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## **MEMORANDUM**

To: Kevin Hansan, Chairman,  
and the Town of Pound Ridge Town Board

Date: May 29, 2024

Subject: **Local Law: Cannabis Dispensary and Consumption Site Special Permit**

As requested, we have provided for your consideration the following analysis and prepared the attached draft Local Law regarding Special Use Permit regulations for Licensed Adult Cannabis Dispensary use and Licensed Adult Cannabis Consumption Site use in the Town of Pound Ridge Business District.

New York State Law 9 NYCRR Section 119 details what elements of cannabis operations local municipalities can regulate and to what degree. As the elements of cannabis operations regarding operation, registration, licensure and permitting are handled at the state level, local municipalities are limited to regulations regarding time, place, and manner.

### **Background Information**

In order to provide you with a thorough assessment of land use regulations to be considered by your Board, we looked at what other communities who have “opted-in” have done. In our research, we focused on comparable New York municipalities and how they have drafted their own cannabis dispensary and consumption zoning regulations. The New York State cannabis regulations are comprehensive and specific to the state and limit the applicability of what can be learned from municipalities across state lines. After reviewing many municipalities in the Hudson Valley that had opted-in to both cannabis dispensaries and consumption sites, we found that many did not adopt additional regulations beyond what is prescribed in the New York State regulations. Of the ones that did adopt their own regulations, we found the Town of Poughkeepsie and the City of Peekskill to have some of the most robustly developed regulations we reviewed. Out of these codes there are several key elements.

The first is the use of redundancy while deferring to the State regulations. Should there be changes at the State level or ambiguity in the implementation of the municipal code, the



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State regulations take precedence. As the State regulations and the industry of recreational cannabis are relatively new, these regulations may change. It is important to draft the Pound Ridge code in a way that will defer to new or changed definitions or regulations at the State level. Additionally, there are elements of the draft language that reiterate State land use regulations like the prohibition of alcohol sales. By adding these elements as redundancies to the Pound Ridge code, they will remain should State regulations change in a way that still allows for local regulations on the matter. Should the State make changes that supersede the Town regulations, the draft language attached is clear to defer to the State regulation. These redundant provisions can be found in the draft language in Section 5, under subsection H and I but this can be modified.

Second is the importance of flexibility. As the regulations at the local and state level are new, and the industry is emerging and growing, it is important to allow the Town Board the latitude to make judgements concerning time, place, and manner of cannabis operations that reflect the context of an application. Versions of this language can be found in the sections of the draft language attached concerning operational hours and façade treatments. What works well for one property may not be appropriate in another and vice versa. Also, the understanding of what works well or does not work may change over time and with experience.

In addition to looking at other municipalities and developing land use regulations, we have also considered the traffic generation of Adult Cannabis uses. We first looked at traffic impact studies of cannabis dispensaries prepared by our Traffic Engineers for businesses in Connecticut. We found that the differences in state laws, timing, and context mean that their reviews have limited applicability to traffic impacts of cannabis dispensaries in Pound Ridge. The main limiting factor in the information is that Connecticut State Law allows for cannabis dispensaries to operate by appointment only, which is not possible under New York State Law. The use of appointments creates a significant difference in predicting peak traffic.

We then looked to the Institute of Transportation Engineers (ITE) *Trip Generation Manual*. The manual provides trip generation estimates derived from sources throughout the country. ITE also makes parking demand recommendations for cannabis dispensary use based on 11 studies across California and Colorado where dispensaries have existed for several years. This is important because what was seen in Connecticut and New Jersey during the initial stages of State legalization of cannabis was a surge in traffic impacts as



there were fewer dispensaries and no dispensaries in surrounding states. As dispensaries became more common and surrounding states legalized cannabis and created their own dispensaries these traffic surges diminished.

The ITE *Parking Generation Manual 6th Edition, 2023*, recommends 5.5 parking spaces per 1,000 sf. of cannabis dispensary use. Pound Ridge requires 5 parking spaces per 1,000 sf. for retail use. Our traffic engineers recommend that the parking requirements for cannabis dispensaries in Pound Ridge be consistent with the retail parking requirements in the Town.

Our traffic engineers also recommend that the parking requirements for cannabis consumption sites be consistent with the Pound Ridge restaurant use parking requirements. Our research of comparable codes shows that these parking requirements (restaurant and cannabis consumption site) are consistently linked. Where “fast dining” or “high turnover restaurant” uses have their own parking requirement, we found that these parking requirements are used for cannabis consumption sites.

Town of Pound Ridge	ITE		Town of Poughkeepsie		City of Peekskill	
Retail	Retail	Cannabis	Retail	Cannabis	Retail	Cannabis
5/1000 sf	2.8/1000 sf	5.5/1000 sf	4/1000 sf	4/1000 sf	3.3/1000 sf	12.5/1000 sf

**Conclusion:** We have attached a draft local law for your review. Some key items for the Board to consider are as follows:

**Hours of Operation:** The Board should consider if it would like to see hours of operation restricted beyond what is required by State regulations, while remembering that it cannot restrict operational hours to be fewer than 70 hours a week. The section of the attached draft local law provides sample text on hour restrictions in Section 5 subsection O, but this can be modified.

**Distance Requirements:** A municipality can restrict new cannabis operations from being located within 500 feet of a public youth facility such as playgrounds, libraries, public pools, or public premises where the primary purpose is to provide recreational opportunities or services to minors. State regulations already restrict cannabis operations from being within 500 feet of a school or 200 feet of a church, but the Board can decide if it would like to see Public Youth Facilities included in those distance requirements. The



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attached draft local law provides text that includes public youth facilities in the distance requirements in Section 6 subsection B, but this can be modified.

**Manner:** Municipalities can make manner regulations regarding parking, traffic control, noise, odor, and business operations within historic districts. Many of these elements will also be held to higher or more general standards. For example, the existing municipal noise ordinances will apply to cannabis operations, and odor regulations must be consistent with Public Health Law Article 13-E and the Clean Indoor Air Act which will apply to cannabis operations regardless of municipal regulation. These items are addressed in Section 5 subsection M in the attached draft language, but this can be modified.

**Appearance:** Street appearance regulation should be balanced. It may be desirable to screen cannabis operations from public view, but these screening regulations can also create undesirable street facades. We recommend not allowing completely screened or opaque facades, and instead steering façade treatments or screening towards architecture and design that will contribute to visual interest and local community character. This may mean allowing for the Town Board to evaluate architectural presentations on a case-by-case basis. The draft local law includes language on the subject in Section 5 subsection K, but this can be modified.

**Parking and Traffic:** The Board should consider if it wants to set a static parking demand for cannabis operations or pair them to the retail and restaurant use requirements. Should the Town realize in the future the general retail or restaurant use parking requirements are too low or too high, changes made to the parking requirement would affect all underlying uses including cannabis operations. As it currently stands, there is little difference between Pound Ridge retail parking requirements and ITE recommendations for cannabis dispensaries. But the Board may find general retail induces a lower parking demand than cannabis dispensaries. The ITE recommendations for strip mall retail is lower than the Pound Ridge parking requirements for retail use and almost half of their own recommendations for cannabis dispensaries. There is also the consideration that, as cannabis operations are a new and evolving industry, the parking recommendations from the ITE for cannabis dispensaries may drop closer to retail levels if online ordering or delivery become more common. If the Board decides to establish separate and static parking requirements for cannabis operations, we recommend that language be included that would allow the reviewing Board to grant parking waivers subject to good cause, should changes in the industry see parking demand drop.



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Regarding traffic impact and trip generation, the ITE Trip Generation Manual 11<sup>th</sup> Edition, 2021, includes Marijuana Dispensary in their land use rate recommendations. Our traffic engineers recommend using these figures when studying the potential impacts of traffic generation with each application. Like the parking considerations above, the first dispensaries in an area see a surge in traffic related impacts, which diminish with time as additional dispensaries appear in the surrounding area and in neighboring states. The rates the ITE recommends are based on sites surveyed in California, Colorado, Massachusetts, and Oregon during the 2010's. As the industry and the regulation of the industry evolve, the traffic impacts of cannabis operations will change. The ITE will update their recommendations with time as new data becomes available, and the provisions of the draft code attached that allow the Board to require traffic or parking studies with an application (Section 5 subsection Q & R) reference the most recent ITE recommendations at the time of the application.

Local Law XXX-XXX

Cannabis Dispensary and Consumption Site.

**1. Purpose.** The purpose of these cannabis regulations is to provide for the placement and regulation of adult use recreational cannabis dispensaries and consumption sites as authorized pursuant to state law and regulations with the goal of minimizing potential adverse impacts on adjacent properties, neighborhoods, and the Town of Pound Ridge.

**2. Definitions.** As used in this subsection, the following terms shall have the meanings indicated:

**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 Retail Business or Cannabis Dispensary**

Any business, collective, establishment association or any other organization or any person engaged in the licensed activities of an adult-use cannabis retail sales.

**Public Youth Facilities**

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.

**On-Site Consumption or Consumption Site**

The consumption of cannabis in an area licensed by the Cannabis Control Board. An on-site consumption license authorizes the acquisition, possession, and sale of cannabis from the licensed premises of the on-site consumption licensee to cannabis consumers for use at the on-site consumption location or another location.

**3. Applicability.** Cannabis retail dispensaries and cannabis consumption sites are hereby permitted by special permit of the Town Board within the PB-A, PB-B, and PB-C zoning districts.

**4. Application.** Any applicant for a cannabis dispensary or consumption site shall provide no less than the following when submitting a registration application:

- A. Completed special use permit application and checklist.
- B. An operating license from the Cannabis Control Board (CCB) and the Office of Cannabis Management (OCM) established pursuant to the Marijuana Regulation and Taxation Act (MRTA) § 72 for regulatory jurisdiction over adult-use cannabis or demonstration that a license has been applied for with the understanding that the special permit will be conditioned on the permittee obtaining and maintaining all required state permits.
- C. A written description of day-to-day operations and hours of operation.
- D. Complete site plan showing any alterations to the property.
- E. Floor plans certified by a licensed professional engineer or architect detailing ventilation as well as interior and exterior security plans in compliance with New York State law.
- F. Sign application with all proposed building-mounted and freestanding signs.
- G. Any additional materials requested by the Planning Board or Town Board during the review process of the special permit and site plan.

#### **5. Provisions, Requirements, and Approvals.**

- A. Special permit approvals by the Town Board and site plan approvals by the Planning Board shall be required for the operation of a dispensary or consumption site in the Town of Pound Ridge.
- B. The dispensary or consumption site use must comply with all requirements as specified in the zoning district where the dispensary or consumption site is located, except as specified in this Section XXXX.
- C. All permitted dispensaries and consumption sites shall have applied for a license from the NYS Cannabis Control Board (CCB) and shall comply with all applicable state and local public health regulations and all other applicable state and local laws, rules and regulations.
- D. A special use permit issued pursuant to this section shall be conditioned on the permittee obtaining and maintaining all required state and local licenses and/or permits and complying with all applicable state and local public health regulations and all other applicable laws, rules and regulations at all times. No building permit or certificate of occupancy shall be issued for a cannabis dispensary or consumption site that is not properly licensed.
- E. A special use permit authorizing the establishment of a cannabis retail dispensary shall be valid only for the site on which the cannabis retail dispensary has been authorized by such special use permit. Relocation of a dispensary to a different site shall require a new special use permit. A separate special use permit shall be required for each premises from which a licensed cannabis retail dispensary is operated.

F. Upon the revocation or expiration without renewal of the NYS license or registration for a cannabis retail dispensary or consumption site, the special use permit shall terminate, and a new special use permit shall be required prior to issuance of a certificate of occupancy.

G. No drive-through sales to the public shall be permitted at a dispensary or consumption site.

H. No on-site use or consumption of cannabis shall be permitted at any dispensary or at any other retail or service business located in the Town, other than at a licensed and approved consumption site.

I. No dispensary or consumption site may sell alcoholic beverages.

J. The building and site shall be designed to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior.

K. The cannabis retail dispensary shall not have opaque, unwelcoming ground-floor facades that may detract from other retail activity in the district. Where interior activities must be screened from public view, opaque facades should be minimized, and where they are necessary, they should include architecture and design that will contribute to visual interest and community character subject to Town Board approval.

L. The parking requirements for dispensaries shall comply with the Section 1113-74 off-street parking requirements of "Retail or personal service business" and the parking requirements for consumption sites shall comply with the Section 1113-74 off-street parking requirements of "Restaurant".

M. The dispensary or consumption site shall not create a nuisance to abutters or to the surrounding area, or create any hazard, including, but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent, or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

N. The dispensary or consumption site shall not provide outdoor seating or outdoor smoking areas.

O. The hours of operation of a cannabis retail dispensary shall be limited to Monday through Saturday from 9:00 a.m. to 9:00 p.m., and Sunday from 11:00 a.m. to 6:00 p.m., or as otherwise established by the Town Board as a condition of the special use permit, but in no case shall the Town Board permit a cannabis retail dispensary to operate between 2:00 a.m. and 8:00 a.m., nor shall the Town Board restrict the operation of a cannabis retail dispensary to fewer than 70 hours a week, unless the operator agrees to do so.

P. All dispensaries and consumption sites shall operate within a fully enclosed building and shall not operate within any mobile facility.

Q. The Town Board may require the preparation of a parking study to be prepared for an application where, due to the specifics of the application, the Board feels that parking will be of



particular concern. The parking study shall conform to the most recent ITE Parking Generation Manual at the time of the application.

R. The Town Board may require the preparation of a traffic study to be prepared for an application where, due to the specifics of the application, the Board feels that the traffic generated by the application will be of particular concern. The traffic study shall conform to the most recent ITE Trip Generation Manual at the time of the application.

S. If any provision, paragraph, sentence, or clause of this section shall be determined to be in conflict with applicable state law or regulations, the provisions of said state law or regulations shall prevail.

T. Where not expressly defined in the Pound Ridge Zoning Ordinance, terms used in this section shall be interpreted as defined in the New York State Marihuana Regulation and Taxation Act.

U. The provisions of this section are severable. If any provision, paragraph, sentence, or clause in this section shall be held invalid, such invalidity shall not affect the other provisions of this section.

## **6. Location.**

A. Cannabis dispensaries and consumption sites shall be located within the PB-A, PB-B, and PB-C zoning districts.

B. No dispensary or consumption site shall be located within 500 feet of public or private school grounds as defined in the NYS Education Law, serving students through the 12th grade, or within 500 feet of a public youth facility, or within 200 feet of a house of worship, in accordance with State Regulations. Distance shall be measured horizontally from the front door of the proposed dispensary or consumption site to the front door of school, public youth facility, or house of worship. If no structure exists, distance shall be measured to the nearest entrance of the grounds of the school, public youth facility, or house of worship.

C. The Town Board may deviate from the proximity restrictions as necessary on good cause shown by the applicant balancing the need to foster and develop new businesses and of protecting the community and aforementioned locations.

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