

Pursuant to the authority vested in the Cannabis Control Board by sections 10, 13, 64, 76, and 85 of the Cannabis Law, Chapter II of Subtitle B of Title 9 of the Official Compilation of Codes, Rules and Regulations of the State of New York is hereby amended to be effective upon publication of a Notice of Adoption in the New York State Register, as follows:

Paragraph (88) of subdivision (a) of section 118.1 is repealed and paragraphs (89) through (107) are renumbered to (88) through (106).

Subdivision (a) of section 119.4 is amended to read as follows:

(a) The State of New York has a regulatory interest in the economic development of the cannabis market; ensuring that market growth proceeds in a manner that is reasonable, ordered, transparent; and the minimization of the collateral consequences resulting from inattention to the pace of growth. Therefore, [N]no retail dispensary license or microbusiness license shall be granted for any premises [which shall be]that is:

(1) within a [1,000] 500-foot radius of a registered organization, ROD, or any other premises for which a retail dispensary license or microbusiness license has been issued, in a municipality having a population of 20,000 or more, [unless the Board has determined that issuing the license would promote public convenience and advantage;] except that distance requirements between a retail dispensary or microbusiness and registered organization shall cease to be a requirement past December 2023[,]; or

(2) within a [2,000] 1,000-foot radius of a registered organization, ROD, or any other premises for which a retail dispensary license or microbusiness license has been issued, in a

municipality having a population of 20,000 or less, [unless the Board has determined that issuing the license would promote public convenience and advantage;] except that distance requirements between a retail dispensary or microbusiness and registered organization shall cease to be a requirement past December 2023[.]; or

(3) between a 500 to 1,000-foot radius of a registered organization, ROD, or any other premises for which a retail dispensary license or microbusiness license has been issued, in a municipality having a population of 20,000 or more, unless the existing licensee has been operating for at least 9 months and the licensee or applicant seeking waiver has demonstrated to the board that issuing the license for the location would promote public convenience and advantage, except that distance requirements between a retail dispensary or microbusiness and registered organization shall cease to be a requirement past December 2023; or

(4) between a 1,000 to 2,000-foot radius of a registered organization, ROD, or any other premises for which a retail dispensary license or microbusiness license has been issued, in a municipality having a population of 20,000 or less, unless the existing licensee has been operating for at least 9 months and the licensee or applicant has demonstrated to the board that issuing the license would promote public convenience and advantage, except that distance requirements between a retail dispensary or microbusiness and registered organizations shall cease to be a requirement past December 2023; or

(5) within a 1,000-foot radius of two other licensees issued the same license type sought by the applicant, in a municipality having a population of 20,000 or more; or

(6) within a 2,000-foot radius of two other licensees issued the same license type sought by the applicant, in a municipality having a population of 20,000 or less.

Subdivision (b) of section 119.4 is amended to read as follows:

(b) A licensee or applicant seeking to demonstrate that granting a license for its location would promote public convenience and advantage must submit a request in accordance with subdivision (c) of this section. The licensee or applicant must demonstrate to the satisfaction of t[T]he [B]board [may determine] that approving a premises in such location [granting a license] would promote public convenience and advantage [as described in paragraphs (1) and (2) of subdivision (a) of this section by] based upon consideration of[ing], at a minimum, the following factors, which include:

- [(1) the number, classes, and character of other licenses in proximity to the premises and in the particular municipality or subdivision thereof;
- (2) evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies;
- (3) whether there is a demonstrated need for such license;
- (4) effect of the grant of the license on pedestrian or vehicular traffic, and parking, in proximity to the premises;
- (5) the existing noise level at the premises and any increase in noise level that would be generated by the proposed premises;
- (6) the history of cannabis violations and reported criminal activity at the proposed premises; and

(7) any other factors specified by law or regulation that are relevant to determine that granting a license would promote public convenience and advantage of the community.]

(1) the distance from any other existing approved licensee locations within:

(i) 1,000 feet of the location in jurisdictions where the minimum distance between retail dispensaries is 500-feet; or

(ii) 2,000 feet in jurisdictions where the minimum distance between retail dispensaries is 1,000-feet;

(2) any geographic, structural, or topographic barriers that separate the proposed location from any existing retail dispensary locations, e.g., waterways, major roadways or highways, and significant travel distance required to get between the two locations;

(3) the distance between the proposed location and any existing retail dispensary location, when measured as a pedestrian or car would travel;

(4) any factors unique to the proposed location, including any environmental or economic, or circumstantial considerations that justify its placement and/or a need for greater adult-use cannabis consumer access in the local area, including, but not limited to:

(i) economic justification that highlights high consumer demand for additional retail dispensaries or retail microbusinesses in the area;

(ii) the number of illicit cannabis dispensaries or former illicit dispensaries in close proximity to both the existing and proposed locations;

(iii) existing social and economic equity licensees within the applicable radius of the location; and

(iv) any other factors submitted by the requestor.

Subdivisions (c) through (l) of section 119.4 are re-lettered to (e) through (n) and new subdivisions (c) and (d) of section 119.4 are added to read as follows:

(c) Any requests submitted pursuant to subdivision (b) of this section must attach copies of the following notices, which must be made prior to submission of the request:

(1) A notice, to the applicable local municipality or local community board, of the licensee or applicant's intention to submit a public convenience and advantage request from the board pursuant to this section on a form provided by the office. Pursuant to section 76 of the Cannabis Law and section 119.3(b) of this Part, that notice must include a copy of the application to be submitted to the board and state that the municipality or community board has a maximum of 45 days to submit a response prior to consideration of the application by the board. The board cannot act on the request until the municipality or community board submits a response or the expiration of the 45-day period, whichever happens first.

(2) Notice to all existing licensees located within the applicable radius under paragraphs (3) or (4) of subdivision (a) of this section. Such notification must be made at the same time as the municipal or community board notification in paragraph (1) of this subdivision.

(d) Parties receiving notices pursuant to subdivision (c) of this section may submit responses to the request directly to the board prior to consideration of the request and be heard during the board

meeting in which the public convenience and advantage request is considered. The procedures to submit responses and be heard will be set by the office and subject to approval by the board.