making a purchase at a liquor store, they bring their purchase home to use. She concluded that if the Town Board chooses to opt out, an opportunity will be missed.

James Carmody, Town of Carmel resident, acknowledged the many legal unknowns in connection with the State's new law. He went on to speak about the health properties of cannabis. He commented that scientific study of the cannabis plant showed that after the age of 25, smoking marijuana has little to no effect on people's cognitive abilities. Mr. Carmody commented that the Town should not opt out, however suggested local legislation requiring that one be 25 or older to use recreational marijuana in the Town.

Mr. Carmody commented with regard to another utilization of the cannabis plant CBD oil, that although it is not harmful in moderate concentrations and can be very therapeutic even without a prescription, there is a risk of liver damage in high concentrations and therefore should be locally legislated to limit the concentration allowed. He concluded that this will better protect the residents and still allow the businesses to come in and provide revenue to the Town.

With no one else present wishing to be heard on the subject of the Public Hearing, Councilman Schanil offered a motion to close the Public Hearing. It was seconded by Councilwoman McDonough. Supervisor Schmitt called for a roll call vote which resulted in Councilman Schanil, Councilwoman McDonough and Supervisor Schmitt voting in favor of closing the Public Hearing at 7:55 p.m. Councilman Barile voted against closing the Public Hearing.

SEQR DETERMINATION MADE IN REGARD TO PROPOSED LOCAL LAW TO AMEND THE CODE OF THE TOWN OF CARMEL TO ADD CHAPTER 60 TO OPT OUT OF ALLOWING CANNABIS RETAIL DISPENSARIES AND ON-SITE CONSUMPTION SITES UNDER NEW YORK STATE CANNABIS LAW ARTICLE 4 - TYPE II ACTION

RESOLVED that the Town Board of the Town of Carmel hereby determines that the enactment of Chapter 60 to Opt Out of the Issuance of Licenses for Cannabis Retail Dispensaries and On-Site Cannabis Consumption Locations is a Type II action under SEQR and no further review is necessary.

Resolution
Offered by: Councilman Schanil
Seconded by: Councilwoman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Schanil	<u>X</u>	<u></u>	
Michael Barile	<u></u>	<u>X</u>	
Frank Lombardi	<u></u>	<u></u>	Absent
Suzanne McDonough	<u>X</u>	<u></u>	
Kenneth Schmitt	<u>X</u>	<u></u>	

14 JULY 2021
TOWN BOARD MEETING

(Cont.)

Prior to voting, Councilman Barile noted the number of bars and liquor stores in the Town. He further noted that the only people to speak at the Public Hearing are in favor of allowing cannabis dispensaries. Councilman Barile stated that this Town Board had made up their mind a long time ago and that a Public Hearing was being held only because the law requires it.

Councilwoman McDonough disagreed that her mind was made up prior to this meeting. She stated that she took into account the opinions of people who contacted her both for and against the proposed Local Law. Councilwoman McDonough stated her issue to be the lack of information from the State. She indicated her interest to look into the medical aspect of cannabis and that she plans to continue to review information being provided from the State with regard to recreational use cannabis.

Councilman Schanil stated that he was surprised that New York State has not provided the information to the Towns before adopting their legislation. He acknowledged the concerns from people who want to benefit financially, however, stated that there are too many unknowns for him to support allowing dispensaries.

Anita Olivier expressed her frustration with having to go to Yonkers or Newburgh to obtain her medical marijuana and indicated that it would benefit her if she could obtain it closer. She also indicated her support of allowing retail dispensaries because of the tax benefit to the Town.

Supervisor Schmitt read into the record the following letter from Police Chief Anthony Hoffman who was unable to attend the Public Hearing:



TOWN OF CARMEL
POLICE DEPARTMENT
60 MCALPIN AVENUE, MAHOPAC, NY 10541
TEL (845)628-1300 FAX (845)628-2597
POLICE@CI.CARMEL.NY.US

ANTHONY HOFFMANN
CHIEF OF POLICE

STATEMENT FROM CHIEF ANTHONY HOFFMANN, TOWN OF CARMEL POLICE DEPARTMENT, REGARDING A LOCAL LAW TO OPT OUT OF ALLOWING RETAIL CANNABIS DISPENSARIES AND ON-SITE CONSUMPTION IN THE TOWN OF CARMEL

As the Chief of Police for the Town of Carmel, I am in support of **opting out** of allowing Cannabis Retail Dispensaries and On-Site Consumption Sites in our town.

At this time, we have more questions than answers as to exactly how cannabis will be regulated in local municipalities in New York State. With the very recent passing of legislation legalizing recreational marijuana in New York, the infrastructure is not nearly yet in place for us to ensure one of the most important duties of local government and our police departments – which is the safety of the public we are sworn to serve. To be forced into a decision regarding allowing cannabis dispensaries and on site consumption without all the facts available is dangerously premature.

As a police officer, I am aware of the negative impact that marijuana use has on impaired driving. Second to alcohol, marijuana is the most common drug detected in motor vehicle fatalities and is equal to alcohol as an impairing factor in fatal accidents. As a police chief, I must dedicate personnel and resources, at the taxpayers' expense, to combat impaired driving and to help keep our roads safe. Currently, the testing capabilities for our officers to detect marijuana impaired drivers are not available as they are for those drivers that are impaired by alcohol.

Additionally, with recreational marijuana legalization, we will see an increase in the amount of unregulated marijuana and the connected criminality it brings that will further tax the resources of local municipalities and law enforcement.

14 JULY 2021
TOWN BOARD MEETING

(Cont.)

Allowing retail cannabis dispensaries and on site consumption in the Town of Carmel will simply bring more marijuana, and its negative aspects such as increased impaired driving, to our community. We should not be forced as a town to allow this to proceed without - at the very least - further discussion and development of infrastructure to effectively and safely deal with the overall legalization of marijuana in New York State.

Thank you.

WWW.CARMELNY.ORG/POLICE-DEPARTMENT

LOCAL LAW #1 OF THE YEAR 2021 - A LOCAL LAW TO AMEND THE CODE OF THE TOWN OF CARMEL TO ADD CHAPTER 60 TO OPT OUT OF ALLOWING CANNABIS RETAIL DISPENSARIES AND ON-SITE CONSUMPTION SITES UNDER NEW YORK STATE CANNABIS LAW ARTICLE 4 - ADOPTED AS NOTICED AND PUBLISHED

LOCAL LAW #1 OF THE YEAR 2021
A LOCAL LAW TO AMEND THE CODE OF THE TOWN OF CARMEL
TO ADD CHAPTER 60 TO OPT OUT OF ALLOWING CANNABIS RETAIL
DISPENSARIES AND ON-SITE CONSUMPTION SITES UNDER
NEW YORK STATE CANNABIS LAW ARTICLE 4

SECTION 1: AUTHORITY

This chapter is adopted pursuant to the authority, of Article 2, §10 of the New York State Municipal Home Rule Law and NY State Cannabis Law §131.

SECTION 2: ENACTMENT OF CHAPTER 60 OF TOWN OF CARMEL TOWN CODE ENTITLED NYS CANNABIS LAW OPT-OUT LEGISLATION

Chapter 60 of the Code of the Town of Carmel entitled “NYS Cannabis Law Opt-Out Legislation” is hereby enacted as follows:

§60-1 LEGISLATIVE INTENT

It is the intent of this local law for the Town of Carmel to opt out of allowing cannabis retail dispensaries and on-site cannabis consumption site within the Town of Carmel that would be otherwise allowed under New York State Cannabis Law Article 4.

§60-2 AUTHORITY

This local law is adopted pursuant to New York State Cannabis Law §131 which expressly authorizes the 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 of Carmel and is subject to a permissive referendum, the procedure of which is governed by NY Municipal Home Rule Law §24.

§60-3 LOCAL OPT-OUT

The Town Board of the Town of Carmel hereby opts out of allowing cannabis retail dispensaries and on-site cannabis consumption sites from being established and operated within the Town’s jurisdiction.

§60-4 SEVERABILITY

If any part or provision of this Local Law or the application thereof to any person or firm or corporation or circumstance be shall adjudged invalid or unconstitutional by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which 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, firm corporation or circumstance, and the Town Board of the Town of Carmel hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

(Cont.)

§60-5 PERMISSIVE REFERENDUM/REFERENDUM ON PETITION

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

§60-6 EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the office of the Secretary of State.

Offered by: Councilwoman McDonough
Seconded by: Councilman Schanil

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Schanil	X		
Michael Barile		X	
Frank Lombardi			Absent
Suzanne McDonough	X		
Kenneth Schmitt	X		

PUBLIC HEARING HELD - PROPOSED LOCAL LAW AMENDING CHAPTER 104 OF THE CODE OF THE TOWN OF CARMEL, ENTITLED "NOISE"

Supervisor Schmitt asked the Town Clerk to read the following Notice of Public Hearing as published in the Town’s official newspapers:

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Carmel will conduct a Public Hearing at the Town Hall, 60 McAlpin Avenue, Mahopac, New York 10541 on Wednesday, July 14, 2021 at 7:00 p.m. or as soon thereafter that evening as possible on a proposed Local Law amending Chapter 104 of the Code of the Town of Carmel, Entitled "Noise" as follows:

PROPOSED LOCAL LAW # _____ OF THE YEAR 2021
A LOCAL LAW AMENDING CHAPTER 104 OF THE CODE OF THE TOWN OF CARMEL, ENTITLED "NOISE"

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF CARMEL, COUNTY OF PUTNAM, STATE OF NEW YORK, AS FOLLOWS:

SECTION 1 - AUTHORITY
This chapter is adopted pursuant to the authority, of Article 2, §10 of the New York State Municipal Home Rule Law.

SECTION 2 - AMENDMENT OF CHAPTER 104 - §104-4(C), §104-6, and §104-12(B)
CHAPTER 104 OF THE CURRENT CODE OF THE TOWN OF CARMEL ENTITLED "NOISE", SPECIFICALLY §104-4(C) IS HEREBY AMENDED TO READ AS FOLLOWS:

C. Applications. Each applicant for a permit to use and operate a sound device, loudspeaker, amplifier or apparatus in, upon, near or adjacent to any public street or place shall file a written application with the Town Clerk not later than five (5) days before the date on which such sound device, loudspeaker, amplifier or apparatus is to be used or operated. The Office of the Town Clerk, in its discretion may also accept an application less than five (5) days prior to the date for which permit is sought, provided that the Clerk determines that sufficient notice can be provided pursuant to §104-6(C) of this Chapter. Such application shall be on forms furnished by the Town Clerk and shall describe the name and address of the applicant, the home and address of the owner of the premises and specific location of the premises or place for which the permit is sought, the day and hour or hours during which such use and operation is proposed, the make or type and other identification of the sound devices, loudspeaker, amplifier or apparatus to be used, the volume of sound which is proposed to be used, measured by decibels or other efficient method of measuring sound, and such other information as may be necessary for the carrying out of the provisions of this article. The Town Clerk may require proof of standing and/or authority from any such applicant for the submission of an application for a permit pursuant to this Chapter.

CHAPTER 104 OF THE CURRENT CODE OF THE TOWN OF CARMEL ENTITLED "NOISE", SPECIFICALLY SECTION 104-6 IS HEREBY AMENDED TO READ AS FOLLOWS:

§ 104-6 Permit fees; Duration for Specific Zoning Districts; exemptions.

A. The Town Clerk shall collect a fee for each permit for the use and operation of sound devices, loudspeakers, amplifier(s) and/or apparatus, as defined herein.

B. Each permit issued by the Town Clerk shall be valid for a period not to exceed three (3) calendar days.

C. Prior to the issuance of any such permit under this article, the applicant shall provide proof to the Town Clerk that the owner of each improved property located within 100 (one hundred) feet of any boundary of the applicant's parcel for which the permit is sought hereunder has been notified, in writing, of the pending application under this article. Such proof shall be by means of sworn affidavit provided in form to the applicant by the Town Clerk and/or by any other means of notice that the Town Board may otherwise direct by resolution.

D. Duration of Permits in Specific Zoning Districts:
1. Subsequent to the issuance of any permit by the Clerk pursuant to this article for any property located in a residential ("R")-zoned district, no additional permit shall be issued for the same parcel or property, regardless of ownership thereof, prior to 30 (thirty) calendar days having elapsed since the expiration of the prior permit issued for said parcel or property.
2. Subsequent to the issuance of any permit by the Clerk pursuant to this article for any property located in a zone designated as other than residential ("R"), including Commercial ("C")-zoned district and/or Commerce Business Park ("CBP")-zoned district, no additional permit shall be issued for the same parcel or property, regardless of ownership thereof, prior to five (5) calendar days having elapsed since the expiration of the prior permit issued for said parcel or property.

E. No fee shall be charged to or collected from any bureau or department of the United States government, the State of New York, the County of Putnam or the Town of Carmel.

F. The fee referenced in Subsection A hereunder shall be established annually by the Town of Carmel Town Board and shall be on file in the office of the Town Clerk.

CHAPTER 104 OF THE CURRENT CODE OF THE TOWN OF CARMEL ENTITLED "NOISE", SPECIFICALLY SECTION 104-12(B) IS HEREBY AMENDED TO READ AS FOLLOWS:

B. Standards in determining unnecessary noise. No person shall make, continue or cause or permit to be made, verbally or mechanically, any unnecessary noise. An "unnecessary noise" shall mean any excessive or unusually loud sound or any sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any other person or persons and/or which causes injury to animal life or damages to property or business. Standards to be considered in determining whether unnecessary noise exists include, but are not limited to, the following:
(1) The volume of the noise.
(2) The intensity of the noise.
(3) Whether the nature of the noise is usual or unusual.
(4) Whether the origin of the noise is natural or unnatural.
(5) The volume and intensity of the background noise, if any.
(6) The proximity of the noise to residential sleeping facilities.
(7) The nature and the zoning district of the area within which the noise emanates.
(8) The time of day or night the noise occurs.
(9) The time duration of the noise.
(10) Whether the sound source is temporary.
(11) Whether the noise is continuous or impulsive.
(12) The presence of discrete tones.

SECTION 3 - HOME RULE
Nothing in this Local Law is intended, or shall be construed to limit the home rule authority of the Town under State Law to limit the Town's discretion in setting fees and charges in connection with any applications requiring Town approval.

SECTION 4 - SEVERABILITY
If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which 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, and the Town Board of the Town of Carmel hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 5- EFFECTIVE DATE
This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

At said Public Hearing, all interested persons shall be heard on the subject thereof. The Town Board will make every effort to assure that the Public Hearing is accessible to persons with disabilities. Anyone requiring special assistance and/or reasonable accommodations should contact the Town Clerk.

By Order of the Town Board
of the Town of Carmel
Ann Spofford, Town Clerk

(Cont.)

Supervisor Schmitt opened the Public Hearing for public comment at 8:13 p.m. Nine (9) people were in attendance. Councilman Barile exited the meeting.

Supervisor Schmitt indicated that the proposed Local Law is being considered to assist the Town’s business community.

April Daly, Mahopac resident, inquired about what can be done with regard to cars and motorcycles revving their engines. She stated that some cars are equipped with exhaust systems that result in very loud abrupt noises that are intense, unnatural, impulsive and also have the presence of discrete tones in both high and low frequencies. She commented that repeat offenders exposing residents to this every day feels like an assault.

Supervisor Schmitt explained that the issue is a violation of the Vehicle and Traffic Code and is enforced by the Police Department. He indicated that if an officer hears an altered or modified exhaust, he or she can pull the car over and issue a summons. If it is chronic, a resident may report the offender to the Carmel Police Department.

Ms. Daly spoke regarding one particular repeat offender. She went on to address a recent article that appeared in the Putnam Examiner about certain municipalities that are considering banning gas-powered leaf blowers. Ms. Daly suggested that doing so would reduce noise as well as be environmentally positive.

With no one else present wishing to be heard on the subject of the Public Hearing, on motion by Councilwoman McDonough, seconded by Councilman Lombardi, with all members of the Town Board present in agreement, the Public Hearing was closed at 8:17 p.m.

SEQR DETERMINATION MADE IN REGARD TO PROPOSED LOCAL LAW AMENDING CHAPTER 104 OF THE CODE OF THE TOWN OF CARMEL, ENTITLED "NOISE" - TYPE II ACTION

RESOLVED that the Town Board of the Town of Carmel hereby determines that the amendment of Chapter 104 of the Town Code entitled “Noise” is a Type II action under SEQR and no further review is necessary.

Resolution
Offered by: Councilman Schanil
Seconded by: Councilwoman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Schanil	<u>X</u>	<u> </u>	
Michael Barile	<u> </u>	<u> </u>	Absent
Frank Lombardi	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u>X</u>	<u> </u>	
Kenneth Schmitt	<u>X</u>	<u> </u>	

LOCAL LAW #2 OF THE YEAR 2021 - A LOCAL LAW AMENDING CHAPTER 104 OF THE CODE OF THE TOWN OF CARMEL, ENTITLED "NOISE" - ADOPTED AS NOTICED AND PUBLISHED

LOCAL LAW #2 OF THE YEAR 2021
A LOCAL LAW AMENDING CHAPTER 104 OF THE CODE OF THE
TOWN OF CARMEL, ENTITLED "NOISE"

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF CARMEL, COUNTY
OF PUTNAM, STATE OF NEW YORK, AS FOLLOWS:

(Cont.)

SECTION 1: AUTHORITY

This chapter is adopted pursuant to the authority, of Article 2, §10 of the New York State Municipal Home Rule Law.

SECTION 2: AMENDMENT OF CHAPTER 104 – §104-4(C), §104-6, and §104-12(B)

CHAPTER 104 OF THE CURRENT CODE OF THE TOWN OF CARMEL ENTITLED “NOISE”, SPECIFICALLY §104-4(C) IS HEREBY AMENDED TO READ AS FOLLOWS:

- C. Applications. Each applicant for a permit to use and operate a sound device, loudspeaker, amplifier or apparatus in, upon, near or adjacent to any public street or place shall file a written application with the Town Clerk not later than five (5) days before the date on which such sound device, loudspeaker, amplifier or apparatus is to be used or operated. The Office of the Town Clerk, in its discretion may also accept an application less than five (5) days prior to the date for which permit is sought, provided that the Clerk determines that sufficient notice can be provided pursuant to §104-6(C) of this Chapter. Such application shall be on forms furnished by the Town Clerk and shall describe the name and address of the applicant, the name and address of the owner of the premises and specific location of the premises or place for which the permit is sought, the day and hour or hours during which such use and operation is proposed, the make or type and other identification of the sound devices, loudspeaker, amplifier or apparatus to be used, the volume of sound which is proposed to be used, measured by decibels or other efficient method of measuring sound, and such other information as may be necessary for the carrying out of the provisions of this article. The Town Clerk may require proof of standing and/or authority from any such applicant for the submission of an application for a permit pursuant to this Chapter.

CHAPTER 104 OF THE CURRENT CODE OF THE TOWN OF CARMEL ENTITLED “NOISE”, SPECIFICALLY SECTION 104-6 IS HEREBY AMENDED TO READ AS FOLLOWS:

§ 104-6 Permit fees; Duration for Specific Zoning Districts; exemptions.

- A. The Town Clerk shall collect a fee for each permit for the use and operation of sound devices, loudspeakers, amplifier(s) and/or apparatus, as defined herein.
- B. Each permit issued by the Town Clerk shall be valid for a period not to exceed three (3) calendar days.
- C. Prior to the issuance of any such permit under this article, the applicant shall provide proof to the Town Clerk that the owner of each improved property located within 100 (one hundred) feet of any boundary of the applicant’s parcel for which the permit is sought hereunder has been notified, in writing, of the pending application under this article. Such proof shall be by means of sworn affidavit provided in form to the applicant by the Town Clerk and/or by any other means of notice that the Town Board may otherwise direct by resolution.

(Cont.)

D. Duration of Permits in Specific Zoning Districts:

1. Subsequent to the issuance of any permit by the Clerk pursuant to this article for any property located in a residential ("R")-zoned district, no additional permit shall be issued for the same parcel or property, regardless of ownership thereof, prior to 30 (thirty) calendar days having elapsed since the expiration of the prior permit issued for said parcel or property.
2. Subsequent to the issuance of any permit by the Clerk pursuant to this article for any property located in a zone designated as other than residential ("R"), including Commercial ("C")-zoned district and/or Commerce Business Park ("CBP")-zoned district, no additional permit shall be issued for the same parcel or property, regardless of ownership thereof, prior to five (5) calendar days having elapsed since the expiration of the prior permit issued for said parcel or property.

E. No fee shall be charged to or collected from any bureau or department of the United States government, the State of New York, the County of Putnam or the Town of Carmel.

F. The fee referenced in Subsection A hereunder shall be established annually by the Town of Carmel Town Board and shall be on file in the office of the Town Clerk.

CHAPTER 104 OF THE CURRENT CODE OF THE TOWN OF CARMEL ENTITLED "NOISE", SPECIFICALLY SECTION 104-12(B) IS HEREBY AMENDED TO READ AS FOLLOWS:

- B. Standards in determining unnecessary noise. No person shall make, continue or cause or permit to be made, verbally or mechanically, any unnecessary noise. An "unnecessary noise" shall mean any excessive or unusually loud sound or any sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any other person or persons and/or which causes injury to animal life or damages to property or business. Standards to be considered in determining whether unnecessary noise exists include, but are not limited to, the following:
- (1) The volume of the noise.
 - (2) The intensity of the noise.
 - (3) Whether the nature of the noise is usual or unusual.
 - (4) Whether the origin of the noise is natural or unnatural.
 - (5) The volume and intensity of the background noise, if any.
 - (6) The proximity of the noise to residential sleeping facilities.
 - (7) The nature and the zoning district of the area within which the noise emanates.
 - (8) The time of day or night the noise occurs.

(Cont.)

- (9) The time duration of the noise.
- (10) Whether the sound source is temporary.
- (11) Whether the noise is continuous or impulsive.
- (12) The presence of discrete tones.

SECTION 3 – HOME RULE

Nothing in this Local Law is intended, or shall be construed to limit the home rule authority of the Town under State Law to limit the Town’s discretion in setting fees and charges in connection with any applications requiring Town approval.

SECTION 4 – SEVERABILITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which 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, and the Town Board of the Town of Carmel hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 5 – EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Offered by: Councilman Schanil
Seconded by: Councilwoman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Schanil	<u>X</u>	<u> </u>	
Michael Barile	<u> </u>	<u> </u>	Absent
Frank Lombardi	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u>X</u>	<u> </u>	
Kenneth Schmitt	<u>X</u>	<u> </u>	

SUBMISSION OF GRANT APPLICATION AUTHORIZED - NEW YORK STATE CONSOLIDATED FUNDING APPLICATION (CFA)

WHEREAS, New York State is accepting applications for the 2021 Funding Round of the New York State Consolidated Funding Application (“CFA”) Program;

NOW, THEREFORE, BE IT RESOLVED, by the Carmel Town Board that the Town Supervisor is hereby authorized to submit a Consolidated Funding Application for the 2021 Funding Round from New York State for programs including, but not limited to, the Office of Parks, Recreation & Historic Preservation’s Environmental Protection Fund Grants Program for Parks, Preservation and Heritage, Department of Environmental Conservation’s Water Quality Improvement Project Program, and Department of State’s Local Waterfront Revitalization Program, and upon approval of said request to enter into and execute a project agreement with the State for such financial assistance to the Town of Carmel; and

BE IT FURTHER RESOLVED, that the aforementioned potential grant agreements are subject to the approval of the Town Attorney as to form and content; and.

BE IT FURTHER RESOLVED that Town Supervisor Kenneth Schmitt is hereby authorized to execute any and all necessary documentation required in connection with submission of the grant application authorized herein; and

BE IT FURTHER RESOLVED that the Town Board of the Town of Carmel hereby determines that the submission of the grant application authorized hereunder is a Type II action under SEQR and no further review is necessary.

(Cont.)

Resolution
Offered by: Councilwoman McDonough
Seconded by: Councilman Schanil

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Schanil	<u>X</u>	<u> </u>	
Michael Barile	<u> </u>	<u> </u>	Absent
Frank Lombardi	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u>X</u>	<u> </u>	
Kenneth Schmitt	<u>X</u>	<u> </u>	

PUBLIC COMMENTS - AGENDA ITEMS

Scott Reing referenced the comments made earlier by members of the Town Board regarding the unknowns in connection with the cannabis legislation. He asked if anyone had called the Office of Cannabis Management for answers.

Councilwoman McDonough explained how she had performed a great amount of research and how she was unable to get answers from the State. A brief discussion regarding the matter ensued.

TOWN BOARD MEMBER COMMENTS - AGENDA ITEMS

No member of the Town Board wished to comment at this time.

ADJOURNMENT

All agenda items having been addressed, on motion by Councilwoman McDonough, seconded by Councilman Schanil, with all Town Board members present in agreement, the meeting was adjourned at 8:26 p.m. to the scheduled Work Session.

Respectfully submitted,

Ann Spofford, Town Clerk