Office of Cannabis Management

Municipality Frequently Asked Questions

Office of Cannabis Management (Office)
Cannabis Control Board (Board)

How do Municipalities or Community Boards handle multiple notifications for the same address?

- Even though multiple applicants submitted a notification for the same location, only one applicant will ultimately hold that location as a licensee. There are restrictions on where a licensed retail dispensary can be located, including 1,000/2,000 feet radius from another licensed retail premises. Since, however, the law only indicates that the applicant submits a notification for those locations it intends to use for licensed operations, the applicants are all within their right to notify the local municipality. In return, the local municipality should respond if they have an opinion, they would like to share with the Cannabis Control Board about the notification they receive.

Do dispensaries need state renewal every two years? If so, will Municipalities or Community Boards be part of the renewal process?

- An adult-use cannabis license is valid for two years after the date it is issued and can be renewed every two years. Cannabis Law requires that the applicant notify the Municipality or Community Board for license renewal. (See Cannabis Law Section 76(6)(f)).

How many dispensaries will be awarded to my local jurisdiction?

- There is no specific number of dispensaries that are set to be awarded to any specific local jurisdiction. The number of awarded licenses will be based on a number of factors, including, but not limited to, the total number of license types that apply, Social and Economic Equity (SEE) certifications, and the randomization of the applications. In the end, the Board has the sole discretion to limit or not limit the number of licenses per class to be issued in the State or any political subdivision thereof. (See Cannabis Law Section 10(2)).”

Are applicants required to post notices of their intent to open a dispensary at the location?

- There is no language in Cannabis law or the Office regulations that requires applicants to post notice at their proposed location. Cannabis Law only requires that the applicant notify the municipality that they intend to file an application for an adult-use retail dispensary to be located in the municipality’s jurisdiction on a form that is prescribed by the Board.

Do Community Board or Municipalities have to visit licensed locations?

- There is no language in Cannabis law or the Office regulations that requires Community Boards or Municipalities to site visit licensed locations.

What should Community Boards or Municipalities be reviewing?

- The Office is deferential to the Community Board or Municipality to determine how they want to inform the opinion they would like to express to the Board for or against the granting of a registration, license or permit license to a location within their jurisdiction. The Board can then take these opinions into consideration when the Board deliberates on whether or not to grant or deny a license for such premises.
- As a point of reference, this document, "**Due Diligence and Application Process Checklist,"** serves as an overview of some of the components that the Office reviews during the application process that may be of particular interest to local Municipalities, including New York City Community Boards.

Can a deli, gas station, etc., have a dispensary within the establishment?

- A retail dispensary cannot sell food, beverages, or personal care items that are not cannabis products (See 9 NYCRR §123.10(g)(11)(iv))

Are there regulations regarding governing the exterior of dispensaries?

- The Board has approved packaging, labeling, marketing, and advertising (PLMA) regulations which became effective on March 22, 2023. The regulations serve as the primary rules that all licensees must follow to remain compliant with the Cannabis Law, including requirements on displays and outdoor signs. Retail Dispensaries may not use billboards and may only have two outdoor signs for the purpose of alerting people to the dispensary's location. Outdoor signs may not contain the dispensary's logo or any other images. Outdoor signs may only contain certain information at a maximum, and that information is listed in the regulations linked above (See 9 NYCRR §129.4). A copy of the recently adopted PLMA regulations are available on the Office's website at:https://cannabis.ny.gov/system/files/documents/2023/03/part-128-and-129-plma-adopted.pdf
- The Adult-Use Regulations also require a number of requirements as it relates to the exterior of a retail dispensary, including, restriction on what can be seen on storefront windows or any location visible to the public thoroughfare, video surveillance, prevention of loitering, exterior lighting has to be sufficiently illuminated for surveillance, maintaining trees and bushes to prevent a person from concealing themselves from sight, amongst other things. (See 9 NYCRR Sections 123.10 and 125.3). A copy of the Adult-Use regulations are available on the Office's website at: https://cannabis.ny.gov/system/files/documents/2023/09/exprs-trms-adopt-au-regs-9-12_0.pdf

Can a Community Board or Municipality combine all 30-Day Extension Requests into one letter?

- Yes, please provide a copy of the notification form you are requesting an extension for. This request can be sent to municipalities@ocm.ny.gov

Does a Community Board or Municipality need to calculate the 1,000/2,000 foot distance requirements between dispensaries? Several of the notification to municipality forms that we received: would be within 1,000 feet of another establishment proposed. How should we address this?

- Even though multiple applicants submitted a notification for the same location, only one applicant will ultimately hold that location as a licensee. There are restrictions on where a licensed retail dispensary can be located, including 1,000/2,000 feet radius from another licensed retail premises. Since, however, the law only indicates that the applicant submits a notification for those locations it intends to use for licensed operations, the applicants are all within their right to notify the local municipality. In return, the local municipality should respond if they have an opinion, including if the municipality feels that there is a violation of the Office regulations, that the Community Board or Municipality would like to share with the Cannabis Control Board about the notification they receive.
- Before any final license is awarded the Office reviews the following:
    - The opt-out status of the municipality in which the proposed dispensary is located;
    - The distance from an existing medical dispensary;
    - The distance from any existing or proposed adult-use dispensaries;
    - Whether there is a house of worship on the same road and within 200-feet; and
    - Whether the storefront is within 500-feet of a school grounds as such term is defined in the Education Law.

We have received notification to municipality forms: have all of these locations been approved by the Office of Cannabis Management? Should we hear them if they haven't been granted a provisional license? How can the community boards know where the applicant is in the process?

- There are two paths for retail dispensary and microbusinesses to complete the application:
    - Application for Final License: If the applicant has proof of control over the premises at the time of their application, whether by lease agreement, or ownership (as shown through a deed), they may identify the premises on the application and submit a complete application for the Office's review. Only after a final license is issued with a license certificate can adult-use cannabis operations begin.
    - Application for Provisional License: Similar to the Conditional Adult-Use Retail Dispensary (CAURD) application process, if the applicant does not have control over a premises at the time of application, they may submit the application without these details and obtain a provisional license. After receiving a provisional license, they may take up to twelve (12) months to submit proof of control over a premises. Once the Office reviews the additional information, a final license may be issued.

  With the two paths toward applications, its likely your community board or municipality will communicate with potential applicants at different stages in the application process.

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    - The distance from an existing medical dispensary;
    - The distance from any existing or proposed adult-use dispensaries;
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    - Whether the storefront is within 500-feet of a school grounds as such term is defined in the Education Law.

Are CAURD licensees able to deliver?

- In addition to services offered inside of the store, CAURD licensees may provide delivery services if the training manual includes written procedures for how workers will provide delivery service. Future application windows for licenses such as nursery, delivery, cooperative or collective, and on-site consumption are anticipated (See Part 15 of Guidance for Adult-Use Retail Dispensary).

Can an applicant be from outside the 5 boroughs of NYC?

- Yes, an applicant can be from outside the 5 boroughs. The location that the applicant intends to use for their licensed operations must all be within NYS but can also be located outside the 5 boroughs of New York City as well.

Will OCM oversee what products are being retailed to ensure the quality of the products.

- Laboratory testing by licensees is a requirement by law and regulations to ensure quality assurance of all cannabis products in New York State. Should a community board or municipality have cause to suspect the quality of cannabis products being sold, the community board or municipality may report the following using the Incident Reporting Form. The reasons to fill out this form may include: an adverse health event which includes any troublesome or undesired medical occurrence or symptom associated with the use of a cannabis product, a concern about a cannabis business which includes businesses that sell cannabis products including unlicensed business locations, sales to a minor or consumption in unauthorized areas, or a concern regarding a cannabis product, such as product safety, product mislabeling, product formulation or product expiration date. The Incident Report form can be found here: https://cannabis.ny.gov/report-an-incident

Is there any consideration of granting us automatic 30 days instead of 30 to reduce admins for all parties?

- At this time, a one-time 30-day extension for the municipality or community board is automatically provided once a request to extend the time is received. For a municipality or community board to provide their opinion, or if the municipality or community board has any comments, concerns, or questions, please reach out to the Office at municipalities@ocm.ny.gov with "Notification to Municipalities Municipality Opinion 30 Extension Request – [Insert your municipality name here]" in the subject line. If requesting an extension, please be sure to provide proof of the date of receipt of the Notification to Municipalities that you wish to request an extension of time for submitting a municipality opinion.

Are there any restrictions regarding a childcare service location?

- Depending on what childcare services and where they are located, there may be restrictions regarding childcare services. The Adult Use Regulations sets forth requirements for proximity to school grounds, proximity to houses of worship, and proximity from other dispensaries. The municipality or community board will need to verify with the local municipality or city attorney regarding whether or not the childcare services would fall under any of these provisions.
    - A dispensary cannot be within 500-feet of a school grounds as such term is defined in the Education Law.

- A dispensary cannot be on the same street or avenue and within 200-feet of a building occupied exclusively as a house of worship
- Municipalities are authorized to adopt local laws regarding distance requirements between the retail dispensary, microbusiness, or ROD and a public youth facility, provided, however, that such distance requirement is no greater than 500-feet from the retail dispensary, microbusiness, or ROD. The distance requirements for public youth facility shall not apply to licensees operating pursuant to Part 116 of this Title.
- Public youth facility means a location or structure owned by a government or government subdivision or agency, that is accessible to the public, where the primary purpose is to provide recreational opportunities or services to children or adolescents of whom the primary population is reasonably expected to be seventeen (17) years of age or younger.

Please provide clear definitions for time, place, and manner?

- Please refer to § 119.2 Authorizations for Municipality Rulemaking of the Adult Use Regulations. This section lays out activities that constitute the permissible time, place, and manner restrictions

Can we request a comprehensive list of confirmed and suspected illicit dispensaries in district, and enforcement status of each.

- The Office is unable to provide a list of illicit locations as these are ongoing investigations. Each investigation is unique and can vary on how much time is required to complete.
- A listing of all legal dispensaries in New York State officially licensed by the Office. This list will be updated as more dispensaries are open to the public. https://cannabis.ny.gov/dispensary-location-verification. Please note, all legal retail dispensaries are required to conspicuously post a dispensary location verification.

Does OCM have a LAMP style interactive map for applicants to verify proposed premises compliance prior to giving notice?

- The Office is currently looking at potential location mapping programs to better assist licensees. Publicly available tools to check proximity are Google Maps and the New York State Liquor Authority LAMP system: https://lamp.sla.ny.gov/.

How will cannabis tax revenue directly benefit our districts?

- There is a local excise tax imposed on the sale of cannabis products from a retail dispensary to a cannabis consumer at 4% of the products price. This tax is distributed to local governments based on where the retail dispensary is located and where the sale is made. As a proportion of cannabis sales – 25% of the tax revenue goes to the county and 75% goes to the cities, town, or villages within the county.

How does OCM check applicant if they are operating or operated an illicit cannabis store?

- The Office is tasked with ensuring that all licensees operate in compliance with Cannabis Law and Regulations. Office staff will conduct routine inspections of licensees that include both

announced and unannounced on-site inspections. Additionally, all legal retail dispensaries are required to conspicuously post a dispensary location verification, which provides for a quick and easy check for illicit cannabis stores.

How should community boards handle a proposed location that is compliant by regulation, but the community board deems it unsuitable?

- The Office is deferential to the Community Board or Municipality to determine how they want to inform the opinion they would like to express to the Board for or against the granting of a registration, license or permit license to a location within their jurisdiction. The Board can then take these opinions into consideration when the Board deliberates on whether or not to grant or deny a license for such premises.
- As a point of reference, this document, "**Due Diligence and Application Process Checklist,"** serves as an overview of some of the components that the Office reviews during the application process that may be of particular interest to local Municipalities, including New York City Community Boards.

We received an application for an adult use retail dispensary that does not have a license number? How do we provide comment on this to the Board?

- Not all notifications will have a license number. License numbers would only appear on notifications for licensees, either full or provisional, or renewal applications. Initial applicants may not have a license number to put on the notification to municipalities.

Will OCM make license determination prior to municipality or community board review?

- The Office is clarifying that we will not make any licensing determinations on applications within the 30-day notification time window (or for 60-days with request and approval of 30-day extension) for a Municipality or Community Board to express an opinion.

Is there a license limit for municipalities?

- Pursuant to its powers under §10 of Cannabis Law, the Board has the sole discretion to limit the number of licenses for each type of license issued.

Are there proximity distance requirements between a medical dispensary and another medical dispensary?

- There is no language in the regulations, either Part 113 or the adult-use regulations, that specifically addresses any distance requirements between two medical dispensaries, without co-location of a retail dispensary.

If an applicant does not provide proof of deed or a signed lease, can the community board reject such notification?

- The Office requires proof of control, so it is reasonable that the Community Board also ask to see the proof of control of the property. A city, town, or village, and in New York City, a

community board may still express an opinion for or against the granting of such registration, license or permit application **if such applicant cannot provide proof of control**.

- The Notification to Municipalities form has to be accurately filled out. If a notification form is missing any of the following information – then **the Office will consider the notification invalid**, and the notification 30-day window will not be considered to have started until the notification form is completely filled out:
    1) The address of the proposed retail location, which cannot be in an opt-out jurisdiction
    2) The Applicant Name, phone number or email address
    3) The indication of the type of application for licensure the applicant is applying for (i.e., the checkbox)
    4) The county of the proposed retail location
    5) Signature
    6) Date
- Before any final license is issued it is required that the applicant obtained all the necessary documentation and have control over premises, and they received approval from the Office to commence sales.

What's the difference between Limited Retail Consumption Facility and an On-Site Consumption Facility?

Limited retail consumption facility shall mean a type of consumption facility which is a distinct area located within the licensed premises of a specific retail dispensary. Consumption facility means an adult-use on-site consumption premises at which both the consumption of cannabis products and the retail sale of cannabis products to consumers may occur and is either a limited retail consumption facility or a microbusiness. Adult-use on-site consumption premises means a place where the consumption of cannabis occurs and shall be either a consumption facility or an exception area.

Is a retail dispensary liable for an automobile accident if such driver is under the influence of their cannabis product? Similar to how bars could be held liable.

The Cannabis Law expressly prohibits a licensee from selling, delivering or giving away or causing or permitting or procuring to be sold, delivered, or given away, any cannabis or cannabis product to any person, actually or apparently, under the age of twenty-one years or any visibly intoxicated person. (See Cannabis Law Sections 65(2)(a) and 85(1)).