

Schedule A

Revised Draft: 9/13/2022

Town of Penfield

Local Law No. ___ of 2022

Cannabis Retail Dispensary Law

Be it enacted by the Town Board of the Town of Penfield as follows:

Section 1. Title

This local law shall be known as the “Cannabis Retail Dispensary Law” of the Town of Penfield.

Section 2. Legislative Intent and Purpose

It is the intent and purpose of this local law to provide a comprehensive zoning plan to govern, regulate, and control Cannabis Retail Dispensary establishments within the Town of Penfield in accordance with the zoning ordinance amendments hereinafter set forth.

Section 3. 250-13.12 Cannabis Retail Dispensary

A. Purpose.

The purpose of this Section is to provide zoning district locations and regulations governing cannabis retail dispensary establishments in accordance with New York State’s Cannabis Law, as amended or changed. It is the express purpose and intent of this section to minimize the adverse impacts cannabis retail dispensaries may have on adjacent properties and to provide standards for the placement, design, siting, safety, security, monitoring, modification and discontinuance of cannabis retail dispensaries. This section outlines reasonable conditions that will protect the public health, safety, and welfare of the Penfield community. This section is intended to encourage appropriate land use and reasonable safeguards to govern the time, place, and manner of cannabis retail dispensary operations.

Commented [KA11]: Pete - I sent you an email asking about this change before I make it. Mostly for my education about the process for amending NYS laws.

B. Authorization to Approve or Deny Conditional Use Permits to Establish Cannabis Retail Dispensaries.

A conditional use permit shall be required before any property may be used as a cannabis retail dispensary. The power to approve, approve with conditions, or deny such application is vested in the board having jurisdiction as set forth above in Section 250-13.2, except that those applications that may be processed administratively as set forth in paragraph D, below.

C. Districts Where a Conditional Use Permit May Be Issued

Subject to the granting of a Conditional Use Permit, Cannabis Retail Dispensary establishments may be permitted only in the following zoning districts.

- (1) General Business District (GB)
- (2) Light Industrial District (LI)
- ~~(3) Limited Business District (LB)~~

D. Changes in Operator or Site.

Changes in site owner or operator of an existing cannabis retail dispensary or minor building or site modifications of a legally existing cannabis retail dispensary may be reviewed and a revised conditional use permit may be approved administratively by the Building and Zoning Department. If it is determined that the change in operator will result in a substantial change in operation or site plan, the application can be referred to the board having jurisdiction for a revised conditional use permit and/or revised site plan approval, subject to a public hearing if required by law or at the discretion of the board having jurisdiction.

E. Cannabis Retail Dispensary Standards, Requirements and Considerations.

In addition to the standards set forth in §250-13.4, the following standards, requirements and/or considerations shall be addressed in any application for conditional use permit and/or site plan approval associated with a retail cannabis dispensary:

(1) Minimum Distances. For the purposes of this law, distance shall be measured on a straight line from the nearest boundary line(s) of specified use or zoning district to the nearest point of the building footprint or tenant space footprint of the proposed cannabis retail dispensary.

~~(1)~~

- a. A cannabis retail dispensary shall not be located within 500 feet of any residential zoning district.
- b. A cannabis retail dispensary shall not be located within 1,000 feet of any recreational facility, school, place of worship, park, public playground, child-care facility children's camp or or similar use(s), as determined by the Code Enforcement Officer. ~~any other area where a large number of children travel or congregate~~

~~c. A Cannabis retail dispensary shall not be located within 1,500 feet from any other Cannabis retail dispensary, such distance measured on a straight line from the nearest property line of any other existing Cannabis retail dispensary to the nearest property line of the lot to be occupied by the proposed Cannabis retail dispensary.~~

c.

(2) Hours of Operation. Cannabis retail dispensaries may be open for business between the hours of 9:00 AM and ~~98~~ 9:00 PM Monday through Saturday and between the hours of 11:00 AM and ~~65~~ 6:00 PM on Sundays. Hours of operation must be provided in the application submission to the Town.

(3) The cannabis retail dispensary shall provide for adequate and proper security at the premises to deter and prevent illegal activities from taking place on or near the applicant's premises and avoid conduct that has an adverse effect on the health, safety and/or welfare of the surrounding neighborhood.

(4) No marijuana or marijuana product shall be smoked, eaten or otherwise consumed or ingested on the premises where sold. All dispensaries permitted under this section shall

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comply with all state and local laws, rules and regulations governing the smoking of tobacco.

- (5) No drive-through service shall be permitted at a cannabis retail dispensary.
- (6) No outside storage of marijuana, marijuana products, or related supplies is permitted.
- (7) The applicant must provide an odor control plan that provides for proper and adequate ventilation and demonstrates that any odors associated with the cannabis products stored on site shall be effectively confined to the premises or so treated in order to avoid any negative impacts to neighboring properties or tenant spaces.
- (8) Any conditional use permit issued under this Section shall contain a condition that the Cannabis retail dispensary shall not operate, and the conditional use permit shall not be valid, until the applicant has obtained all required licenses and permits issued by the State of New York and any of its agencies.
- (9) In case of conflict between any of the provisions contained in Section 250-13.2 and any other law, rule or regulation, the stricter, more restrictive provision shall govern and apply.
- (10) Subject to applicable law, the conditional use permit application to the board having jurisdiction must include a copy of all information submitted to the State of New York in application for a license to operate under the New York State Cannabis Law, as amended or changed.

F. License and Permit Revocation Violations and Penalties for Offenses.

(1) License and Permit Revocation

- a. A revocation of the ~~Adult-use~~ Cannabis Retail Dispensary license by New York State shall ~~be grounds for revocation of~~ render the conditional use permit null and void and of no further force and effect, and result in the ~~and~~ immediate closure of the dispensary.
- b. Any violation of this Section and/or conditions of approval shall be grounds for revocation of a conditional use permit issued under this Section.

(2) Violations and Penalties for Offenses.

- a. Notice of violation(s) of this Section shall be provided to the business operator in writing directing the conditions requiring correction. Notwithstanding the provisions set forth in Section 250-15.8, the notice shall provide a time limit, as determined reasonable by the Code Enforcement Officer, to resolve the observed or reported violations.
- b. Failure to take corrective action shall be punishable in accordance with the provisions set forth in 250-15.9.

Section 4. Article II, Section 250-2-2 "Terms Defined" Adding Definition of Cannabis Retail Dispensary

CANNABIS RETAIL DISPENSARY — A retail facility that sells at retail any cannabis product, the sale of which a license is required for an adult-use cannabis retail dispensary under the provisions of the New York State Marijuana Regulation and Taxation Act.

Section 5. Severability.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect without such part or parts.

Section 6. Effective Date

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided by law.