

**TOWN OF HYDE PARK**

**LOCAL LAW NO. 3 OF THE YEAR 2024**

**A LOCAL LAW AMENDING CHAPTER 108 OF THE TOWN OF HYDE PARK  
TOWN CODE, BY ADDING A NEW §108-8.6 AND AMENDING ATTACHMENT  
1 TO SECTION 108**

**BE IT ENACTED** by the Town Board of the Town of Hyde Park, that the Town Code hereby be amended as follows:

**PART 1. TITLE.** This Local Law shall be known as the "SPECIAL STANDARDS FOR RETAIL CANNABIS SPECIAL USE PERMIT."

**PART 2. ENACTMENT.** This Local Law is adopted and enacted pursuant to the authority and power granted by § 10 of the Municipal Home Rule Law of the State of New York.

**PART 3.1 AMENDMENT.** Article 8 Section 108 of the Code of the Town of Hyde Park is hereby amended to add a new §108-8.6 to read as follows:

A. Purpose and intent.

The purpose of this chapter is to impose regulatory requirements on various Cannabis Establishment uses (as defined herein) authorized and licensed by the State pursuant to State law. This chapter imposes regulatory requirements on Cannabis Establishments in addition to any other business license and regulatory requirements imposed on Cannabis Establishments by applicable State law.

B. Definitions. Where the definitions herein derive from New York State's Cannabis Law (CAN) §3, should those definitions in CAN §3 be modified, or added to, such amendments shall be applicable to any term herein, whether or not formally adopted by the Town. Should any definition be deleted from CAN §3, or invalidated, the definition set forth herein shall remain in effect. Any definition included herein which does not appear in CAN §3 shall have remain in full force and effect.

CANNABIS all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include hemp; cannabinoid hemp or hemp extract as defined by this section or any drug products approved by the federal Food and Drug Administration.

**CANNABIS ESTABLISHMENT** any business wherein a person, persons, or entity operates a facility which engages in, or functions for the purpose of, the DISTRIBUTION, INDIRECT RETAIL SALE, MICROBUSINESS, or RETAIL SALE, trade in any CANNABIS PRODUCT or CANNABIS INFUSED PRODUCT, as each of those terms are defined herein.

**CANNABIS PRODUCT** cannabis, concentrated cannabis, and cannabis-infused products for use by a cannabis consumer.

**DELIVERY** the direct delivery of cannabis products by a retail licensee, microbusiness licensee, or delivery licensee to a cannabis consumer.

**INDIRECT RETAIL SALE** to give any cannabis, cannabis product, cannabinoid hemp, hemp extract product, or any product marketed or labeled as such by any person engaging in a commercial business venture or otherwise providing or offering goods or services to the general public for remuneration for such goods and/or services, where any such cannabis, cannabis product, cannabinoid hemp or hemp extract product, or any product marketed or labeled as such, accompanies (a) the sale of any tangible or intangible property; or (b) the provision of any service, including but not limited to entry to a venue or event, or a benefit of a membership to a club, association, or other organization.

**LICENSE, STATE** all written authorizations, permits or licenses as provided under State law permitting persons to engage in a specified activity authorized pursuant to State law.

**LIMITATION USES** any of the following uses as they are defined in the Town Code: civic facility, day camp, day care center, educational institution (excluding colleges and universities as defined in NY Education Law §2.2 and 2.3), municipal use, nursery school, or religious use. Notwithstanding the foregoing, State or federally owned land or uses operated by the State or federal government shall not be considered a Limitation Use. Nothing herein shall be deemed to allow location of a Cannabis Establishment in violation of any State limitation of location.

**MEDICAL CANNABIS** cannabis as defined in State law, intended for a certified medical use, as determined by the board in consultation with the commissioner of health.

**MICROBUSINESS** a licensee that may act as a cannabis producer for the cultivation of cannabis, a cannabis processor, a cannabis distributor and a cannabis retailer under this article; provided such licensee complies with all requirements imposed by this article on licensed producers, processors, distributors and retailers to the extent the licensee engages in such activities.

OPERATOR a person or entity who is a CANNABIS ESTABLISHMENT OWNER, Operator or manager licensed pursuant to State law and by the Town in accordance with this chapter.

OWNER a person or entity which has any ownership interest in a CANNABIS ESTABLISHMENT, including all members or shareholders of any such entity.

PERSON an individual, institution, corporation, government or governmental subdivision or agency, business trust, State, trust, partnership or association, or any other entity.

RETAIL SALE to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell, made by any licensed person, whether principal, proprietor, agent, or employee, of any cannabis, cannabis product, cannabinoid hemp or hemp extract product to a cannabis consumer for any purpose other than resale.

RETAILER any person who sells at retail any cannabis product, the sale of which a license is required under the provisions of this chapter.

#### C. Applicability and Compliance.

Cannabis Establishment uses shall be permitted only in compliance with the requirements of this chapter, State law, all applicable requirements of this Code, including a State License, and a Retail Cannabis Special Use Permit pursuant to this chapter. Nothing herein shall be deemed to limit, abrogate, or modify any provision of State or local law pertaining to Cannabis Establishments, and wherever there is any conflict between the provisions herein and any other applicable State or local law, the more restrictive law or code shall be deemed to apply to the Cannabis Establishment unless prohibited by law.

#### D. Limitations on use.

(1) Cannabis Establishment uses shall only be allowed:

- a. by Retail Cannabis Special Use Permit, subject to all generally applicable provisions of §108-8 of this Code as well as all Specific Standards of this §108-8.6. Limitations on use and all standards applicable to Cannabis Establishments in this §108-8.6 shall be in addition to any applicable federal, state, or local law, rule, regulation or code, and where such standards shall conflict, the more restrictive standard shall apply. The Retail Cannabis Special Use Permit shall be a type of special use permit as contemplated by this chapter, and not an additional permit;
- b. in the NBD zoning districts; and
- c. on lots with frontage on a state road or highway.

(2) Land Use Buffers. No Retail Cannabis Special Use Permit shall be issued for a Cannabis Establishments within 500 feet of a Limitation Use.

- (3) Distance Between Cannabis Establishments. No Retail Cannabis Special Use Permit shall be granted for a Cannabis Establishment within one (1) mile of another licensed Cannabis Establishment.
- (4) The distances set forth in this section shall be measured as set forth in §119.4(f) of the New York Code of Rules and Regulations as same may be amended.
- (5) Nonconforming Locations. Cannabis Establishments which become nonconforming after the issuance of a Retail Cannabis Special Use Permit due to the establishment of any of the Limitation Uses within the Land Use Buffers listed in this section, may continue to operate as long as the business's State license remains valid. If either their State or Retail Cannabis Special Use Permit lapses, or for any other reason the Cannabis Establishment ceases operation as such for a period of six months or more, the Cannabis Establishment use shall no longer be considered a prior non-conforming use in that location.

#### E. Town Notification Information.

- (1) All applications for this Retail Cannabis Special Use Permit shall require applications for, and approvals in accordance with, site plan review as well as the standard Retail Cannabis Special Use Permit application, and shall contain the following information:
  - a. Identifying Information for Ownership and Operators. The name and address of each Cannabis Establishment Owner and Operator, as each is defined herein, and an explanation of the legal form of business ownership.
  - b. Additional Identifying Information for Owners and Operator. Each Cannabis Establishment Owner and Operator shall provide a home, work, and cell phone number, as well as their home and business address. Cannabis Establishment Owners and Operators must meet the following qualifications:
  - c. Operators must be twenty-one years of age or older.
  - d. Proof of State License Compliance. A description of the specific State cannabis license(s) or permits that the applicant has obtained or plans to obtain. The applicant shall describe how the business will meet the State licensing requirements.
  - e. Certificate of Insurance. Certificate of insurance demonstrating ability to comply with the industry standard insurance requirements.
  - f. Proof of Distance. A location map confirming the necessary distance between Cannabis Establishments and Public Uses (as defined herein) and between each Cannabis Establishment in Town.
  - g. Signature of Applicant(s) and Property Owner(s). The application shall be signed by all applicants, certifying, under penalty of perjury, that all information submitted as part of the application process is, to the best of the applicant's knowledge, true, accurate, and complete. The application shall be signed by all property owners of

the location where the Cannabis Establishment will be located, certifying, that the property owner(s) has/have reviewed the application and approves the use of the property for the purposes Stated in the application. The signatures shall be notarized.

- h. Hazardous Materials. To the extent that the applicant intends to use any hazardous materials in its operations, the applicant shall provide a completed building occupancy classification form, identifying all hazardous materials proposed for storage, use or handling on the premises, including compressed and cryogenic gases such as carbon dioxide, nitrogen, and others. "Hazardous materials" includes any hazardous substance regulated by any federal, State, or local laws or regulations intended to protect human health or the environment from exposure to such substances.
- i. Security Plan.
  - i. The application shall contain a signed sworn statement confirming that the Applicant has submitted a site security plan conforming to the requirements of the State of New York with respect to such establishments and shall file its site security plan with the Town of Hyde Park Police Department, which plan shall include motion-sensored security cameras capable of recording activity on the premises, including entry points to the property, and within all buildings and structures on the premises, including all entrances, exits, perimeter windows and all areas where customers and employees may have access, with the exception of any restroom area. Security cameras shall record twenty-four hours per day, seven days per week. The premises shall be equipped with, and at all times be monitored by, a secure web-based surveillance system. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of an individual committing a crime on the premises and the ability to capture license plates entering and exiting the premises.
  - ii. All site security plans shall be held in a confidential file, exempt from FOIL. Alarm and Video Surveillance.
  - iii. The Operator shall provide the chief of police remote access of any on-site web-based video surveillance to monitor remotely at any time. The Town will only monitor video surveillance for law enforcement purposes related to in-progress or past crimes committed on the premises of a Cannabis Establishment. Additionally.
  - iv. Surveillance video shall be kept for a minimum of sixty (60) days in a format that can be easily accessed for viewing. Operators shall be required to cooperate with all law enforcement investigations and provide video footage related to any such investigation upon request. All surveillance

equipment, records and recordings must be stored in a secured area that is only accessible to management staff. Operators must keep a current list of all authorized employees who have access to the surveillance system or alarm system.

- v. An Operator shall maintain up-to-date and current contracts on the premises that describe the name of any alarm installation company, and the name of any monitoring company. All monitoring companies shall be licensed as such by the State.
- vi. All security measures installed on the premises shall have the capability to remain fully operational during a power outage.
- vii. Weapons and firearms are prohibited on the premises, unless authorized by the chief of police. This provision shall not apply to public officials engaged in official duty.
- viii. All structures used for Cannabis Establishment use shall have locking doors, with commercial-grade non-residential locks, to prevent free access.
- ix. Except for limited amounts of cannabis used for display purposes, samples, immediate sales, and other authorized uses, all cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault that meets approval of the chief of police. To the fullest extent possible, all cannabis and cannabis products shall be kept in a manner that prevents theft and loss, except for limited amounts used for the purposes of display or immediate sales.

(2) Operators shall be subject to a background investigation by the chief of police at the time of application for a permit. Home address and phone numbers shall be confidential and shall not be subject to FOIL.

(3) Fees. The applicant shall pay all fees associated with any required Town permit or approval necessary for any permit or approval required in connection with the proposed use, including but not limited to fees associated with building code, site plan review, special use permits, variances or other land use permit or approval, as well as those fees set forth in the Fee Schedule of the Town Hyde Park as presently in place or hereafter adopted or amended.

F. Application process. All applications for this retail cannabis Retail Cannabis Special Use Permit shall require simultaneous applications for site plan review as well as the standard Retail Cannabis Special Use Permit application. If any area variances are required for an application, such application shall be made to the zoning board of appeals simultaneously as well, and any applicable application shall be processed concurrently in a coordinated review. In addition, applicants shall comply with the following application requirements.

(1) Applications for this Retail Cannabis Special Use Permit and any other land use application required by this code for the project shall be made

simultaneously to the zoning administrator. Notwithstanding the provisions of § 108-8.4 generally providing that the planning board issues special use permits, with respect to Retail Cannabis Special Use Permits, the Town Board shall have the authority to issue Retail Cannabis Special Use Permits.

(2) The application(s) will be referred to the Planning Board for site plan review and for its review and recommendation on the Retail Cannabis Special Use Permit. In making its recommendation, the Planning Board shall consider the criteria applied to the review of any Special Use Permit as set forth in §108-8, as well as the provisions of this section, and may include recommendations as to reasonable conditions.

(3) The Town Board reserves the right to request and obtain additional information from any applicant.

(4) Lead Agency. The Planning Board shall serve as Lead Agency for purposes of coordinated review under the State Environmental Quality Review Act. Any decision by the Town Board to grant Retail Cannabis Special Use Permit or special use permit for a Cannabis Establishment shall be preceded by either a negative declaration of environmental significance or a written findings statement consistent with the requirements of SEQRA adopted by the Planning Board.

(5) Public Hearing & Notice. At such time as the Town Board, in consultation with the zoning administrator, deems the application administratively complete, the Town Board shall schedule a public hearing on the Retail Cannabis Establishment Special Use Permit, which may be held in conjunction with any other public hearing required by the application, including hearings held by other boards, such as site plan review.

(6) Notice of the public hearing or hearings shall be given in accordance with the notice requirements set forth in the Code of the Town of Hyde Park for notice of hearings on site plan review. The Town shall provide notice by first class mail to all property owners of record, residents and businesses within a five-hundred-foot radius of any property line of the lot upon which the Cannabis Establishment is to be operated.

G. Decision. The decision of the Town Board shall be in writing.

(1) In making its decision, the Town Board shall be guided by the statement of policies, principles and guides set forth in the Greenway Connections. Its decision shall contain a statement of its findings regarding the applicant's satisfaction of the criteria for special use permits as generally applicable to any specially permitted use, as well as the requirements and considerations set forth herein with respect to Retail Cannabis Special Use Permits. The Decision shall be in writing and shall state that the Retail Cannabis Special Use Permit is granted, granted with conditions, or denied.

(2) In the event of a denial, the reasons for denial shall be clearly articulated.

(3) Whether granted or denied, to the extent the Town Board determines not to follow the recommendations of the Planning Board, its resolution of

approval or denial shall state the findings on which they base their divergence from such recommendation or recommendations.

- (4) The Town Board shall attach to the Retail Cannabis Special Use permit such conditions and restrictions as are deemed necessary.

H. Filing. Within five business days from the date of adoption of a resolution approving the special use permit, the Town Board shall cause a copy of such resolution to be filed in the Office of the Town Clerk with an additional copy of such resolution delivered to the Zoning Administrator. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the Town, in addition to any conditions required or imposed by the Town Board under this Section 108-8.6.

I. Expiration of Retail Cannabis Special Use Permit. A Retail Cannabis Special Use Permit shall be deemed to authorize only the particular use or uses specified in such permit and shall expire if:

- (1) A certificate of occupancy is not issued within two years from the date of approval of such special use permit;
- (2) The certificate of occupancy is revoked for any reason;
- (3) The authorized use or uses shall cease for more than one year for any reason; or
- (4) The required improvements are not maintained, and all conditions and standards complied with throughout the duration of the use.

J. Revocation. The Town may revoke or suspend an existing permit on any of the following grounds:

- (1) Failure to comply with to comply with state or local law or regulation including but not limited to the Code of the Town of Hyde Park and provisions of this Section 108-8.6.
- (2) Failure to comply with the plans and materials included with an approved Retail Cannabis Special Use Permit approval.
- (3) Revocation of a State cannabis license or permit or any cause that would allow the State to deny or revoke a license.
- (4) The Cannabis Establishment Owner or Operator has knowingly made a false Statement in the application, or any other information furnished to the Town.
- (5) The Cannabis Establishment Owner or Operator has been convicted of an offense that is substantially related to the qualifications, functions, or duties, of the Cannabis Establishment for which the application is made.
- (6) The Cannabis Establishment Owner or Operator has ever had a State License revoked, or whose State License is suspended at the time application is made to the Town for a Retail Cannabis Special Use Permit.
- (7) Nothing herein shall be construed to limit the Town's authority to revoke a Retail Cannabis Special Use Permit for any reason set forth in Article 8.



#### K. Term and Renewal.

- (1) The term of a Retail Cannabis Special Use Permit, or a renewal of a Retail Cannabis Special Use Permit shall be three years.
- (2) Application for renewal of Retail Cannabis Special Use Permits shall be subject to the same requirements and review standards as applications for a Retail Cannabis Special Use Permit.
- (3) (4) Retail Cannabis Special Use Permits shall be personal to the person or entity to which it is granted, and shall not be transferable to another Owner, Operator, or location and shall not run with the land.

#### L. Performance standards.

The following standards shall apply to all Cannabis Establishments. Failure to comply with the following standards shall be grounds for suspension or revocation of a Retail Cannabis Special Use Permit.

- (1) Hours of Operation. Cannabis Establishments shall not be open to the public and shall not conduct retail sales before 9 a.m. or after 9 p.m. on any day of the week and shall not receive or commence Deliveries before 7 a.m. or after 7 p.m. on any day of the week.
- (2) Odor Control. Odors shall be contained on the property on which the Cannabis Establishment is located.
- (3) Minimum lighting level of one-foot candle shall be provided at building entrances and in parking lot areas. All lighting shall be fully shielded, downward casting and not spill over onto structures, other properties, or the night sky. Exterior lighting on the premises shall be balanced to complement the security/surveillance systems to ensure all areas of the building and parking areas are visible. The lighting required shall be turned on from dusk to dawn.
- (4) Notification. Within twenty-four hours after discovering any of the following, a Cannabis Establishment shall notify the police department of:
  - a. Diversion, theft, loss, or any criminal activity involving cannabis or cannabis products or any agent or employee or permittee.
  - b. The loss or unauthorized alteration of records related to cannabis or cannabis products, customers, employees, or agents.
  - c. Significant discrepancies identified between inventory records and inventory.
  - d. The receipt of any notice of violation or other corrective action ordered by a State agency or other local licensing authority and shall provide copies of relevant documents.
  - e. Any material breach of security or malfunction in its security system.
  - f. Changes in the name or contact information for any contact person or persons.
- (5) To the extent permitted by state law, cash shall be prohibited as a form of payment for cannabis delivery transactions at the delivery location. Payments shall be made via credit card, check, or other means of cashless payment or a cash payment shall be made in advance at the business location.

(6) No processing, manufacturing, distribution, storage, or display of cannabis or cannabis products shall be visible from the exterior of a building where a Cannabis Establishment is located.

**M. Enforcement.**

(1) This chapter may be enforced by the Zoning Administrator and/or the Police Department. Each shall be authorized to enforce any State or local law or code applicable to Cannabis Establishments as well as any provision of this chapter. Any activity performed contrary to the provisions of this chapter is hereby declared to be a public nuisance in addition to any civil or criminal action or offense which such activity may constitute.

(2) In any enforcement action brought pursuant to this section, whether by administrative or judicial proceedings, each person who causes, permits, suffers, or maintains the unlawful cannabis use shall be liable for all costs incurred by the Town, including, but not limited to, reasonable attorney’s fees, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible person to undertake, any abatement action in compliance with the requirements of this section.

**N. Appeal.** Any person or persons, jointly or severally aggrieved by any decision of the Town Board, Planning Board, Zoning Board of Appeals, Zoning Administrator or Building Inspector pursuant to this Chapter 108-8.6, may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules, provided the proceeding is commenced within 30 days after the filing of the decision in the Office of the Town Clerk.

**PART 3.2. AMENDMENT.** Article 8 Section 108 Attachment 1 of the Code of the Town of Hyde Park shall be amended to add “Retail Cannabis Establishment” as a use permitted by special permit, as follows:

	Greenbelt and Waterfront		Neighborhood and Neighborhood Core		Hamlet and Hamlet Core		Crossroads Core	Landing	East Park Business District	Neighborhood Business District	Town Core	Corridor Business	Historic Overlay District	Scenic Overlay District
	GB	WF	N	NC	H	HC	CC	L(w)	EPBD	NBD	TC	CB	U	U
<b>Non-residential uses</b>														
Retail Cannabis Establishment	NP	NP	NP	NP	NP	NP	NP	NP	NP	S	NP	NP	NP	NP

**Part 4. Severability.** The invalidity of any part or provision of this Local Law shall not affect the validity of any other part of this Law, which can be given effect in the absence of the invalid part or provision.

**Part 5. Effective Date.** This Local Law shall take effect immediately upon filing with the Secretary of State.