



VILLAGE OF DOBBS FERRY BOARD OF TRUSTEES
REGULAR MEETING AGENDA

MEETING DATE: December 13, 2022

AGENDA ITEM SECTION: Public Hearings

AGENDA ITEM NO. : 1

AGENDA ITEM:

Public hearing on an Introductory Local Law which proposes to rescind the prohibition on Adult Use Cannabis Retail Dispensaries

ITEM BACKUP DOCUMENTATION:

1. Memorandum dated November 2, 2022 from Ms. Lori Lee Dickson, Esq. to Mayor and Trustees of the Village of Dobbs Ferry
2. Public hearing legal notice
3. Introductory Local Law revising Chapter 141 "Cannabis" to rescind the opt-out of retail adult use cannabis dispensaries
4. Cannabis regulations excerpt part 119 Municipal Rulemaking (Zoning Controls)



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MEMO

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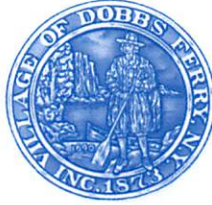
TO: Mayor and Trustees of the Village of Dobbs Ferry
cc: Melissa Ferraro, Liz Dreaper
FROM: Lori Lee Dickson, Esq.
RE: Local Law Rescind Opt-Out Cannabis Retail Dispensaries
DATE: November 2, 2022

The Board is engaged in ongoing discussion as to appropriate zoning and local “time, place, manner” regulations related to New York State’s legalization of adult recreation cannabis. However, a majority of the Board has indicated interest in moving forward with the preliminary step of rescinding the prohibition against authorizing the NYS Office of Cannabis Management to issue licenses for Adult-use Cannabis Retail Dispensaries in the Village now included in Chapter 141 Section 141-3 of your Code.

Tonight, your agenda includes a resolution to set a date to open a public hearing on December 13 to accept public comments on an Introductory Local Law which proposes to “rescind” the opt-out provision with the following language:

§ 141-3 Local cannabis retail dispensaries.

The Village Board of Trustees of the Village of Dobbs Ferry, County of Westchester, hereby rescinds its exercise of the right to opt out of allowing retail cannabis dispensaries from locating and operating within the boundaries of the Village of Dobbs Ferry. Duly licensed retail dispensaries shall hereafter be permitted within the Village of Dobbs Ferry subject to the provisions as set forth in this Code.



VILLAGE OF DOBBS FERRY
112 Main Street
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PLEASE TAKE NOTICE that the Dobbs Ferry Village Board of Trustees will conduct a public hearing to receive comments on an Introductory Local Law which proposes to rescind the prohibition on Adult Use Cannabis Retail Dispensaries to be held in board room at Village Hall, 112 Main Street on Tuesday, December 13, 2022 at 6:30 p.m., or as soon thereafter as the matter may be heard, with such hearing to be conducted using a hybrid method combining in-person and virtual options for participation and made accessible to the public in compliance with open meetings law (NYS Public Officers Law, Article 7), or otherwise as may be permitted by local, state or federal order.

For virtual participation, interested parties may be heard using Zoom, a web-based videoconferencing service which can be accessed by: (i) typing “join.zoom.us” on your web browser and entering the Webinar ID #205 957 953, Passcode: 309361; or (ii) using the direct link

<https://zoom.us/j/205957953?pwd=aU5YNHJVYkxub21WN0RzQUZoVzROU09;> or (iii) dialing telephone number 929 205 6099. Please note that the use of the “CHAT” function will not be monitored during the hearing. Parties may also provide written comments in advance of the hearing to the Village Clerk, 112 Main Street or by e-mail LDreaper@dobbsferry.com. Further details on the proposed local law and instructions for participation may be found online at the Village of Dobbs Ferry website www.dobbsferry.com

BY ORDER OF THE BOARD OF TRUSTEES

Dated: November 14, 2022

Elizabeth Dreaper
Village Clerk

**INTRODUCTORY LOCAL LAW REVISING CHAPTER 141 “CANNABIS” TO RESCIND THE
OPT-OUT OF RETAIL ADULT USE CANNABIS DISPENSARIES**

A LOCAL LAW to amend the Dobbs Ferry Code to rescind the previous exercise of the Village’s right to opt out of the licensing by New York State Cannabis Control Board of retail cannabis dispensary establishments within the boundaries of the Village of Dobbs Ferry.

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

Section 1. Legislative Intent. The Village Board of Trustees seeks to amend the Dobbs Ferry Village Code Chapter 141 to rescind the prohibition against NYS licensed Adult Use Cannabis Dispensaries in the Village.

Section 2. With the intent to rescind the previous exercise of the right to opt-out of allowing licensed retail cannabis dispensaries, Section 141-3 of the Code of the Village of Dobbs Ferry is hereby amended as indicated below with new matter underlined and deleted matter struck and in [brackets]:

§ 141-3 Local cannabis retail dispensaries and ~~y-opt-out~~.

The Village Board of Trustees of the Village of Dobbs Ferry, County of Westchester, hereby rescinds its exercise of the right to opt[s] out of allowing retail cannabis dispensaries from locating and operating within the boundaries of the Village of Dobbs Ferry. Duly licensed retail dispensaries shall hereafter be permitted within the Village of Dobbs Ferry subject to the provisions as set forth in this Code.

Section 3. Except as otherwise provided herein, all other provisions of the Dobbs Ferry Code shall remain the same.

Section 4. This Local Law is subject to permissive referendum to be conducted in accordance with the provisions of Article 9 of NYS Village Law and shall be published, posted and filed as required by law.

Adult Use Cannabis Draft Regulations Issued November 21, 2022
Excerpt Part 119 (criteria/standards Local Zoning and Regulation)

A new Part 119, titled Municipality Rulemaking, is added to read as follows:

Part 119- Municipality Rulemaking

§ 119.1 Preemption and Prohibitions on Municipality Rulemaking.

§ 119.2 Authorizations for Municipality Rulemaking.

§ 119.3 Notifications to Municipalities.

§ 119.4 Measurement of Distance from School Grounds, Houses of Worship, Community Facilities and Between Adult-Use Retail Dispensaries and On-Site Consumption Sites.

§ 119.5 Unreasonably Impracticable; Review and Determination.

§ 119.6 Severability.

§119.1 Preemption and Prohibitions on Municipality Rulemaking.

(a) Pursuant to Section 131(2) and 85(12) of the Cannabis Law, the governing body of a county, town, city and village are preempted from adopting any law, rule, ordinance, regulation or prohibition pertaining to the operation or registration, licensure, or permitting of a registered organization, adult-use cannabis license or cannabinoid hemp license. The Board prohibits municipalities to pass local laws and regulations governing the following activities:

- (1) adopting local laws that impose a special fee that is specific to cannabis businesses on the approved licensee that intends to operate within their jurisdiction;
- (2) adopting local laws that impose a fee on adult-use retail dispensary or on-site consumption licenses, except where the fees are also applicable to off-premises liquor establishments licensed under the State Liquor Authority prior to the thirty first of March two thousand twenty-one, and such law does not conflict with the Cannabis Law or this Part.
- (3) adopting local laws that impose a tax or a fee on the cultivation, processing, manufacturing, distribution or sale of cannabis or cannabis product in this State other than any usual and customary fees associated with similarly situated businesses.
- (4) adopting local laws that prohibit a premises, for which an adult-use cannabis retail dispensary or on-site consumption license has been issued, from being located within a distance, to be measured in accordance with Section 119.5 herein, that is:
 - (i) no less than a 1,000 foot radius of another premises for which a license of the same type has been issued in a city, town or village having a population of 20,000 or more; and
 - (ii) no less than a 2,000 foot radius of another premises for which a license of the same type has been issued in a city, town or village having a population of 20,000 or less.
- (5) adopting or executing any agreement where the municipality, community organization or association affiliated with such municipality, otherwise receives any additional benefit outside of

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general operation from or imposes any duty or obligation on any applicant, registrant, licensee or permittee of the Board;

(6) adopting a local law that would deny any right, privilege, permit, variances, approvals to any licensed adult-use retail dispensary premises that has been in existence continuously from a date prior to the date when a building on the same road or street within:

(i) 500 feet of said licensed adult-use retail dispensary premises has been occupied exclusively as school grounds;

(ii) 200 feet of said licensed adult-use retail dispensary premises has been occupied exclusively as a house of worship; or

(iii) 500 feet of said licensed adult-use retail dispensary premises has been occupied as a community facility, if the municipality has passed such ordinance.

(b) A retail dispensary shall be in a location consistent with public convenience and advantage standards as determined by the Board.

(c) The Office may issue a license pursuant to this Section for a premises which shall be within a 2,000 foot radius of an existing premises licensed and operating in a city, town, or village having a population of 20,000 or less, pursuant to this Section, after it determines that granting such license would be in the public interest.

§ 119.2 Authorizations for Municipality Rulemaking.

(a) All municipalities and counties are hereby preempted from adopting any law, rule, ordinance, regulation or prohibition pertaining to the registration, licensing, permitting or operation of registered organizations, adult-use cannabis businesses, or, or cannabinoid hemp businesses, provided however, such municipality may enact local laws and regulations governing the time, place and manner of the operation of licensed adult-use cannabis retail dispensaries and/or on-site consumption sites, provided that such law or regulation shall not make the operation of such licensed retail dispensaries or on-site consumption sites unreasonably impracticable as determined by the Board. To the extent the following is not unreasonably impracticable, the Board authorizes municipalities to pass local laws and regulations governing the time, place, and manner, which shall mean and apply to the following activities:

(1) the hours of operation for adult-use retail dispensary, during which cannabis products can be sold at retail, which:

(i) shall not be allowed to operate from 2:00 ante meridiem to 8:00 ante meridiem, unless given express written permission by such municipality, or the municipality passes a local ordinance, authorizing it to operate beyond such hours; and

(ii) 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.

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(2) the hours of operation for on-site consumption site, during which cannabis products can be sold at retail, which:

(i) shall not be allowed to operate from 4:00 ante meridiem to 8:00 ante meridiem.

(ii) 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.

(3) business operations within historical districts;

(4) parking;

(5) traffic control including, but not limited to, pedestrian and vehicular traffic;

(6) odor, consistent with the Public Health Law Article 13-E and the Clean Indoor Air Act;

(7) noise; and

(8) distance requirements between a licensed premises and a community facility, provided however, that such distance requirement is no greater than 500 feet from the licensed premises and the community facility. This provision shall not apply to licensees operating pursuant to Part 116 of this Chapter.

§ 119.3 Notifications to Municipalities.

(a) Pursuant to Section 76 of the Cannabis Law, notifications to municipalities regarding adult-use retail dispensary or on-site consumption licenses shall be in a form provided by the Office, and contain the following information:

(1) applicant contact information;

(2) trade name or "doing business as" name;

(3) full name of the applicant;

(4) street address of the establishment, including the floor location or room number, if applicable;

(5) the mailing address of the establishment, if different than the street address;

(6) the name, address and telephone number of the attorney or representative of the applicant, if any;

(7) a statement indicating whether the application is for:

(i) a new establishment;

(ii) a transfer of an existing licensed business;

(iii) a renewal of an existing license; or

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- (iv) an alteration of an existing licensed premises;
- (8) if the establishment is a transfer or previously licensed premises, the name of the old establishment and such establishment's registration or license number;
- (9) in the case of a renewal or alteration application, the registration or license number of the applicant; and
- (10) the type of license.

(b) A municipality shall have 30 days from the receipt of the notification from an applicant to express an opinion for or against the granting of such registration, license or permit application and any such opinion shall be part of the record upon which the Office makes its recommendation to the Board to grant or deny an application; Provided however, a municipality may request additional time in writing and upon showing a reasonable documented effort for an extension.

§ 119.4 Measurement of Distance from School Grounds, Houses of Worship, Community Facilities and Between Adult-Use Retail Dispensaries and On-Site Consumption Premises

(a) No adult-use retail dispensary or on-site consumption license shall be granted for any premises which shall be:

- (1) on the same road and within 200 feet of a building occupied exclusively as a house of worship;
- (2) on the same road and within 500 feet of school grounds;
- (3) on the same road of a community facility if the municipality has enacted an ordinance in accordance with section 119.2 of this Part;

[sic Missing 4]

- (5) in a city, town or village having a population of 20,000 or more within a 1,000 foot radius of another premises for which a license of the same type has been issued;
- (6) in a city, town or village having a population of 20,000 or less within a 2,000 foot radius of another premises for which a license of the same type has been issued;
- (7) The measurements in paragraph (a) of this subdivision are to be taken in a straight line from the center of the nearest entrance of such house of worship or the nearest point of school grounds to the center of the nearest entrance of each such premises licensed and operating pursuant to this Section 72 and Section 77 of the Cannabis Law; except, however that no renewal license shall be denied to any premises at which a license under this Chapter has been in existence continuously from a date prior to the date when a building on the same road and within 200 feet of said premises has been occupied exclusively as a house or worship or 500 feet of said premises has been occupied by schoolgrounds.

(i) Within the content of this subdivision, the "entrance" shall mean a main door of a house of worship, or of premises licensed and operating pursuant to this Section,

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regularly used to give ingress to the students of the school, to the general public attending the house of worship, and to patrons or guests of the premises licensed and operating pursuant to this Section or of the premises sought to be licensed, except that where a school or house of worship or premises licensed and operating pursuant to this Section or the premises sought to be licensed 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. Such definition shall not include cellars, back and side doors, delivery entrances, or emergency exits.

(ii) If the school or house of worship or premises licensed and operating pursuant to this Section or the premises sought to be licensed is located in a multi-story building, the building "entrance" at the road level is used.

(iii) If the school or house of worship or premises licensed and operating pursuant to this Section or the premises sought to be licensed is situated on a corner lot, such establishment is considered to be on both roads of the intersection, whether or not there is an entrance to the building on both roads.

(iv) 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, is not deemed an "entrance."

(v) Within the context of this subdivision, a building occupied as a house of worship does not cease to be "exclusively" occupied as a house of worship by incidental uses that are not of a nature to detract from the predominant character of the building as a house of worship, such uses including, but not limited to:

(1) the conduct of legally authorized games of bingo or other games of chance held as a means of raising funds for the not-for-profit religious organization which conducts services at the house of worship or for other not-for-profit organizations or groups;

(2) use of the building for fund-raising performances by or benefitting the not-for-profit religious organization which conducts services at the house of worship or other not-for-profit organizations or groups;

(3) the use of the building by other religious organizations or groups for religious services or other purposes;

(4) the conduct of social activities by or for the benefit of the congregants;

(5) the use of the building for meetings held by organizations or groups providing bereavement counseling to persons having suffered the loss of a loved one, or providing advice or support for conditions or diseases including, but not limited to, alcoholism, substance use disorder, cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the use of the building for blood drives, health screenings, health information meetings, yoga classes, exercise

classes or other activities intended to promote the health of the congregants or other persons; and

(6) use of the building by non-congregant members of the community for private social functions.

[sic] (g) The building occupied as a house of worship does not cease to be "exclusively" occupied as a house of worship where the not-for-profit religious organization occupying the house of worship accepts the payment of funds to defray costs related to another party's use of the building.

§119.5 Unreasonably Impracticable; Review and Determination.

(a) Pursuant to Section 131(2) of the Cannabis Law and in accordance with this Part, no rules, regulation, ordinance, or actions of the municipality shall be effective or enforceable if such action otherwise impedes on duties and obligations of the Board as set forth under the Cannabis Law, violates any provision of the Cannabis Law or this Part, or discriminates against or frustrates the registrant, licensee, or permittee's ability to carry out the operation of such registration, license, or permit as issued by the Board.

(b) Should an unreasonable impractical claim be brought before the Office by a claimant contesting the validity of such local law or regulation, the Board may conduct a review of such law and issue an advisory opinion as to whether the law is "unreasonably impracticable".

(c) Upon review and determination of an application to the Board, the Office shall send a copy of the advisory opinion to claimant and the municipality from where the local law originates. Should the local law:

(1) be adopted prior to the advisory opinion, the claimant can use the advisory opinion as prima facie evidence of the Board's opinion that the local law violates Cannabis Law Section 131(2); or

(2) be proposed but not adopted, the municipality shall be preempted from adopting the local law as the local law, if adopted, would be unreasonably impracticable, as determined by the Board, pursuant to Cannabis Law Section 131(2).

§ 119.6 Severability. If any provision of this Part or its application to any particular person or circumstance is held invalid, the remainder of this Part and its application to other persons and circumstances shall not be affected thereby.