Introduction

Distance requirements for retail dispensaries in proximity of other retail dispensaries is set forth in Part 119 of Title 9 of New York Code Rules, and Regulations (9 NYCRR) which requires a 1,000 or 2,000ft distance between retail dispensaries, based on the size of the municipal population. Please be aware, a **Public Convenience and Advantage (PCA)** request cannot be submitted for a proposed retail dispensary that is within 500ft of school grounds and/or 200ft from a house of worship. A PCA request is only applicable for distance requirements between retail dispensary to retail dispensary.

Additionally, a review by the **Cannabis Control Board (CCB)** of a PCA request will be a final review of the entire adult-use cannabis application or amendment. If the CCB determines that granting the license at the proposed location would promote public convenience and advantage, the license or amendment will be approved. Accordingly, if the CCB determines that granting a license at the proposed location would not promote public convenience and advantage, then the application or amendment will be denied. If denied, the applicant will be unable to submit a new retail dispensary location for consideration. Please note that when the Board considers an application, all other eligibility factors required by the Cannabis Law and regulations for the requested license type are also part of the review.

Regulatory Changes

Proposed regulations related to PCA first went out for public comment in October 2024. After an initial comment period, changes were made to the proposed regulations and the CCB voted to have the regulations go back out for a second public comment period at the February 2025 Board meeting.

The amended regulations were approved at the June 27, 2025, CCB meeting and went into effect **on November 5, 2025**. The amended regulations added additional criteria for the CCB for the review and consideration of PCA requests. Effective November 5, 2025, all PCA requests must be submitted using the Non-Viable Location Form.

Summary of Regulatory Changes to the PCA Request Criteria Include:

- Created a minimum distance based on municipal population where if dispensaries are too close to each other a PCA request cannot be considered.
    - If the proposed dispensary is in a municipality with more than 20,000 population a PCA request cannot be considered within 500 ft of another dispensary.
    - If the proposed dispensary is in a municipality with less than 20,000 population, a PCA request cannot be considered within 1,000 ft of another dispensary.
- Added a requirement that the retail dispensary in conflict with a PCA request must be open for *at least* 9 months before a PCA request can be considered.

- Includes a provision that prohibits a PCA request if *two or more of the same type of licenses* are within a 1000/2000ft radius (based on municipal population) of a proposed dispensary location.
    - Example: Submitting a PCA request as a retail dispensary within a jurisdiction over 20,000 populations but are within 1,000ft of two other retail dispensaries would be determined to be prohibited.
- Formalized a notification process for PCA requests that allows Community Boards and Municipalities to submit opinions on whether a PCA request should be granted, similar to the municipal opinion process for initial applications.
- Criteria for review has also been amended from the current regulations to better articulate the evaluation criteria considered by the CCB.

Criteria to Request PCA

Applicants and provisional licensees will submit a proposed retail dispensary location via the New York Business Express (NYBE) application portal, and licensees will submit a location via the license amendment survey. Upon submission of the application with proof of control over the location, that location will be reviewed by OCM for compliance with distance requirements in the Cannabis Law and regulations.

Following review, the applicant or licensee will receive a communication from OCM on the proposed retail dispensary location's viability. If a location is deemed not viable, communication will include several options for the licensee depending on the proposed locations distance conflicts. Applicants and licensees will use the Non-Viable Location Form to inform the OCM how they which to proceed within the 30-day cure period.

PCA request in a municipality with population over 20,000 people:

1. PCA request cannot be considered if the location is within 500 ft of another dispensary.
2. PCA request cannot be considered if any dispensary in conflict within 500 to 1,000 ft has not been open for *at least* 9 months.
3. PCA request cannot be considered if within 1,000 ft of two other licensees issued for the same license type sought by the applicant/licensee making the request.

PCA request in a municipality with population under 20,000 people:

1. PCA request cannot be considered if the location is within 1,000 ft of another dispensary.
2. PCA request cannot be considered if any dispensary in conflict within 1,000 to 2,000 ft has not been open for *at least* 9 months
3. PCA request cannot be considered if within 2,000 ft of two other licensees issued for the same license type sought by the applicant or licensee making the request.

Required information demonstrating PCA for CCB consideration:

1. Proof of service of notification to the municipality form being sent to the municipality or Community Board where the proposed dispensary is located. where the proposed dispensary is located.
2. Documented proof that all existing retail dispensary locations in applicable proximity have been notified of the proposed PCA request via certified mail, return receipt requested
    a. Notice must include the following information:
        i. purpose for outreach (PCA requested)
        ii. application/license number
        iii. proposed PCA location
3. Whether there are any geographic or structural boundaries between the proposed location from any existing retail dispensary locations (*highway, river, major roadways, etc.*), and;
4. Distance between the proposed retail dispensary location and any existing retail dispensary location as measured by pedestrian or car travel, and;
5. Any factors unique to the proposed retail dispensary location including environment and economic considerations justifying the dispensary including, but not limited to:
    a. Economic justification that highlights high consumer demand for additional retail dispensaries or retail microbusinesses in the are
    b. The number of illicit cannabis dispensaries or former illicit dispensaries in close proximity to both the existing and proposed locations
    c. Existing social and economic equity licensees within the applicable radius of the location; and
    d. Any other factors submitted by the requestor.

Notification Requirement for Applicant's and Licensees Requesting PCA

Before submitting a request for PCA, notification must be made to:

1. The applicable municipality or community board
    a. Notification must be submitted using the Notice to Municipality for Public Convenience and Advantage - Note: This is a separate notification form from the standard Notification to Municipality form, and is intended specifically for PCA Requests
    b. A copy of the PCA request along with arguments must be provided to the Municipality or Community Board
    c. This notification has to be made pursuant to section 76 of the Cannabis Law by:
        - Certified mail, return receipt requested;
        - Overnight delivery service with proof of mailing; or
        - Personal service upon the offices of the clerk or community board

d. A municipality or community board has 45 days upon receipt of a PCA notification to provide an opinion to the Cannabis Control Board.

2. All applicable existing licensees in conflict with the PCA location.
   a. Such notification must be made ***at the same time*** as the Municipal or Community Board notification.
   b. Note: In using the LOCAL map, you can find information pertaining to the licensees in conflict along with links to their websites. If you have any questions please reach out to aulicensing@ocm.ny.gov.

How to Submit a Request for Public Convenience & Advantage

- Requests for PCA must be submitted using the Non-Viable Location Survey.
- The contact email provided ***must*** be that of the primary contact of the application.
- Please ensure all information, documentation, and arguments are included with the initial submission of the Survey. *Note: Submission of a PCA request made via email will not be reviewed.*

Next Steps After Submission

- Upon submission of the Non-Viable Location Survey, you will receive a confirmation to the email provided on the PCA request. *Note: this **must** be the primary contact of the application.*
- OCM may reach out if there are any deficiencies with the submission. Please note deficiencies must be addressed within the 30-day cure period or the request could be considered incomplete.
- Parties receiving notices (municipality and existing applicants and/or licensees) may submit responses to AUlicensing@ocm.ny.gov prior to consideration of the request and be heard during the Board meeting in which the PCA request is considered.

For Additional Questions

If you need additional assistance or have any questions, you may contact the Adult-use Cannabis Program by phone at **1-888-OCM-5151 (1-888-626-5151)** or by e-mail at **AUlicensing@ocm.ny.gov** with your application number, applicant entity name, and specific questions.