



VILLAGE OF DOBBS FERRY BOARD OF TRUSTEES
WORKSHOP MEETING AGENDA

MEETING DATE: November 7, 2022

AGENDA ITEM SECTION: Discussion Topics

AGENDA ITEM NO. : 1

AGENDA ITEM:

Cannabis Zoning

ITEM BACKUP DOCUMENTATION:

1. Memorandum dated November 2, 2022 from Ms. Lori Lee Dickson/Attorney for the Village to Mayor Rossillo and the Board of Trustees
2. Memorandum dated November 2, 2022 from Ms. Valerie Monastra/Village Consulting Planner to Mayor Rossillo and the Board of Trustees
3. Draft of Introductory Local Law
4. Office of Cannabis Management: Guidance for Adult-Use Retail Dispensaries



**McCarthy
Fingar LLP**
Counselors at Law

MEMO

711 Westchester Avenue, Suite 405
White Plains, NY 10604

TO: Mayor and Trustees of the Village of Dobbs Ferry
cc: Melissa Ferraro, Liz Dreaper
FROM: Lori Lee Dickson, Esq.
RE: Update on Office of Cannabis Management – Guidance on Retail Dispensaries
DATE: November 2, 2022

Attached is a copy of October 28 “Guidance” issued by the New York State Office of Cannabis Management. This “Guidance”, issued without rule-making or any opportunity for public input, is relevant to your ongoing discussions about zoning and authorizing the “Adult-use Cannabis Retail Dispensary” use in the zoning code. The guidance includes issues under consideration for your Zoning Text Amendments (e.g. signs, hours of operation, security, setbacks etc.)

The Guidance is designed to assist the Conditional Adult-Use Retail Dispensary (CAURD) licensees to plan for operating dispensaries before actual regulations are formally adopted by rule-making (including public input). The Guidance also articulates the Office of Cannabis Management’s interpretation of the regulations and laws currently in place and includes language specific to regulations that will be promulgated in the future.

I am also sharing the following summary and FAQs prepared by a colleague and fellow member of the NYS Bar Association Section on Cannabis Law who is a partner of the firm Prince Lobel and specializes exclusively in the industry-side cannabis licensing:

The Guidance addresses more than thirty-five topics, ranging from compliance matters such as recordkeeping and employee training requirements, to dispensary logistics such as hours of operation and staffing requirements. The Guidance has far-ranging implications that will affect dispensary operations and the consumer experience when New York’s first retail locations open, predicted to happen in early 2023.

Prince Lobel’s Cannabis Team has reviewed the Guidance and prepared a list of twenty Frequently Asked Questions that licensees and consumers will have regarding the OCM’s Guidance for Adult-Use Retail Dispensaries:

1. Are there limitations on dispensary hours of operation?

Yes. Municipalities may pass local laws and regulations governing the time, place, and manner, including the hours of operation, for adult-use retail dispensaries, provided that the municipality does not restrict dispensary operations to less than seventy hours per week.

A dispensary cannot operate between the hours of 12:00 AM and 8:00 AM unless it is given express written permission by the municipality, or the municipality passes a local ordinance authorizing dispensaries to operate during such hours.

A dispensary may allow customers to place orders and accept payment for such orders outside of the dispensary's hours of operation (e.g., through an online website/app). However, it cannot provide cannabis products, in the store or by delivery, until the dispensary's hours of operation begin.

2. Can dispensaries deliver cannabis products to customers?

Yes. In addition to the services offered inside of the brick-and-mortar store, dispensaries may deliver their own products to customers.

A licensee may only use ground transport (not drone delivery), including, but not limited to, cars, vans, bikes, scooters, and foot, to deliver cannabis products. A Licensee must own or lease any motorized or unmotorized vehicle that it uses to transport cannabis products. Further, the licensee must provide an OCM-compliant invoice to the customer upon completing the delivery.

No more than twenty-five employees (or the full-time equivalent thereof) may provide delivery services for the licensee per week.

3. Can dispensaries operate drive-thru windows or pick-up lanes?

Yes. While all retail dispensaries must be located within a brick-and-mortar store that allows customer entry, licensees may operate a drive-thru service window and/or a drive-thru pre-order pick-up lane. Customers may be permitted to enter a drive-thru service window or drive-thru pick-up lane in any form of transportation, including on foot, provided that the licensee ensures customer safety in all drive-thru areas.

Moreover, dispensaries can establish express lanes inside the store for customers who place pre-orders for pick-up.

4. Are dispensaries allowed to display cannabis product samples?

Yes. Dispensaries may display cannabis product samples and make these samples available to customers for inspection, including to smell or otherwise inspect them.

Cannabis product samples may be displayed in a case or kept elsewhere on the premises, but must be kept in a secure, locked place when they are not being inspected by customers (e.g., locked behind a counter or other barrier). Cannabis product display samples must be handled in a sanitary and secure manner at all times.

Dispensaries may use product displays or other branded elements to advertise cannabis products within secured displays, even if these elements are provided by another licensee. However, such product displays or other branded elements must comply with all restrictions on marketing and advertising.

Further, licensees must ensure that no cannabis products are displayed in an area that is visible from outside the store. They must also ensure that no advertisement other than permitted outdoor signage can be seen from a school ground, childcare center, playground, public, or library.

5. Can dispensaries give away or offer discounts on cannabis products?

No. Dispensaries cannot give away, including through donation, any cannabis products. Moreover, dispensaries cannot advertise giveaways, discounts, price reductions, points-based rewards systems, or customer loyalty programs, including but not limited to, by using the terms “gift”, “sale,” “free,” “price drop,” or “discount” on a menu, in any communications to customers, or elsewhere.

However, this does not prohibit dispensaries from changing the price of cannabis products or otherwise “discounting” products through methods such as “bundling” or “bulk pricing.”

6. Can dispensaries sell non-cannabis accessories or merchandise?

Yes. In addition to being able to sell any authorized cannabis product obtained from a licensed distributor, dispensaries may sell cannabinoid hemp (CBD) products, if licensed to do so, as well as cannabis paraphernalia, stationery, gifts, and other minor incidentals. These products may depict cannabis or otherwise reference cannabis, provided that they do not reference a specific cannabis product or brand.

Dispensaries also may sell branded merchandise and apparel, including jewelry and accessories, in adult sizes only, containing the licensee’s own brand. A dispensary cannot sell apparel or merchandise, including jewelry or other accessories, that reference a specific cannabis product brand other than the licensee’s own brand.

7. Are dispensaries required to provide customers with exit bags?

No. An exit package is not required. However, if a dispensary does provide an exit package, it may only contain the licensee’s brand name and logo. Any other text or symbols, such as selling messages, mottos, and other brand markers, are not allowed on the exit package.

A customer may provide their own exit package, such as a reusable bag or backpack.

8. Are there limitations on exterior signage?

Yes. A dispensary cannot display more than two signs outside of the store. Note that this may include signs that are indoors, depending on the nature of the premises (e.g., if the dedicated entrance to the dispensary is within an indoor mall, then signs outside of the store, but within the mall, would count towards this limit, even though the signs would not be outdoors).

Exterior signage may only, at most, include text that is the licensee’s (1) business or trade name; (2) location and contact information; and (3) business type (i.e., “Adult-use Cannabis Dispensary” or similar phrase, but cannot be the licensee’s selling message or motto). Exterior signage cannot include a licensee’s logo, symbol, branded colors or any images, including, but not limited to, depicting cannabis/cannabis

products or the imagery or action of smoking/vaping. Exterior signs also cannot include mottos, selling messages, or any other non-essential text.

Exterior signs must be on the same parcel as the store and affixed to a building or permanent structure (e.g., signpost). Exterior signage cannot be larger than necessary to reasonably display the information on the sign to individuals within or near the licensed premises and cannot be illuminated by neon lights.

Note that interior window signage that is visible from outside of the dispensary may be subject to the content and character restrictions of exterior signage, as well as any additional future restrictions that the OCM may impose.

9. Are there any interior signage requirements?

Yes. Dispensaries must post inside the store, in a manner that is plainly visible to all customers, the following information: (1) the licensee's retail dispensary license; (2) hours of operation; and (3) notification that (i) "Consuming cannabis is not allowed on this premises."; (ii) "Cannabis can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of cannabis."; (iii) "Using cannabis, in any form, while you are pregnant or chest/breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of cannabis use during pregnancy or while chest/breastfeeding."; and (iv) "Adult-use cannabis products are for use only by persons 21 years and older. KEEP OUT OF REACH OF CHILDREN AND PETS."

10. Are there limitations on branding

Yes. Dispensaries cannot appeal to individuals under twenty-one years of age in their marketing or advertising, including their branding.

Brand/Branding refers to the name, entity name, or d/b/a name, registered trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other identifiable marker that identifies one adult-use cannabis licensee or adult-use cannabis licensee's products as distinct from those products of other adult-use cannabis licensees and is used in, among other things, any packaging, labeling, marketing, or advertising. Branding cannot use images, fonts, colors, or messages that are attractive to individuals under twenty-one years of age.

Attractive to individuals under twenty-one years of age means any labeling, packaging, advertising, and marketing that make use of, including, but not limited to: (i) cartoons; (ii) bubble-type or other cartoon-like font; (iii) bright colors that are "neon" in appearance; (iv) similarities to products or words that refer to products that are commonly associated with or marketed in a manner so as to be attractive to individuals under twenty-one years of age, including, but not limited to, any imitation of food, candy, soda, drinks, cookies, or cereal, in labeling, packaging, advertising, or marketing (with the exception of cultivar or licensee names, entity name, or doing business as (dba) name; this does not preclude retail dispensaries from offering permissible forms of cannabis products with compliant packaging); (v) terms "candy" or "candies" or variants of such, in spelling like "kandy" or "kandeez" (with the exception of cultivar names or licensee names, entity name, or dba name); (vi) symbols, images, characters, public figures, phrases, toys, or games that are

commonly used to market products to individuals under twenty-one years of age; and (vii) images of individuals who could reasonably appear to be under twenty-one years of age. More information on Packaging, Labeling, Marketing, and Advertising Guidance can be found [on the OCM website].

Further, a licensee cannot represent its business as producing/selling “organic” or “craft” product until the OCM authorizes definitions of those terms.

11. Are dispensaries allowed to make health claims?

No. A dispensary, its employees, and all individuals or entities with a direct or indirect interest in the licensee cannot create the impression that the dispensary, or any adult-use cannabis products sold by the dispensary, will cure or prevent specific illnesses or diseases, treat any specific symptoms, or otherwise provide specific medical advice to customers.

While dispensary employees may provide general information to customers about the effects of cannabis consumption on the human body or make specific recommendations about safer storage or consumption of cannabis products, employees cannot give specific medical advice to customers based on factors unique to that individual’s health. Medical advice should be referred to customer’s health care practitioners.

Further, licensees cannot misrepresent their business as a medical cannabis dispensary. Adult-use dispensaries cannot use words in its branding such as drug, drug store, medicine, apothecary, doctor, or pharmacy, including any similar terms like “pharma-,” or “medi-”. This prohibition is applicable to medical cannabis dispensaries authorized to sell adult-use cannabis, with the exception for branding that appears solely on medical cannabis products at such premises and is only intended to be seen by patients in patient-only areas of the premises.

If a medical cannabis patient happens to present their patient certification to an adult-use dispensary employee and the dosing recommendation is “Per Pharmacist’s Consultation,” then the employee must notify the patient that they are not a pharmacist before they can make any recommendations/suggestions to the patient.

12. Can dispensaries purchase cannabis products on credit?

Yes. Dispensaries may purchase cannabis products on credit from licensed distributors, provided that all agreements to purchase cannabis on credit are reported to the OCM with the terms of payment and credit. The OCM may invalidate agreements that it deems commercially unreasonable or where it suspects discriminatory pricing practices.

Licensees that purchase cannabis products on credit must complete payment for the purchase within 90 days. Distributors must report any delinquent licensees to the OCM, which will maintain a list of delinquent licensees. Distributors are prohibited from selling cannabis products on credit to any licensee on the OCM’s delinquent payment list.

13. Can dispensaries receive discounts on cannabis products from cultivators, processors, or distributors?

In most cases, no. The Cannabis Law prohibits a licensee authorized to cultivate, process, or distribute cannabis from giving anything of value to a dispensary to induce it to buy products. Generally, the OCM presumes that anything a cultivator, processor, or distributor gives to a retail licensee is meant to induce the dispensary to buy product, including, but not limited to: (1) gifts; (2) discounts, except not in excess of one per centum for payment on or before ten days from date of shipment of such cannabis; (3) customer loyalty programs; (4) loans of money; (5) premiums; (6) rebates; (7) free product of any kind, except as permitted in regulations or guidance; (8) treats or services; or (9) property.

14. Can a licensee select the location of its dispensary?

In some cases, yes. Certain retail dispensary licensees may be permitted to select the location of the licensed premises or relocate the location of the licensed premises, provided that the location of the licensed premises is approved by the OCM as part of the dispensary's site plan and complies with any local zoning ordinances.

15. Are there setback requirements for dispensary locations?

Yes. A dispensary cannot be on the same road and within five hundred feet of school grounds or on the same road or avenue and within two hundred feet of a place of worship.

The school grounds setback is to be measured along a straight line from the nearest point of the school grounds to the center of the nearest entrance of the proposed dispensary entrance. The measurement for the place of worship setback requirement is to be along a straight line from the nearest entrance to the building used for the place of worship to the center of the nearest proposed dispensary entrance.

Only entrances that are regularly used to give ingress to patrons of the establishment will be used to determine setback requirement measurements. "Entrance" does not mean a door which has no exterior hardware, which is used solely as an emergency or fire exit, for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons.

Note that in addition to the above setback requirements imposed by the OCM, dispensaries must comply with any local zoning ordinances that are not preempted by the OCM regulations or determined to be unreasonably impracticable by the Cannabis Control Board (CCB).

16. Are dispensaries required to have armed security?

No. However, licensees are permitted to hire armed service providers as part of the dispensary's security measures, if they wish, and are required to implement and maintain a security plan to deter diversion, theft or loss of cannabis products, theft or loss of cash, prevent unauthorized entrance into areas containing cannabis products, and to ensure the safety of the licensee's employees and the general public.

17. Can dispensaries hire employees who are under twenty-one years of age?

Yes. A licensee may hire any employee over eighteen years of age. However, only employees who are at least twenty-one years of age can have direct interactions with

customers inside of the store, transport cannabis products in any way, or be involved in any delivery operations

18. Can dispensary employees refuse to sell cannabis products to a customer?

Yes. Dispensary employees may refuse to sell cannabis products to a customer if they believe the sale would endanger the health or safety of the customer. However, dispensary employees must refuse a sale if, based on the information available to them at the time, the sale would (1) be to an individual who is under twenty-one years of age; (2) result in the customer exceeding the legal possession limit; or (3) create a risk of diversion.

19. Can dispensary employees or customers use cannabis products on dispensary premises?

No. Under no circumstances is the use of cannabis products permitted anywhere on the premises, inside or outside, of any dispensary.

20. Are there limitations on dispensaries' retention of customer data?

Yes. A dispensary cannot retain a customer's personal information for marketing and/or advertising purposes unless the customer consents to the information being retained for this reason.



MEMORANDUM

TO: Mayor Rossillo and Members of the Village Board of Trustees

FROM: Valerie Monastra, AICP

Re: Cannabis Regulation & Taxation Act (MRTA) – Retail Considerations

DATE: November 2, 2022

CC: Melissa Gilbon Ferraro, Village Administrator
Lori Lee Dickson Esq., Village Attorney

The Village Board is considering incorporating retail cannabis dispensaries into the Village's Zoning and Land Use chapter of the Village Code.

The State law contains geographic restrictions related to the location of retail dispensaries and the marketing and advertisements of marijuana products. A summary of these restrictions is found below in **Table 1**.

Table 1. MRTA Distance Restrictions	
Retail Establishments	Must be 500 feet from school grounds
	Must be 200 feet from houses of worship
Marketing/advertising	Must be 500 feet from school grounds, child day care providers, public parks, or libraries

Appropriate zoning districts for retail dispensaries.

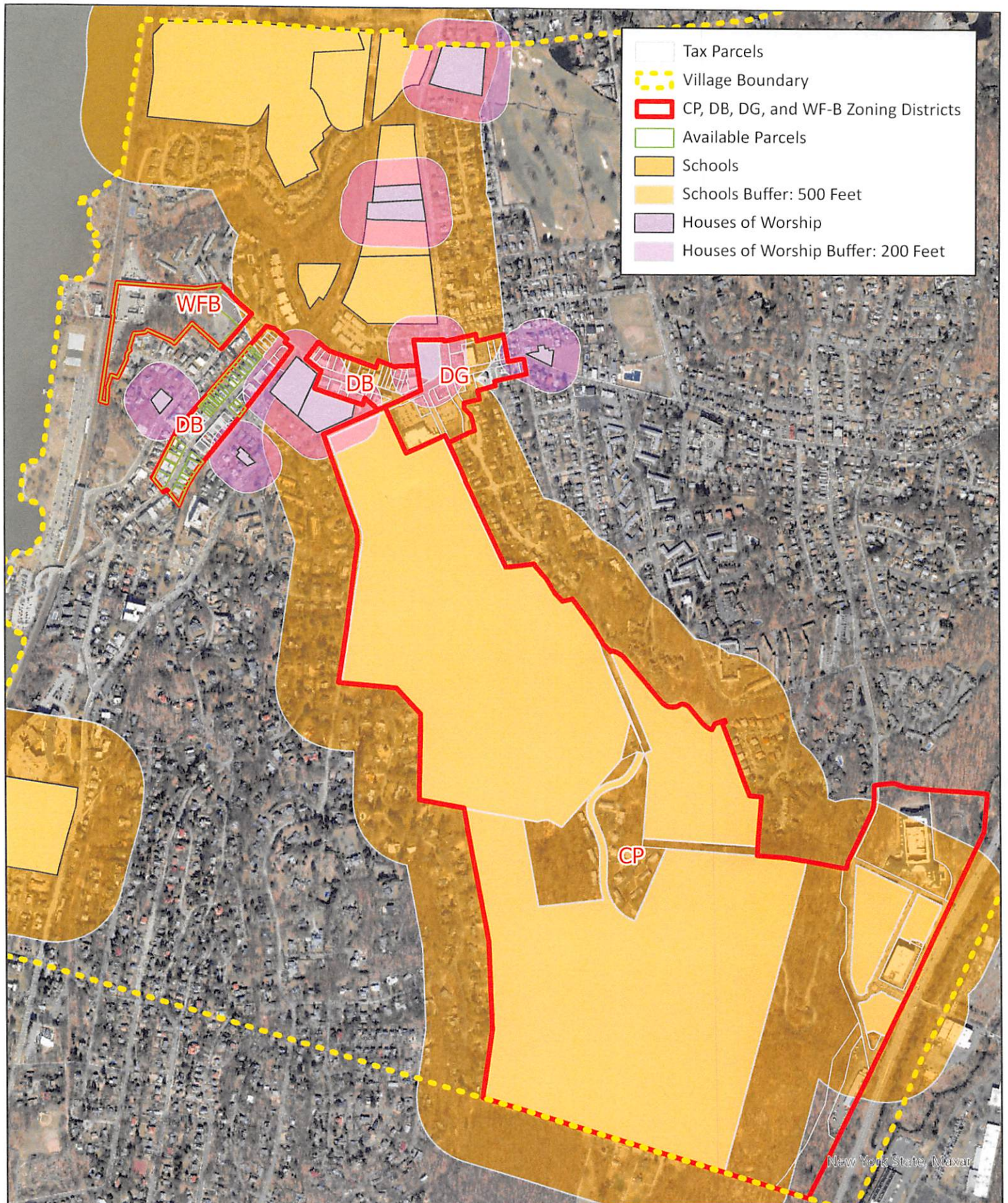
The attached maps highlight the properties for the potential location of dispensaries based on the restricts in **Table 1** and within the following commercial districts: the Downtown Business District (DB), Downtown Gateway District (DG), Waterfront District B (WF-B), and the Chauncey Park District (CP).

Distance requirements between cannabis retail.

When the Village Board last discussed potential regulations, the Board was considering implementing distance requirements between dispensaries to prevent oversaturation of the use. The current draft of the proposed local law does not include additional distance requirements. We would like to discuss this issue in more detail after the Board has a chance to review the maps provided.

Hours of operations

The Board may want to consider restricting the hours of operation. The current Office of Cannabis Management prevents the selling of cannabis products from 12:00 AM to 8:00 AM, unless given express written permission by a municipality, or the municipality passes a local ordinance, authorizing it to operate beyond such hours.



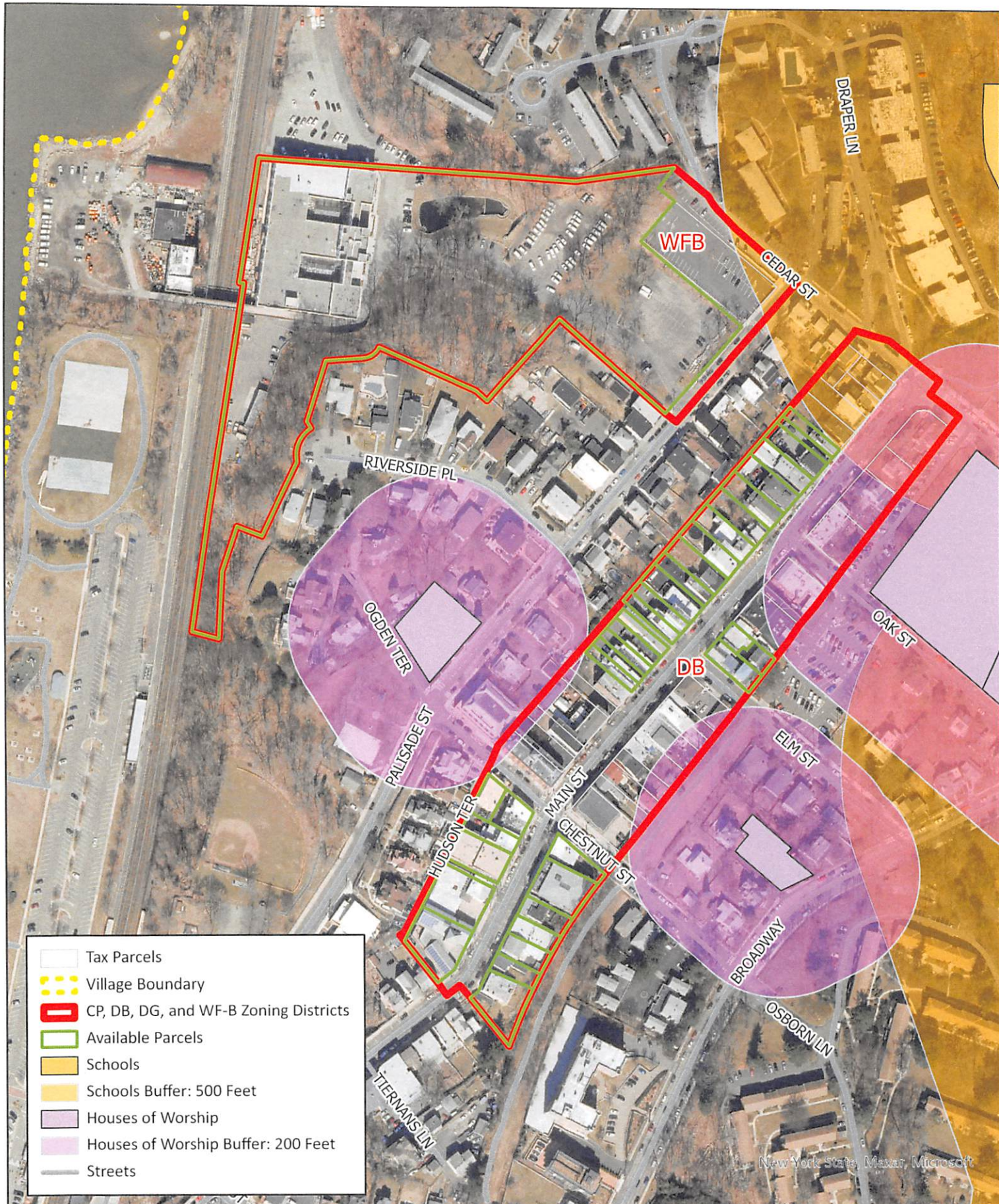
NPV

NYS Marijuana Regulation and Taxation Act Buffers from Schools and Places of Worship

Sources: Westchester County GIS, 2022
Scale: 1 inch equals 1,000 feet



**Village of Dobbs Ferry
New York**



NPV

NYS Marijuana Regulation and Taxation Act Buffers from Schools and Places of Worship

Sources: Westchester County GIS, 2022
Scale: 1 inch equals 250 feet



Village of Dobbs Ferry
New York

INTRODUCTORY LOCAL LAW

“AMENDMENTS TO THE DOBBS FERRY ZONING CODE TO ESTABLISH THE USE AND CRITERIA TO REGULATE ADULT-USE RETAIL CANNABIS DISPENSARIES IN THE VILLAGE OF DOBBS FERRY”

A LOCAL LAW to amend Chapter 300 “Zoning and Land Use” to permit retail cannabis dispensaries and cannabis and tobacco paraphernalia uses in certain zoning districts and in accordance to certain standards in the Village of Dobbs Ferry; to add several definitions to Chapter 300 Section 14 related to these uses; to amend the schedule of Use Tables to allow cannabis dispensaries and cannabis and tobacco paraphernalia shops in the DB, DG, WF-B and CP zoning districts; and to establish supplementary regulations and Special Use Permit standards to Chapter 300 Section 52 of the Village of Dobbs Ferry Zoning Code for cannabis dispensaries and cannabis and tobacco paraphernalia shops.

BE IT ENACTED by the Board of Trustees of the Village of Dobbs Ferry, as follows:

Section 1. Legislative Intent. The Village Board finds that the on-site consumption of cannabis in commercial establishments is not appropriate anywhere within the Village and retail sale of cannabis allowed pursuant to the Marihuana Regulation and Taxation Act (MRTA) of 2020 is only appropriate in certain areas of the Village, and only subject to certain controls regarding safety and lighting. Further the Board finds that an abundance of such uses located in close proximity to each other or in close proximity to shops selling paraphernalia associated with cannabis may have a deleterious effect on the character and reputation of the community.

The Village of Dobbs Ferry Board of Trustees further finds that an abundance of retail uses for the sale of Cannabis and/or Tobacco or paraphernalia intended to support the smoking or use of such products located in close proximity to each other may have a deleterious effect on the character and reputation of the community.

Section 2. Purpose. The Village of Dobbs Ferry Board of Trustees hereby finds that the purpose of this Local Law shall be as follows:

1. To provide for the inclusion of a defined use “Adult-Use Retail Cannabis Dispensary” in the Dobbs Ferry zoning regulations and establish appropriate standards and criteria as meets the needs of the residents, community and the public.

2. To establish minimum parameters for regulation of the siting, design, placement, safety, and modification of Adult-use Retail Cannabis Dispensaries

Section 3. The Village of Dobbs Ferry, Chapter 300 Section 14 is hereby amended to include the following definition to be incorporated in alphabetical order:

ADULT USE CANNABIS RETAIL DISPENSARY

An establishment for the acquisition, sale and delivery of cannabis to consumers in compliance with an Adult-use Retail Dispensary License duly licensed by the New York State Cannabis Control Board (CCB). An adult-use retail cannabis dispensary shall not include consumption of cannabis on-site, irrespective of the issuance of an adult-use on-site consumption license by the CCB. Where permitted under CCB licensure, an adult-use cannabis retail dispensary may also sell paraphernalia equipment and supplies intended to assist in the consumption of cannabis.

CANNABIS or CANNABIS-RELATED PRODUCT

Any product containing marijuana, THC or CBD in any form or as the term is defined by Chapter 7-A of the New York State Consolidated Laws or the New York State Marihuana Regulation and Taxation Act.

Section 4. Zoning Code Chapter 300, Appendix A: Permitted Use Tables, Table A-3: Special Zoning Districts, Commercial category, Retail sale and service sub-category, is hereby amended as follows:

KEY:

PP = Permitted

SP = Special Permit Required

N = Prohibited

PA = Permitted (Accessory)

Use Category	Use Type	WFA ¹	WFB	E1	CP
Commercial					
Retail sale and service	Adult Use Cannabis retail dispensary	N	SP	N	SP

¹ District Designations: Waterfront District A is denoted as WF-A; Waterfront District B is denoted as WF-B; Chauncey Park is denoted as CP; Educational/Institutional is denoted as EI.

Section 5. Zoning Code Chapter 300, Article XI is hereby amended to include the following Section 300-54(S) entitled “Adult Use Cannabis Retail Dispensary”:

§ 300-54(S). Supplementary Regulations Applying to Adult Use Cannabis Retail Dispensary Use.

A. Applicability.

1. Every applicant seeking to locate and operate an Adult Use Cannabis Retail Dispensary shall require approval for a Special Use Permit and Site Plan from the Planning Board for that use prior to commencing activities on-site. All procedural rules and reviews shall be governed by applicable sections of the Village of Dobbs Ferry Zoning Code, including, but not limited to Sections 300-52 and 300-53.

B. Permitted Zoning Districts for Adult-use Cannabis Retail Dispensary Use

Cannabis Retailer Dispensaries shall be permitted in the Downtown Business (DB), Downtown Gateway (DG), Waterfront B (WF-B) district or Chauncy Park (CP).

C. Special Use Permit Standards for Adult Use Retail Cannabis Dispensaries.

As part of any review by the Planning Board under this subsection, the following shall be submitted and/or considered by the Planning Board as part of its review of any Special Use Permit for Adult Use Cannabis Retail Dispensary:

1. An Adult Use Cannabis Retail Dispensary must be fully enclosed and shall be located within a permanent building and may not be located in a trailer, cargo container, motor vehicle or other similar non-permanent enclosure.
2. The Planning Board shall ensure that the site is designed so that there is a clear entrance into the facility visible from the parking area and the street.
3. No smoking or consumption of any product containing cannabis or cannabis-related products shall be permitted on the premises of a cannabis retail dispensary. No burning of any product containing cannabis or cannabis-related products shall be permitted on the premises of a cannabis retail dispensary.
4. Discrete signage shall be placed next to the entry of the facility and within the facility notifying consumers of the limitation.
5. No outside storage of cannabis or cannabis-related products, related supplies or promotional materials is permitted.

6. Hours of operation for these uses shall be set by the Planning Board in its complete and total discretion.
7. The parking area and entrance shall be well lit during operational hours and for up to ½ hour following facility closure. All proposed lighting must meet Section 300-41, Exterior Lighting.
8. As a part of any Special Use Permit application to the Planning Board, copies of all information submitted to the State of New York in application for a license to operate under the Marihuana Regulation and Taxation Act shall be submitted as part of the special permit application.
9. All Special Use Permits issued under this Subsection shall contain a condition that the use shall not operate, and the special use permit shall not be valid, until the applicant has obtained all licenses and permits issued by the State of New York and any of its agencies.
10. A revocation of the respective license by the State shall be grounds for revocation of the Special Use Permit.
11. A Special Use Permit granted under this Subsection shall have a term limited to the duration of the applicant's use of the premises as a licensed operator. A Special Use Permit may be transferred only with the approval of the Planning Board in the form of an amendment to the Special Use Permit.
12. Any violation of this Subsection shall be grounds for revocation of a Special Use Permit issued under this Subsection.

Section 6. Zoning Code Chapter 300, Appendix C: Parking Table, Retail sale and service sub-category, is hereby amended as follows:

Adult Use Cannabis retail dispensary: 1 space for each 1,000 square feet of net floor area

Section 6. Except as otherwise provided herein, all other provisions of Chapter 300 shall remain the same.

Section 7. Repeal. All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 8. Severance. The invalidity of any word, section clause paragraph, part or provision of this local law shall not affect the validity of any other part of this local law which can be given effect without such invalid part or parts.

Section 9. Effective Date. This Local Law shall take effect immediately upon filing with Secretary of State and shall be published and posted as required by NYS Village Law.



Introduction

The Cannabis Control Board (the Board) has the authority, pursuant to Section 85 of the Cannabis Law, to promulgate regulations governing licensed adult-use dispensaries. Once adopted and effective, the regulations will serve as the rules that all licensees must follow to remain compliant with the Cannabis Law. A copy of the final regulations will be available on the Office of Cannabis Management's (the Office) website.

In the interim, this guidance document serves to provide the framework that will assist Conditional Adult-Use Retail Dispensary licensees plan for how to operate their dispensary before regulations are formally adopted, pursuant to Title 9 Part 116 Section 7 of the New York, Codes, Rules and Regulations (9 NYCRR §116.7). Compliance with any current and future state rules, regulations, and laws is required by all licensees to remain in good standing with the Office. This guidance document provides clarity on what the Office's expectations are in relation to those regulations and laws currently in place and the regulations that will be promulgated in the future. Such future regulations are subject to change, consistent with the process pursuant to the State Administrative Procedures Act.

Adult-use cannabis licensees who are not in compliance risk their license being cancelled, suspended, or revoked or other enforcement actions being taken, as authorized by Cannabis Law and Title 9 of the New York, Codes, Rules and Regulations (9 NYCRR).

Key Recordkeeping Requirements

- Conditional Adult-Use Retail Dispensary (CAURD) applicants may be asked to submit the records and plans described in this guidance on the CAURD application and at the request of the Office. Failure to submit, or refusal to submit, required materials may subject CAURD applicants to denial or non-selection of the applicant for a CAURD license.
- CAURD licensees have an ongoing obligation to maintain up-to-date versions of all records and plans described in this document or submitted with their application. Licensees must submit such records to the Office upon request and have an ongoing obligation to disclose to the Office material changes in such records and plans. Licensees' noncompliance with requests for such information from the Office may be grounds for a penalty or the surrender, suspension, revocation, or non-renewal of the CAURD license.

1. Definitions. For purposes of this guidance, the following terms shall have the following meanings:

- **"Attractive to Individuals Under 21"** means labeling, packaging, advertising, and marketing that is pleasing or appealing to persons under the age of twenty-one by using or including, among other things:



- cartoons;
 - bubble-type or other cartoon-like font;
 - bright colors that are "neon" in appearance;
 - similarities to products or words that refer to products that are commonly associated with or marketed in a manner so as to be attractive to individuals under twenty-one, including but not limited to, any imitation of food, candy, soda, drinks, cookies, or cereal, in labeling, packaging, advertising, or marketing ((with the exception of cultivar names or the licensee's name, entity name, or doing business as name; this does not preclude retail dispensaries from offering permissible forms of cannabis products with compliant packaging));
 - terms "candy" or "candies" or variants in spelling such as "kandy" or "kandeez" (with the exception of cultivar names or the licensee's name, entity name, or doing business as name);
 - symbols, images, characters, public figures, phrases, toys, or games that are commonly used to market products to individuals under the age of twenty-one; or
 - images of individuals who could reasonably appear to be under the age of twenty-one.
- **"Brand" or "Branding"** means the name, entity name, or doing business as name, registered trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other identifiable marker that identifies one adult-use cannabis licensee or adult-use cannabis licensee's cannabis products as distinct from those cannabis products of other adult-use cannabis licensees and is used in, among other things, any packaging, labeling, marketing or advertising.
 - **"Community facility"** means a facility that may include, but not be limited to, a facility that provides day care to children; a public park; a playground; a public swimming pool; a library; or a center of facility where the primary purpose of which is to provide recreational opportunities or services to children or adolescents. A municipality may issue a local ordinance regarding community facilities that are neither discriminatory nor unreasonably impracticable.
 - **"Customer"** means "cannabis consumer" as defined in Article 1 of the Cannabis Law.
 - **"Exit package"** means the receptacle into which cannabis products within a retail package are placed at the retail point of sale. The exit package is optional.

2. **Branding.** Licensees may operate under a "doing business as" name.

Licensees cannot misrepresent their business as a medical cannabis dispensary. Branding cannot describe the type of service or class of products sold by the dispensary



using the terms “drug”, “drug store”, “medicine”, “apothecary”, “doctor”, or “pharmacy.” This includes similar terms like “pharma-” or “medi-” and terms not included on the list that have the same meaning as the terms on the list. This prohibition includes medical cannabis dispensaries that may be authorized to sell adult-use cannabis, except branding that appears on medical cannabis products at such premises and branding that is only intended to be seen by patients in patient-only areas of the premises. Licensees are also prohibited for representing their business as producing or selling “organic” or “craft” products, until such definition is authorized by the Office.

Licensees cannot appeal to individuals under twenty-one in their marketing or advertising, including their branding. Branding cannot use images, fonts, colors, or messages that would be attractive to individuals under twenty-one, as defined in this guidance. Licensees should refer to the [Packaging, Labeling, Marketing, and Advertising Guidance](#) for additional information.

- 3. Staffing.** Licensees must designate an Employee in Charge who is twenty-one (21) years of age or older, responsible for managing the core day-to-day function of the dispensary. This is the person responsible for submitting required reports and notifications to the Office. An individual cannot be the Employee in Charge of more than one dispensary at a time.

The Employee in Charge must maintain the dispensary’s staffing plan and update the plan within five business days of any change in an individual’s employment status. The staffing plan should, at minimum, include the name, contact information, and age of all workers involved in activities related to the sale of cannabis products.

A licensee cannot hire anyone under the age of eighteen (18) and only workers who are at least twenty-one years of age can have direct interactions with customers inside the dispensary, transport cannabis products in any way, or be involved in any delivery operations. Workers that do not fulfill such customer-facing roles must be at least eighteen years of age.

- 4. Training, Health, and Safety.** Licensees are responsible for the actions of their workers and are responsible for ensuring their workers possess the education and training required to do their jobs. Licensees must provide adequate supervision of staff, including trainees, by persons familiar with operating procedures.

Training Manual. Licensees must maintain a written training manual. The training manual must be available to all workers, and it must include, at a minimum:

- Worker guidelines and security, operating, and safety procedures, including, but not limited to:
 - daily opening and closing procedures;



- security, customer admittance, and customer traffic-control procedures;
- ordering and point of sale procedures;
- delivery service procedures (*if the licensee delivers to customers*);
- product inventory intake procedures;
- product return and disposal procedures;
- emergency procedures; and
- an explanation of how workers will monitor for and prevent sales to customers where there is a risk to health or safety, underage or illegal sales of cannabis products, or any other criminal activity within the licensed premises;
- Information about all types of cannabis products the dispensary sells or plans to sell, including, but not limited to:
 - Product types;
 - Serving size;
 - Onset and duration of effects, if applicable;
 - Method of administration;
 - Warnings for use; and
 - Tips for secure storage and proper disposal;
- Customer privacy and confidentiality requirements; and
- Alcohol-free, drug-free, and smoke-free workplace policies

Required Training. Licensees must ensure that all workers are trained in compliance with the training manual, including the minimum curriculum below or any worker certification program authorized by the Board. The Employee in Charge must maintain signed and dated records that all workers have been trained within thirty days of their hiring. Records must include the name and hire date of each employee (with a list of all trainings received by that employee) and a copy of any training materials used other than the training manual.

Trainings must occur during a worker's normal work hours and workers must be compensated their normal rate of pay while completing required trainings. Training does not need to be completed in one session or one day. Training does not need to be conducted by the licensee; licensees are permitted to utilize a third-party trainer to conduct some or all of the required training.

Required training must include the following minimum curriculum:

- History of cannabis use, prohibition, legalization;
- Ensuring safe use of cannabis, including, but not limited to:
 - Cannabis physical effects on the human body;
 - Advice for recognizing signs of impairment;
 - Appropriate responses in the event of overconsumption;
 - Safer storage of cannabis products;
 - Explanation of required text on cannabis product labeling;



- Risks of cannabis use and over-use, including cannabis use disorder dependency;
 - Risks of operating any vehicle (including watercraft) under the influence;
 - Explanation of consumer education materials; and
 - Overview of marketing and advertising prohibitions;
- Prevention of sales to individuals under twenty-one, including, but not limited to:
 - How to check customer photo identification;
 - Spotting fraudulent identification; and
 - Provisions for safely confiscating fraudulent identification;
- Security and surveillance of licensed premises;
- Emergency procedures;
- Compliance with, and operation of, inventory tracking systems;
- Relevant state and federal laws or regulations;
- Permitted investigations or inspections of the premises;
- License suspension, revocation and renewal;
- Civil and criminal penalties;
- Cannabis product waste disposal; and
- Practices for maintaining customer privacy and confidentiality.

Licensees must ensure that all workers have access to hand washing and toilet facilities on the licensed premises and must maintain such facilities in clean and sanitary condition, maintaining records of regular cleaning and sanitizing of such facilities. All personnel shall handle cannabis products in a sanitary manner, maintain adequate personal cleanliness, and wash and sanitize hands thoroughly in an adequate hand-washing area before starting work, after each visit to a restroom, after handling contaminated material, eating, or at any other time when hands may have become soiled or contaminated.

5. Hours of Operation. Licensees may only be available to sell cannabis products, including through delivery, during their hours of operation. Municipalities are authorized to pass local laws and regulations governing the time, place, and manner, including the hours of operation for adult-use retail dispensary, which:

- Shall not be allowed to operate from 12:00 AM to 8:00 AM, unless given express written permission by such municipality, or the municipality passes a local ordinance, authorizing it to operate beyond such hours; and
- Shall not restrict operations to less than 70 hours a week provided however, this provision shall not be construed as removing the licensees' discretion to operate for less hours of operation.



This does not prohibit licensees from allowing customers to place orders, such as through an online website or application, or accepting payment for those orders outside of the licensee's hours of operation but does prohibit licensees from providing the customer with any cannabis products they have ordered (including through delivery) until the licensee's hours of operation begin.

6. Customer Age. Dispensary workers must inspect a customer's identification before that customer can purchase cannabis or cannabis products. As explained in the **Delivery to Customers** section of this guidance, additional identification inspections may be necessary to complete delivery transactions.

Valid identification for the purpose of determining a customer's age includes:

- a valid federal, state, or local government identification, including IDNYC, stating the customer's age and a photograph of the individual's face;
- a valid driver's license or non-driver identification card issued by the 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;
- a valid passport issued by the United States government or any other country; or
- an identification card issued by the armed forces of the United States.

Adult-use cannabis products **cannot** be sold to individuals under twenty-one years of age. Workers are not required to decline a sale to an individual who is at least twenty-one solely because they are accompanied by an individual under twenty-one years of age. However, if a worker believes, based on the information available to them, that the sale would create a risk of diversion of cannabis products to an individual under twenty-one years of age, they must decline such sale.

7. Purchase of Cannabis Products. Licensees are only authorized to purchase cannabis products from licensees authorized for distribution¹. Licensees authorized for distribution (referred to herein as distributors) must sell cannabis products to any adult-use retail dispensary licensee willing to pay cash². The Office reserves the right to investigate any sources of payment made by a dispensary to a distributor.

¹ At this time, only Adult-Use Conditional Cultivators and Adult-Use Conditional Processors are authorized for distribution, and Adult-Use Conditional Cultivators may only distribute cannabis flower products, such as whole flower, ground flower, or pre-rolls.

² For purposes of this section, "Cash" means U.S. currency, certified check, money order, electronic funds transfer, bank officer's check or draft, or a check drawn on the licensee's account payable to the distributor. Checks cannot be from third parties. Checks drawn on retail dispensaries' accounts cannot be post-dated. Distributors do not have to accept checks drawn on retailer's accounts.



Distributors may, but are not required to, allow licensees to pay on credit. All agreements to purchase cannabis on credit must be reported to the Office with the terms of payment and credit. Licensees that purchase cannabis products on credit have 90 days to pay for that purchase. Distributors must report licensees to the Office who are delinquent in payment³. The Office reserves the right to invalidate agreements that it deems commercially unreasonable or where discriminatory pricing practices are suspected, and all licensees shall comply with future rules and regulations related to acceptable terms of credit.

For purposes of contesting and validating such claims in dispute before the Office, licensees must keep dated records of all accounts payable and payments made and provide such records upon request by the Office within 48 hours, unless a period of time longer than 48 hours is permitted by the Office in writing.

8. Inventory. Licensees may only offer for sale:

- cannabis products obtained from a distributor;
- cannabinoid hemp products (if licensed to do so);
- cannabis paraphernalia;
- stationary, gifts, and other minor incidentals⁴;
- branded merchandise and apparel containing the licensee's brand, including jewelry and accessories (in adult sizes only); and
- other items as approved by the Office.

Licensees cannot sell apparel or merchandise, including jewelry or other accessories, that reference a specific cannabis product brand other than the licensee's.

9. Inventory Tracking System. Licensees must use an inventory tracking system capable of compiling the dispensary's cannabis product inventory, transaction data, and tax liability. That system must be compatible and capable of reporting real-time data to the Office.

Licensees must:

- accurately record all inventory in the inventory tracking system;
- maintain, real-time, at a minimum, the following information, in the inventory tracking system:

³ The Office will maintain a list of all licensees delinquent in paying for cannabis products purchased on credit from distributors. Distributors cannot sell on credit to any retailer on the delinquent payment list.

⁴ Objects sold may depict cannabis or otherwise reference cannabis, provided they do not reference a specific cannabis product or brand

- batch and/or lot unique identifiers for cannabis products that will track each cannabis product sold by the dispensary back to the source of cultivation and processing in the event of a recall;
 - a complete cannabis product inventory, as well as inventory adjustments from sale, disposal, product return, or any other activity;
 - any other information as determined by the Office;
- utilize an inventory tracking system that is capable of integrating with the Office's seed-to-sale tracking system of record in a form and manner⁵ determined by the Office;
- utilize a standard of measurement, as defined by the Office, that is supported by the inventory tracking system to track all cannabis product;
- track, at a minimum, the following data elements for each activity (transaction, quarantine, disposal, etc.) performed with cannabis products;
 - type of cannabis products;
 - weight, volume, or count of the cannabis products;
 - date of activity;
 - lot unique identifier assigned to the cannabis products;
 - identification of the worker performing the action in the inventory tracking system;
 - type of activity being performed; and
 - any other information as determined by the Office;
- review the licensee's authorized users on a regular basis and remove any users who are no longer authorized to enter information into the inventory tracking system.

Loss of System Access. If at any point a licensee loses access to the inventory tracking system for any reason, the licensee must keep and maintain comprehensive records detailing all inventory tracking activities that were conducted during the loss of access, including customer transactions. A licensee cannot initiate transport for, receive, transfer or deliver any cannabis products to another licensed entity until access is restored. Licensees are not required to continue sales to customers during a loss of system access, but if sales may safely continue during such loss, then the licensee may choose to do so. Licensees that continue sales during a loss of system access must have a process in place to continue to provide receipts to customers during a loss of system access if the licensee wishes to continue sales during such loss.

Once access is restored, a licensee must document, at a minimum, the date and time when access to the system was lost; the date and time when access to the system was restored; and the cause for loss of access.

⁵ The Office will provide additional information on the form and manner of integration at a later date.

Within three calendar days of access being restored, all licensed cannabis activity that occurred during the loss of access must be entered into the inventory tracking system unless otherwise approved by the Office.

Initial Inventory. A licensee shall conduct an initial comprehensive inventory of all cannabis product in the possession of the licensee at the authorized premises on the date the cannabis licensee first engages in the sale of cannabis products to customers.

- Inventory shall include damaged, defective, expired, or adulterated cannabis products awaiting disposal, including the name, the quantity, and the reasons for which the licensee is maintaining the cannabis product.
- The initial comprehensive inventory shall be reported to the Office utilizing the inventory tracking system.
- Licensees shall establish inventory controls and procedures and conduct comprehensive inventories of cannabis products which shall include the following:
 - Maintaining real-time inventory tracking;
 - Conducting a monthly inventory audit of all cannabis products; and
 - For each audit, recording at a minimum, the following, in the inventory tracking system;
 - name(s) and signature(s) of worker(s) who conducted the inventory audit;
 - date of the inventory audit;
 - summary of inventory findings; and
 - any other information as determined by the Office.
- A licensee, upon becoming aware of discrepancies identified during an inventory audit, shall notify the Office no later than twenty-four hours after discovery of the event in a manner prescribed by the Office.

10. Product Display Samples. Licensees may display cannabis product samples and make these samples available to customers for inspection. Customers cannot consume the samples or take them out of the dispensary, but may smell or otherwise inspect the samples. Display samples must be handled in a sanitary and secure manner at all times. When they are not being inspected by customers, samples can be displayed in a case or kept elsewhere on the premises, but they must be kept in a secure, locked place.

- 11. Menus and Prices.** Licensees must clearly designate the price of all items for sale. Licensees are required to clearly communicate the price of all items to customers, whether provided in-person, online or over the phone.

Any items that are displayed for sale in the interior of the dispensary must have a price tag, sign, or placard stating the item's price and total cost (including tax). Licensees are not required to make a "menu" available to customers inside the dispensary, but any menus – including those posted online – must include the price and total cost (including tax) of each item for sale.

Licensees cannot give away, including through donation, any cannabis products. Licensees cannot advertise giveaways, discounts, price reductions, points-based reward systems, or customer loyalty programs including, but not limited to, by using the words "sale", "free", "price drop", or "discount" on a menu, in any communications to customers, or elsewhere. This does not prohibit licensees from changing the price of cannabis products or otherwise "discounting" products.

- 12. Customer Transactions.** All customer transactions, regardless of whether they occur in-store, at a drive-thru window or area, or through delivery, must be completed by the licensee's employees or a person authorized to complete such transactions as approved by the Board. Licensees cannot allow individuals not employed by the licensee, or any entity that is not the licensee, to fulfill customer orders. Licensees cannot fill pre-orders that are placed on websites that are not registered to the licensee. Prohibited arrangements include, but are not limited to, licensees utilizing third-party entities to solicit, accept, or deliver customer orders.

All customer transactions, regardless of whether they occur in-store, at a drive-thru window or area, or through delivery, must result in an entry in the licensee's inventory tracking system. This entry must include, at a minimum:

- Each item sold and that item's:
 - Price;
 - Amount of tax due, including a separate delineation for each tax imposed on adult-use cannabis pursuant to Article 20-C of Tax Law (*if a cannabis product*);
 - Quantity sold in that transaction; and
 - Form of the product (*if a cannabis product*);
- Worker completing the transaction;
- Device used to complete the transaction;
- Transaction's unique identifier; and
- Date and time of the transaction.



Customers must be offered a receipt after each transaction. This receipt can be physical or digital, but must include the:

- Name, address, and license number of the dispensary;
- Date and time of sale;
- Form and quantity of cannabis products and any other items sold;
- Worker completing the transaction; and
- Amount of tax due, including a separate delineation for each tax imposed on adult-use cannabis products pursuant to Article 20-C of Tax Law.

A licensee **cannot** retain a customer's personal information for marketing and advertising purposes unless a customer consents to the information being retained for this reason.

After the transaction, the products may be placed into an exit package for the customer. An exit package is not required, and customers may provide their own exit package, such as a reusable bag or backpack. If the licensee provides an exit package, it may only contain the licensee's brand name and logo. Selling messages, mottos, and other brand markers (besides the brand name and logo) are not allowed on the exit package.

13. Consumer Education. Licensees must post or provide consumer education materials to be available to consumers, as made available by the Office. Consumer education materials may take any form and must have a primary purpose of educating consumers about safer consumption of cannabis products. If the materials make specific claims about cannabis products or studies, then these claims must clearly cite their sources.

14. Drive-thru Window/Pick-up Lane. All retail dispensaries must be in a physical brick-and-mortar store. In addition to services offered inside of the store, licensees may operate a drive-thru service window and/or drive-thru pre-order customer pick-up lane but must have written approval⁶ from the Office before such operation may begin. A drive-thru service window is an area of the premises where customers can consult with dispensary workers and complete transactions without entering the store. A drive-thru pre-order customer pick-up lane is an area of the premises where customers can pick-up orders placed in advance without entering the store.

Licensees can allow customers to enter a drive-thru service window or drive-thru pick-up lane in any form of transportation, including on foot, but the licensee must ensure customer safety in all drive-thru areas.

⁶ The Office will provide a form to be completed by licensees who wish to operate a drive-thru service window or drive-thru pick-up window.



In addition to any drive-thru windows or pick-up lanes outside of the store, licensees can establish express lanes inside the store for customers who have placed orders for pick-up. Such areas must be clearly defined on a site plan, but operating these in-store pick-up areas does not require written approval from the Office.

- 15. Delivery to Customers.** All retail dispensaries must be in a physical brick-and-mortar store. In addition to services offered inside of the store, licensees may provide delivery services if the training manual includes written procedures for how workers will provide delivery service. No more than twenty-five employees (or the full-time equivalent thereof) may provide delivery services for the licensee per week.

Customers must pay for delivery orders directly. A dispensary employee cannot first purchase the cannabis product and then be reimbursed by the customer. Unless ordering in-person, the customer must attest when placing their order that the individual ordering is twenty-one years of age or older. If the individual placing the order will not be the individual accepting the order, the individual placing the order must also attest that the individual accepting the order is over twenty-one years of age.

Before providing the cannabis product to the customer, the employee completing the delivery must verify the identity and the age of the individual accepting the order at the point of delivery or curb-side pick-up by viewing a document described in the **Customer Age** section above.

The identity of the individual who placed the order and, if applicable, the individual who accepted the order must be recorded in the licensees' point-of-sale system.

- 16. Means of Transport and Delivery.** The licensee must own (including possession through a lease) any motorized or unmotorized vehicle it uses for any transport of cannabis products. Unless another method is approved by the Office, only ground transport (such as a car, van, bike, foot, etc.) can be used for delivery.

The transportation used for all transport of cannabis products must:

- Bear no signs, markings, advertisements or marketing that would identify or indicate that the transportation is used to transport cannabis products;
- If necessary, based on the distance and weather conditions of the transport, have temperature controls to prevent the cannabis products from deteriorating during transport;
- Secure the cannabis products in a fully enclosed and locked box, bag, cage, or other container;
- Only contain cannabis products that are on the shipping manifest for that transport; and

- Have an operating GPS system which can identify the delivery personnel's location at any time to the licensee and, if requested, the Office.

17. Transport and Delivery Records. Each time cannabis products are transported, including when cannabis products are being delivered to customers, licensees must maintain a shipping manifest and invoice for all cannabis products being transported. The worker that is transporting the cannabis products must carry verifiable proof⁷ that they work for the licensee at all times during the transport.

For Distributor to Retailer Transactions: Prior to the transport, the shipping manifest must be transmitted to the Office via the inventory tracking system and to the recipient of the transport. If multiple deliveries are being made in a single transport, the licensee must split the shipping manifest sent to the recipient of the transport such that the recipient of each delivery only receives information applicable to their delivery. The shipping manifest must include:

- the name, physical address, and license or permit number of the originating Licensee;
- the name, physical address, and license number, if applicable, of the receiving party;
- the unique identification numbers for all cannabis products being transported;
- the cannabis product name, item category and weight or count of cannabis products associated with each package tag;
- the estimated date and time of departure from the licensed premises;
- the estimated date and time of arrival at each licensed premises or the consumer's address; and
- the driver's license number of the worker transporting the cannabis products, if motorized transportation is being conducted by the licensee producing the shipping manifest;
- the make, model, and license plate number of the transportation, if motorized transportation is being conducted by the licensee producing the shipping manifest; and
- any other information as determined by the Office.

For Retailer to Consumer Transactions: When cannabis product is delivered to a customer, the licensee must provide an invoice to the customer after completing the transport. At a minimum, the invoice must include:

- the name, location, address and license number of the licensee's facility;
- the name and address of the customer;

⁷ An example of such verifiable proof would be an employee ID badge that had a unique identifier that could be used by the licensee to verify the badge as authentic.

- the name and quantity of each item to be delivered to each customer;
- the name and signature of the customer and each worker performing or accompanying the delivery of the cannabis products;
- any other information as determined by the Office.

If the invoice also includes all information required to be on a receipt in the **Customer Transactions** section above, then the invoice can also be the customer's receipt.

- 18. Storage of Cannabis Products.** Customers cannot have direct access to cannabis products while shopping unless inspecting samples with the assistance of authorized dispensary staff. Products may be displayed to customers only if locked behind a counter or other barrier. Licensees may utilize product displays or other branded elements to advertise the product within such locked counters or barriers, even if these elements are provided by another licensee. However, such product displays or other branded elements must comply with all restrictions on marketing and advertising. Products not intended for display should be secured in an area that is only accessible to authorized workers and not visible to customers. Any counters, cases, safes, rooms, or other areas of the premises containing cannabis products (such as keys, passwords, or combination numbers), must not be accessible to customers or to workers who are not authorized to access such products.
- 19. Cleaning and Sanitizing.** The licensee is responsible for the upkeep and maintenance of all facilities, containers, tools, contact surfaces, and equipment used in the sale of cannabis products. Cleaning and sanitizing shall be performed as frequently as necessary to maintain all facilities, areas, containers, tools, contact surfaces, and equipment in a clean and sanitary condition using a sanitizing agent registered by the U.S. Environmental Protection Agency (EPA) in accordance with labeled instructions.
- 20. Security Measures.** Licensees must implement sufficient security measures to deter diversion, theft or loss of cannabis and cannabis products, theft or loss of cash, prevent unauthorized entrance into areas containing cannabis or cannabis products, and to ensure the safety of the licensee's workers and the general public. Licensees are permitted to hire armed service providers as part of their security measures, if they wish.

The licensee must take the following specific security measures:

- implementing and maintaining a security plan. A security plan must include, at a minimum, a description of the measures a licensee will undertake to:

- prevent unauthorized access to the licensed premises by unauthorized persons and protect the physical safety of all individuals on the premises;
- deter theft or loss of cannabis products;
- prevent loitering and ensure that only individuals engaging in activity expressly or by necessary implication permitted by the Cannabis Law are allowed to remain on the premises of the licensee;
- lock all perimeter doors and windows; and
- provide for safe cash storage and handling, and transportation of cash to financial institutions;
- securing all entrances to the licensed facility to prevent unauthorized access;
- ensuring that both the inside, and the outside perimeter of the licensed facility are sufficiently illuminated to facilitate surveillance;
- maintaining trees, bushes and other foliage outside of the licensed premises so as to prevent a person from concealing themselves from sight.
- any other requirements as determined by the Office.

21. Security System. Licensees are required to have a security system at the dispensary that utilizes commercial grade equipment to prevent and detect diversion, theft, or loss. The system, at a minimum, must include:

- A perimeter alarm that communicates with an internal designee and a third-party commercial central monitoring station when intrusion is detected;
- Video camera surveillance in all areas that may contain cannabis products, all surveillance areas or rooms and at all points of entry and exit, and in any parking lot, which shall be appropriate for the normal lighting conditions of the area under surveillance. Video camera surveillance shall meet the following additional requirements:
 - video cameras shall be directed at all safes, vaults, sales areas, and any other areas where cannabis products are stored, handled, transferred or sold and for the purpose of securing cash;
 - video cameras shall be positioned at entry and exit points, and at each point-of-sale area, to allow for the capture of clear and certain identification of any person entering or exiting the facility or at the point-of-sale;
 - video cameras shall have the ability to immediately produce a clear color still photo from any camera image (live or recorded);
 - video recordings shall allow for the exporting of still images in an industry standard image format (including .jpeg, .bmp, and .gif). Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability

- to be saved in an industry standard file format that can be played on a standard computer operating system;
- video cameras shall include a date and time stamp embedded on all recordings. The date and time shall be synchronized and set correctly, measured in accordance with the U.S. National Institute Standards and Technology standards and shall not significantly obscure the picture;
- video cameras shall produce continuous recordings during hours of operation and at any time that cannabis products are handled, and motion activated recordings at all other times;
- For all video cameras, the licensee shall make available via remote access or login credentials for immediate viewing by the Office or the Office's authorized representative upon request. All recordings shall be retained for at least 60 days;
- licensees shall make an unaltered copy of video camera recording(s) to the Office upon request;
- if a licensee is aware of a pending criminal, civil or administrative investigation or legal proceeding for which a recording may contain relevant information, the licensee shall retain an unaltered copy of the recording until the investigation or proceeding is closed or the entity conducting the investigation or proceeding notifies the licensee that it is not necessary to retain the recording, but in no event for less than 60 days;
- the physical media or storage device on which surveillance recordings are stored shall be secured in a manner to protect the recording from tampering or theft;
- a failure notification system that provides an audible, text or visual notification of any failure in the security system. The failure notification system shall provide an alert to the licensee's designated representative(s) within five minutes of the failure, either by telephone, email, or text message;
- the ability for the security alarms and video surveillance system to remain operational during a power outage for a minimum of eight hours;
- limiting access to any surveillance areas and keeping all on-site surveillance rooms locked. A licensee shall make available to the Office or the Office's authorized representative, upon request, a current list of all individuals who have access to any surveillance room or equipment;
- keeping all locks, storage and security equipment in full operating order and shall test and inspect such equipment at regular intervals, not to exceed 30 calendar days from the previous inspection and test. Records of security tests must be maintained for five years and made available to the Office upon request.



22. Site Plan/Site Layout. A licensee shall document, implement and maintain a site plan, which must be submitted to the Office in a manner and format determined by the Office⁸ consisting of the following information:

- Location of the licensed premises;
- activities performed in each area of the licensed premises;
- details of all parcel boundaries including but not limited to physical boundaries, roads, and water crossings of the property;
- location of sanitary facilities;
- perimeter dimensions;
- entrances and exits to both the property and premises (including emergency exits); and
- documentation that the dispensary meets the requirements placed on its location in the **Location of Licensed Premises** section below.

A licensee's Employee in Charge should ensure that the site plan stays up-to-date. Any changes to a licensee's site plan that do not require prior Office approval, shall be submitted to the Office within 10 days of such change. The Office may request to see a licensee's site plan at any time.

23. Location of Licensed Premises. Certain retail dispensary licensees may be permitted to select the location of the licensed premises or relocate the location of the licensed premises. The location of the licensed premises must be approved by the Office as part of the dispensary's site plan (described above) and comply with any local zoning ordinances.

The licensed premises of the dispensary will only be approved if the dispensary is in a location consistent with public convenience and advantage standards, as determined by the Board. Factors that influence an approval decision include:

- classes, and character of other licenses in proximity to the location and in the particular municipality or subdivision thereof;
- evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies;
- whether there is a demonstrated need for such license;
- effect of the grant of the license on pedestrian or vehicular traffic, and parking, in proximity to the location;
- the existing noise level at the location and any increase in noise level that would be generated by the proposed premises; and

⁸ Selected CAURD applicants eligible under the qualifying nonprofit criteria will be asked to submit this plan during Part 2 of the application.

- 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.

An adult-use retail dispensary must be located in a store, the principal entrance to which shall be from the street level and located on a public thoroughfare in premises which may be occupied, operated or conducted for business, trade or industry.

In addition to these standards, the licensed premises of the dispensary cannot be near a schoolground or place of worship as stated in the Cannabis Law or community facility.

Proximity to School Grounds. A dispensary cannot be on the same road and within 500 feet of school grounds, as defined in Section 409(2) of the New York State Education Law or a community facility. This measurement will be taken in a straight line from the nearest point of the school grounds to the center of the nearest entrance⁹ of the premises that the licensee wishes to locate the dispensary at. Only entrances that are regularly used to give ingress to patrons of the establishment will be used to determine distance. Emergency or fire exits, maintenance access, or doors to non-public areas of the premises will not be considered in this measurement.

- If the entrance being used for the measurement is set back from the sidewalk by a walkway or doorway, the center of the line where the walkway or doorway meets the sidewalk is used for the measurement.
- If the premises is a multi-story building, the building entrance at street level is used.
- If school grounds or the establishment are situated on a corner lot, the school grounds/establishment are considered to be on both streets of the intersection, whether or not there is an entrance to the building on both streets.

Proximity to houses of worship. A dispensary cannot be on the same street or avenue⁴ and within 200 feet of a building occupied exclusively as a house of worship. This measurement will be taken in a straight line from the center of the nearest entrance to the building used for the house of worship to the center of the nearest entrance of the premises that the licensee wishes to locate the dispensary at. Emergency or fire exits, maintenance access, or doors to non-public areas of the premises will not be considered in this measurement.

⁹ For the purpose of measurements between a school ground or place of worship and the premises in question, "entrance" means a door of a school, of a place of worship, or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, and to patrons or guests of the premises proposed to be licensed, except that where a school or place of worship is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. "Entrance" does not mean a door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons.

- If the entrance being used for the measurement is set back from the sidewalk by a walkway or doorway, the center of the line where the walkway or doorway meets the sidewalk is used for the measurement.
- If the premises is a multi-story building, the building entrance at street level is used.
- If the house of worship or the establishment are situated on a corner lot, the house of worship/establishment are considered to be on both streets of the intersection, whether or not there is an entrance to the building on both streets.

A house of worship does not need to exclusively be used for religious services to be considered a house of worship. A house of worship will still be considered a house of worship if:

- it is used for games or performances that raise funds for a nonprofit organization;
- it is used by multiple religious groups;
- it is used for public or private social activities by, or for the benefit of, congregants;
- it is used for meetings held by organizations or groups that provide bereavement counseling or provide advice or support for conditions or diseases;
- it is used for blood drives, health screenings, health information meetings, yoga classes, exercise classes, or other activities that promote the health of its congregants;
- it is used by members of the community that are not congregants for private social functions.

24. Notification to Municipalities. Before being issued a license, applicants must follow the local notification procedure pursuant to Cannabis Law. The procedure and form for making this notification will be made available by the Office and updated information will be provided in this guidance. Applicants should not make this notification until the procedure for doing so has been outlined by the Office.

25. Store Interior. Licensees must post inside the store, in a manner to ensure the information is plainly visible to all customers:

- The licensee's retail dispensary license;
- Hours of operation;
- Notification that "Consuming cannabis is not allowed on this premises.";
- Notification that "Cannabis can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of cannabis.";
- Notification that "Using cannabis, in any form, while you are pregnant or chest/breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of cannabis use during pregnancy or while chest/breastfeeding."; and

- Notification, in **bold** and including capital letters as indicated, that “**Adult-use cannabis products are for use only by persons 21 years and older. KEEP OUT OF REACH OF CHILDREN AND PETS.**”

Licensees must ensure that the interior of the store is kept in an orderly manner, even during periods of heavy customer traffic. This may require licensees to utilize a line with stanchions, pre-orders, an appointment schedule, a pick-up lane, or other traffic control methods.

26. Store Exterior and Outdoor Areas. Licensees cannot have more than two signs outside of the store¹⁰. Exterior signs must be on the same parcel as the store and affixed to a building or permanent structure (such as a signpost). Exterior signs cannot be larger than necessary to reasonably display the information on the sign to individuals within or near the licensed premises and cannot be illuminated by neon lights. Signs **cannot** include a licensee’s logo, symbol, branded colors or any images, including, but not limited to, depicting cannabis, cannabis products, or the imagery or action of smoking or vaping. Signs cannot include mottos, selling messages, or any other non-essential text. Signs outside of the store can only, at a maximum, include text that is the licensee’s:

- Business or trade name;
- Location and contact information; and
- Business type (i.e. “adult-use cannabis dispensary” or similar phrase. This cannot be the licensee’s selling message or motto).

Licensees must ensure that no cannabis products are displayed in an area that is visible from outside the store and that no advertisement, unless it is a permitted outdoor sign, can be seen from a school ground (as defined in Education Law), childcare center, playground, public park, or library.

Licensees must ensure that customers do not impact the ability of individuals to utilize the public thoroughfare on which the premises is located, even during periods of heavy customer traffic. This may require licensees to utilize a line with stanchions, pre-orders, an appointment schedule, a drive-thru pick-up lane (if the licensee has written approval to do so), or other traffic control methods. Under no circumstances is the use of cannabis products to be permitted anywhere on the premises inside or outside of the store.

¹⁰ This may include signs that are indoors depending on the nature of the premises. For example, if the dedicated entrance to the dispensary is within an indoor mall, then signs outside of the store, but within the mall, would count towards this limit, even though the signs would not be outdoors.



Licensees must also comply with local ordinances and rules related to odors, noises, parking, and other nuisances not preempted by Office regulations or determined to be unreasonably impracticable by the Board.

27. Marketing and Advertising. Licensees must comply with all marketing and advertising standards as set in regulation by the Board or in guidance from the Office.

28. Quarantine/Remediations/Recalls/Returns. A licensee shall establish written policies and procedures to monitor and track all quality assurance concerns and complaints from licensees and customers, including, but not limited to, procedures for rapid notification to the licensees' supply and distribution chain to recall any cannabis product when directed by the Office, or as deemed necessary by the licensee. Such procedures must include notification to the Office with 24 hours of learning of a serious adverse event, quality assurance concern or initialing a recall.

Implemented written procedures for recalling a cannabis product, whether initiated by the licensee or mandated by the Office, shall include:

- identification of factors that necessitate recall and personnel responsible for implementing the recall procedures;
- notification protocols, including a mechanism to notify the Office within 24 hours of initiating a recall and to notify any licensee that supplied or received the recalled cannabis product;
- instructions to the general public and other licensees for the return or destruction of the recalled cannabis products; and
- a requirement that all recalled products held by a licensee must be held in quarantine until the Office authorizes additional actions.

All inventories, policies and procedures and other documents required by this section shall be maintained on the licensed premises and shall be made readily available to the Office upon request. Documents may be stored electronically if they are readily available from the licensed premises.

A licensee shall not sell or transfer a cannabis product that has been placed on administrative hold by the Office, recalled, or ordered or otherwise required to be destroyed. Such cannabis products shall be stored securely and separate and apart from other cannabis products while awaiting final disposition.

A licensee shall not sell or a transfer a cannabis product after the printed expiration date on the package.

29. Disposal. Licensees must dispose of any cannabis product that is beyond the date of expiration, damaged, deteriorated, contaminated, or otherwise deemed not appropriate for sale.

Cannabis product waste shall be maintained in a secured waste receptacle or secured area on the licensed premises until the time of disposal. All exterior cannabis waste receptacles located on the licensed premises shall be locked and secured to prevent unauthorized access. All disposal of cannabis products must be conducted in compliance with all applicable state and local laws, rules, regulations, and guidance.

Method of Disposal. Cannabis waste may be disposed of using one of the following methods:

- Deliver cannabis waste to a New York State Department of Environmental Conservation permitted solid waste management facility for final disposition.
- Manage disposal on-site by the licensee in accordance with the requirements of the New York State Department of Environmental Conservation.
- Return the cannabis waste to the distributor which sold the product to the licensee.

A licensee who is using another entity to transport cannabis waste must maintain and make available to the Office upon request the business name, address, contact person, and contact phone number of the permitted or registered New York State Department of Environmental Conservation waste transporter transporting the cannabis waste; and obtain documentation from the waste transporter transporting the cannabis waste that evidences subscription to a waste collection service.

A licensee who is self-transporting cannabis waste shall be subject to the following additional requirements:

- The licensee or its employees shall be registered or permitted as a waste transporter in accordance with the New York State Department of Environmental Conservation's regulations.
- Self-transported cannabis waste shall only be transported by the licensee or its workers;
- Self-transported cannabis waste shall only be transported to a solid waste management facility that is permitted by the New York State Department of Environmental Conservation to accept cannabis waste; and
- The licensee or its worker who transports the cannabis waste shall obtain for each delivery of cannabis waste a copy of a record, indicating the amount of cannabis waste transported to the permitted solid waste management facility or receipt from the permitted solid waste management facility.



Record of Disposal. All cannabis waste disposed of shall be weighed, recorded and entered into the inventory tracking system prior to, and after, disposal. Licensees shall maintain records of disposal for at least five years, and make available to the Office for inspection, which shall include:

- the form (or type) cannabis product being disposed;
- the quantity of the cannabis product;
- the batch or lot number, as applicable, of the cannabis product;
- the signatures of at least two of the licensee's workers who witnessed the disposal; and
- any other information as determined by the Office.

30. Inspection/Audits. Licensed premises, all vehicles used for transporting cannabis products, and all records including, but not limited to, financial statements and corporate documents, shall be subject to inspection by the Office, by the duly authorized representatives of the Office, by any peace officer acting pursuant to their special duties, or by a law enforcement officer.

The Employee in Charge shall be available and present for any inspection required by the Office. An inspection may include, but is not limited to, ensuring compliance by the licensee with all requirements of the regulations pursuant thereto, and other applicable state and local building codes, fire, health, safety, and other applicable laws and regulations.

Any deficiencies identified by the inspection shall be documented in a statement of findings by the Office and require that the licensee submit a written plan of correction in a format acceptable to the Office within 30 calendar days of the issue date of the statement of findings.

Any inspection finding which the Office determines jeopardizes the immediate health, safety, or well-being of the public shall be deemed a critical deficiency and shall require immediate corrective action to remove the immediate risk. The licensee must submit a preliminary corrective action plan to the Office within 24 hours of notification by the Office of a critical deficiency.

Correction Plan. A plan of correction shall address all deficiencies or areas of noncompliance cited in the statement of findings and shall contain:

- an assessment and analysis of the events and/or circumstances that led to the noncompliance;
- a procedure addressing how the licensee intends to correct each area of noncompliance;



- an explanation of how proposed corrective actions will be implemented and maintained to ensure noncompliance does not recur;
- the proposed date by which each area of noncompliance shall be corrected;

If the Office determines that the corrective action plan needs modification, the licensee shall modify the plan until it is in its final form, as accepted by the Office. Upon written approval of the Office, the licensee shall implement the plan of correction.

31. Refusal of Service. Dispensary workers may refuse to sell cannabis products to a customer if they believe the sale would endanger the health or safety of the customer.

Workers must refuse a sale if, based on the information available to them at the time, that the sale:

- Would result in the customer exceeding the legal possession limit;
- Would create a risk of diversion; or
- Would be to an individual who is under twenty-one years of age.

32. Prohibited Health Claims. The licensee, its workers, and all individuals or entities which hold a direct or indirect interest in the license cannot give the impression to customers that the dispensary, or any adult-use cannabis products sold by the dispensary, will cure or prevent specific illnesses or diseases, treat any specific symptoms, or otherwise provide specific medical advice to customers. This does **not** prevent dispensary workers from providing general information to customers about the effects of cannabis consumption on the human body or specific recommendations about safer storage or consumption of cannabis products, but this **does** prevent dispensary workers from providing specific medical advice to customers based on factors unique to that individual's health, including providing recommendations to pregnant or nursing individuals to consume cannabis. Medical advice should be referred to that individual's health care practitioner.

If a medical cannabis patient presents their patient certification to a worker and the dosing recommendation is "*Per Pharmacist's Consultation*", then the dispensary worker must notify the patient that they are not a pharmacist before they can make any recommendations to the patient. If the worker believes the sale would be a risk to the patient's health or safety, then they can refuse to sell adult-use cannabis products to the individual.

33. Restrictions on Interests and Ownership. Licensees must ensure that all individuals and entities with an interest in their license are in compliance with the restrictions placed

on such individuals and entities in the CAURD True Party of Interest guidance¹¹. Licensees must comply with all requirements in that guidance including, but not limited to, requirements pertaining to ownership and contracting with landlords, financiers, financial institutions, or management services entities. A failure of any individual or entity with an interest in the licensee to comply with this guidance will be considered a failure of the licensee.

34. Undue Influence. To prevent suppliers from exerting inappropriate control over retail dispensaries, the Cannabis Law places restrictions on the ability of an entity in one tier from having an interest in an entity in another tier of the industry.

Retail dispensaries, their true parties of interest, passive investors, and any management service providers cannot have any interest in any business anywhere that cultivates, processes, or distributes cannabis. Applicants with an interest in such a business, no matter how small that interest is, will not be approved. A licensee who, themselves or through their True Parties of Interest, passive investors, or any management service providers, holds a prohibited interest risks their license being cancelled, suspended, or revoked or other enforcement actions being taken.

The Cannabis Law also prohibits licensees authorized to cultivate, process, or distribute cannabis from giving something of value to retail dispensaries to induce the retail dispensary to buy something from the licensee authorized to cultivate, process, or distribute cannabis. Generally speaking, the Office presumes that anything such licensee gives to a retail dispensary is meant to induce the retail dispensary to buy product including, but not limited to: (1) gifts; (2) discounts, except not in excess of one per centum for payment on or before ten days from date of shipment of such cannabis; (3) customer loyalty programs; (4) loans of money; (5) premiums; (6) rebates; (7) free product of any kind, except as permitted in regulations or guidance; (8) treats or services; or (9) property.

35. Availing. Availing is when a person who was not disclosed to the Office has an ownership or controlling interest in a licensed entity. A licensee is responsible for violations committed by third parties who are availing the license.

Availing occurs when the licensee turns control of the business over to an undisclosed party without any direction, supervision or oversight by the licensee, even if the undisclosed party does not profit from the use of the license. Availing may involve a failure to disclose an individual's interest in the business at the time the application is submitted to the Office or failure to disclose the transfer of an interest after licensure.

¹¹ This guidance is located on the Office's website at: <https://cannabis.ny.gov/caurd-tpi>

Evidence of availing includes:

- an agreement giving a financial or controlling interest to an undisclosed party;
- an undisclosed party receiving a percentage of the profits; and
- bank accounts, records and other licenses/permits in the undisclosed party's name.

Managers who oversee the business for the licensee *are not* availing the license.

An unauthorized ownership change is a version of availing in which the licensed entity stays the same, but the principals of the licensed entity change without such change being approved by the Office. If a new entity is operating the business without Office approval, then that is availing. If the licensed entity is still in control but with different (unapproved) principal(s), that is an unauthorized ownership change.

To avoid an availing charge due to an unauthorized ownership change, be sure to obtain approval, pursuant to this guidance before making any ownership changes to your license.

36. Changes to Guidance. The Office reserves the authority to issue changes, corrections, and amendments to this guidance. Revised editions of guidance will be posted on the Office's website and notice will be sent to licensees. The Office may provide licensees a period of time to come into compliance with such changes and, if such time is provided, the Office will communicate that period to licensees.



Conditional Adult-Use Retail Dispensary Guidance Signature Page

The guidance of the adult-use retail dispensary license is binding on an Applicant for an adult-use retail dispensary license and a person, partnership, or entity that receives an adult-use retail dispensary license (Applicant).

In addition, all Applicants are bound by current and future state laws, rules, regulations, terms and conditions, and guidance, and an Applicant is subject to the same authorizations and restrictions applied to any adult-use retail dispensary pursuant to section seventy-two of the Cannabis Law.

By signing below, the Applicant understands and agrees to the following:

"I understand that the statements made in this application will be accepted for all purposes as the equivalent of an Affidavit and that any false statements, including omissions, made herein, in addition to being the possible basis for a revocation of any approval given as a result of this application, may be punishable as a misdemeanor under the provisions of Section 210.45 of the Penal Law of the State of New York."

Print: _____

Signed: _____

Date: _____