

Time, Place and Manner Regulations for Conditional Retail Adult-Use Dispensaries and On-Site Consumption Premises

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[Link to Video Recording](#)



- Proposed 9 NYCRR Part 119 – Municipality Rulemaking – AKA “the regs” released 12/14/2022, comment period ended 2/13/2023
- ***The regs are not finalized but we are also not anticipating any changes***
- Local governments **preempted** from adopting any legislation that addresses operation, registration, licensure or permitting of adult-use cannabis license:
 - No fees that are specific to cannabis businesses;
 - No fees on adult-use dispensary or on-site consumption premises, unless fees apply to off-premises liquor establishments licensed under State Liquor Authority before 3/31/2021 and does not conflict with Cannabis Law or regs “district corporation,” separate and apart from the town (see Town Law § 174 [7]);

Distance regulations that are preempted by the state:

- Cannot prohibit a premises from being at least 1,000 feet from another premises for which the same license has been issued in a locality having a population of 20,000 or more;
- Cannot prohibit a premises from being at least 2,000 feet from another premises for which the same license has been issued in a locality having a population of less than 20,000; [*state can grant license within 2,000 feet if it determines granting the license is in the best interest*];
- Cannot deny any right, privilege, permit, variance preexisting adult-use retail dispensary on same road or street within 500 feet of school or community facility (if local law adopted) or 200 feet of church.

Time, place and manner regulations the town can adopt:

- Hours of operation for adult-use retail dispensary, during which cannabis is sold:
 - Cannot be sold between 2 a.m. and 8 a.m. unless express written permission by locality or local law authorizing operation during those hours
 - Cannot restrict operations to less than 70 hours a week (licensee has discretion to operate less than this)
- Hours of operation for on-site consumption, during which cannabis is sold:
 - Cannot be sold between 4 a.m. and 8 a.m.
 - Cannot restrict operations to less than 70 hours a week
- Business operations within historical districts;

- Parking;
- Traffic control, including but not limited to pedestrian and vehicular traffic;
- Odor (consistent with Public Health Law Article 13-E and the Clean Indoor Air Act);
- Noise; and
- Distance requirements between a licensed premises and a community facility, provided that the distance requirement is no greater than 500 feet
 - **Community Facility** - a facility that provides day care to children; a public park; a playground; a public swimming pool; a library; or a center or facility where the primary purpose of which is to provide recreational opportunities or services to children or adolescents.
- Distance requirements – Cannot be within 500 feet of school or 200 feet house of worship (CL § 77[4]) – can expand to include community facilities via local law
- No license will be granted:
 - On same road within 200 feet house of worship; within 500 feet of school grounds, same road of community facility if local law adopted
 - Population 20,000 or more - within 1,000 feet of another facility
 - Population 20,000 or less - within 2,000 feet of another facility
- What does this mean? **Town can adopt a local law prohibiting location of onsite-consumption and adult-use retail dispensaries within up to 500 feet of community facilities**
- School and place of worship already in law and regulations – *town has to affirmatively enact local law regarding community facilities*
- Measuring in regulations is very specific (see proposed 9 NYCRR Part 119.4 [6] [i, ii])