

NOTICE OF PUBLIC HEARING
Local Law No. 2025-4
Modification of Chapter 59 Cannabis Facilities

Notice is hereby given that a public hearing will be held before the Town Board of the Town of West Seneca on April 14, 2025, at 6:00 PM in the Court Room at the West Seneca Town Hall, 1250 Union Road, West Seneca, New York, to hear all interested parties and citizens for or against Local Law 2025-4. The proposed local law deals with the signage, armed security and location. Copies of the law will be available at the office of the Town Clerk for inspection by any person during regular business hours and are posted on the town's website.

Kate Newton, Town Clerk

Section 1. Purpose

Legislative intent. In order to promote the health, safety and general welfare of the residents of the Town of West Seneca, including property values, community character, quality of life, business climate and the prevention of crime, this article is intended to restrict cannabis uses to being located in certain zoning districts as more fully set forth herein. Further, that all cannabis uses proposed to operate within the Town shall be required to obtain a Special Use Permit regardless of the zoning classification to ensure the strict compliance with these regulations.

Section 2. Restrictions

Restrictions. Cannabis uses, including retail dispensaries, storage facilities, warehouses, cultivators, nurseries, processing facilities, distributors and distribution centers, adult-use cooperatives, adult-use microbusinesses, and delivery services and operations shall be permitted subject to the following restrictions.

A. No such cannabis uses shall be located within one thousand (1000) feet of another existing cannabis facility set forth above, **as measured from each property line.**

B. No such cannabis use shall be located within five hundred (500) feet of the property line at locations of community facilities and/or where children and cannabis users are known to gather, including, but not limited to, public parks, **convenience stores and other retail/food establishments which children regularly frequent**, childcare centers, playgrounds, drug rehabilitation centers, medical practitioner's offices, community centers, and other dispensaries.

C. No such Cannabis Use Facility shall be located within five hundred (500) feet of a school building or property and/or within two hundred (200) feet of a church or other similar place of worship **as measured from each property line.**

1. In the event that a school existing and authorized by the State Education Department is located on property where a place of worship also exists, no such Cannabis Use Facility shall be located within five hundred (500) feet of the school building or property onto which the building is located.

D. No Cannabis Use Facility shall be located in any area zoned residential in any form nor shall such facility be permitted to abut any property used for residential purposes, including, but not limited to single family residences, duplexes, multifamily residences, or any mixed use property that contains any residence.

E. No Cannabis Use Facility may be located in any historic district.

F. No retail dispensaries and/or distribution centers may operate between the hours of 1:00 a.m. and 7:00 a.m.

G. Cannabis retail dispensaries shall only be located in separate, stand-alone structures and shall not be located in the same building as any other retail establishment or within a plaza where other retail establishments exist.

Section 3. Security

Any cannabis use set forth above, regardless of its location, shall take all necessary security measures at any facility permitted by a Special Use Permit. Unless otherwise required as a condition of the Special Use Permit, the following requirements must be met.

A. All facilities where a cannabis use shall be established shall provide for fencing and/or other screening or security feature acceptable to the Town Board around the perimeter of the property at the height and type established by the Planning Board.

B. All facilities where a cannabis use shall be established shall install a fully operational 4K camera system, at a minimum, sufficient to be used at night and covering all areas on the property to be so used. The system used shall be capable for recording and all recordings must be kept for a minimum of thirty (30) calendar days.

C. In any facility where a cannabis use is established where the general public and/or customers are invited shall provide for continual armed security guard presence while such facility is open to the public ~~if so directed by the West Seneca Police Department or the Town Board~~. Any such security presence shall be certified by the local, state, or federal government and shall provide such information as may be required by any local police agency from time to time. **Nothing herein shall prevent the Town Board from removing such need for armed security after requiring same after consultation with the police that same shall not be necessary after such dispensary has been open for more than one (1) year for such period of time as may be determined by the Town Board. Even if armed security is not required, such facility shall still provide for security guards during all hours in which the facility is open to the public. Nothing herein shall prevent the Town Board from requiring armed security guards after any such waiver was granted upon such basis as may be determined by the Town Board.**

D. In any facility where a cannabis use is established where the general public and/or customers are invited shall provide for secure locations where cash is to be kept on the premises.

E. In the event of deliveries from the cannabis use facility, provisions shall be made for adequate security consistent with these regulations which must be provided in advance to the West Seneca Police and any local, state, and/or federal police agency. **The implementation of deliveries shall require an amended Special Use Permit and a review by the Planning Board which may impose additional security measures, including, but not limited to, armed security guards and safe boxes in any transport vehicle.**

F. Home cultivation cannabis shall be screened from view from neighboring properties and shall otherwise be secured with appropriate fencing to deter removal by third parties.

1. No cannabis shall be cultivated, grown, planted, and/or maintained in any front or side yard.

2. Individuals cultivating, planting, growing, or maintaining any cannabis plants shall register with the Code Enforcement Office providing their name, address, and location of any plants prior to cultivating, planting, growing or maintaining any cannabis plants.

3. Sufficient setbacks shall be maintained at all times of no less than fifteen (15) feet from any property line.

Section 4. Signage

A. Only one sign advertising the business shall be permitted on the building and same shall not exceed ten (10) percent of the size of the wall upon which the sign is located. No freestanding signs, including, but not limited to "A" frame signs, shall be permitted without the express prior approval of the Planning Board and Town Board, or its designee.

1. One additional sign may be permitted upon approval of the Town Board after a review by the Planning Board in such instances where visibility of the facility is obscured or otherwise limited. Such additional signs shall not exceed twenty (20) square feet in size and same shall not be internally illuminated.

B. Any illuminated sign shall not be flashing, rotating, or otherwise have any movement whatsoever as to not distract highway traffic or disturb any adjoining and/or nearby residential properties.

C. Motor vehicles, vans, trucks, trailers, and/or similar items shall not be parked on the property which advertise the business in any way beyond the name of the business in lettering not to exceed twelve (12) inches per letter. Such vehicles shall not be left on the premises except in a fully enclosed garage during any period of time that the cannabis use facility is not open to the public.

D. Any murals or other painting options shall be set forth in the application for a Special Use Permit and are subject to the further reasonable requirements of the Planning Board. No paintings or murals that might distract drivers on any public highway or that could reasonably be interpreted as advertising to minors shall be permitted.

Section 5. General Regulations

A. Odor at the facility where a cannabis use shall be established shall be maintained to limit odors onto adjoining properties to the greatest extent possible.

B. Sufficient parking shall be provided on premises for any customers and employees such that no on-street parking shall be required or permitted.

C. Mobile sales shall be strictly prohibited. Nothing herein shall prevent licensed delivery vehicles with sufficient security features from making deliveries. All delivery operations shall be listed and described as part of the Special Use Permit application.

D. No onsite use, consumption, sampling (other than for testing purposes), ingestion, injection, or similar functions shall be permitted at any time.

E. Any permitted use shall be pursuant to a Special Use Permit as provided for under the Zoning Code of the Town of West Seneca.

1. Reasonable conditions with respect to lighting, signage, hours of operation, parking, and other restrictions may be applied as part of the Special Use Permit grant.

2. Sufficient setbacks shall be maintained at all times of no less than fifteen (15) feet from any property line.

F. Drive-thru service windows and/or customer pick-up lanes must provide sufficient security features and shall not provide for direct access between a vehicle in the drive-thru and the cannabis employee.

1. License plate recognition cameras shall be placed such that they record the rear license plate of the vehicle while the vehicle is at the drive-thru window and at the entrances to the property. Such placement shall be reviewed by the West Seneca Police Department at the time of installation. Videos must be retained for a minimum of thirty (30) days.

a. The West Seneca Police Department shall be provided access to the monitoring system upon request. Alternatively, the Cannabis Use Facility may provide a direct link of such camera system to the Police Department.

2. No sliding windows may be used for drive-thru access. Windows must provide sufficient protection from breaking from the outside.

3. There shall be no direct contact between the employee and the customer. Retractable receipt/delivery devices shall be used at all times the drive-thru window is used.

4. There shall be adequate space on any site which uses a drive-thru window to provide for the stacking of vehicles to prevent vehicles from waiting on any public roadway and/or blocking any other sidewalk or area of ingress and egress.

G. Prior to opening any Cannabis Use Facility, the Code Enforcement Office, Engineering Office, and the West Seneca Police Department shall have the right to inspect all premises to ensure compliance with these provisions and all other provisions of law.

1. **As a condition of the issuance of a Special Use Permit**, the Town of West Seneca and its respective departments shall have the right to periodically inspect all Cannabis Use Facilities to ensure compliance with these provisions and all other provisions of law without the necessity of an administrative search warrant.

Section 6. Definitions

CANNABIS USE FACILITY – any location, property, building, structure, accessory structure, or facility where cannabis, cannabis products, and/or related materials are located, stored, warehoused, sold, manufactured, used, smoked, ingested, processed, grown, cultivated, bartered, used, delivered, transported, advertised, or stored including retail dispensaries, cultivators, nurseries, processing

facilities, distributors and distribution centers, adult-use cooperatives, adult-use microbusinesses, warehouses, and delivery services and operations.

COMMUNITY FACILITIES – any location where children congregate including, but not limited to, playgrounds, libraries, public parks, bicycle paths, **convenience stores and other retail/food establishments which children regularly frequent**, public pools, splash pads, athletic facilities and fields, and childcare centers.

CONSUMPTION – any building, structure, location, property, business, or entity that is licensed by the State for the purposes of consuming, smoking, ingesting, injecting, or otherwise using cannabis, any cannabis product, and/or any cannabis related product.

COOPERATIVE – A State-issued cooperative license authorizes the acquisition, possession, cultivation, processing and sale from the licensed premises of the adult-use cooperative by such licensee to duly licensed distributors, on-site consumption sites, registered organization and/or retail dispensaries; but not directly to cannabis consumers.

CULTIVATOR - “Cultivation” means the growing, cloning, harvesting, drying, curing, grading, and trimming of cannabis plants. A State-issued cultivator’s license authorizes the acquisition, possession, distribution, cultivation and sale of cannabis from the licensed premises of the adult-use cultivator to a licensed processor.

DELIVERY - A State-issued delivery license authorizes the delivery of cannabis and cannabis products by licensees, independent of another adult-use cannabis license, to cannabis consumers. Delivery licenses may not have a total of more than twenty-five individuals, or the equivalent thereof, providing full-time paid delivery services to cannabis consumers per week under one license.

DISTRIBUTOR - “Distributor” means any person who sells at wholesale any cannabis product for which a license is required. A State-issued distributor’s license authorizes the acquisition, possession, distribution and sale of cannabis from the licensed premises of a licensed adult-use processor, adult-use cooperative, microbusiness, or registered organization authorized to sell adult-use cannabis, to duly licensed retail dispensaries, on-site consumption sites and adult-use delivery licensees.

HOME CULTIVATION - means growing cannabis on any residential property for personal use.

MICROBUSINESS - “Microbusiness” means a licensee that may act as a cannabis producer for the cultivation of cannabis, a cannabis processor, a cannabis distributor, and a cannabis retailer. A microbusiness license authorizes the limited cultivation, processing, distribution, delivery, and sale of their own adult-use cannabis and cannabis products.

NURSERY - “Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis by licensed adult use cannabis cultivators, microbusinesses, cooperatives and registered organizations. A State-issued nursery license authorizes the production, sale and distribution of clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis by licensed adult-use cultivators, cooperatives, microbusinesses, or registered organizations.

PROCESSOR - "Processor" means a licensee that extracts concentrated cannabis and/or compounds, blends, extracts, infuses, or otherwise manufactures concentrated cannabis or cannabis products. A State-issued processor's license authorizes the acquisition, possession, processing, and sale of cannabis from the licensed premises of adult-use cultivators to licensed distributors.

RETAIL DISPENSARY – "Retailer" means any person who sells at retail any cannabis product, to cannabis consumers. A State-issued retail dispensary license authorizes the acquisition, possession, sale and delivery of cannabis from the licensed premises of the retail dispensary by such licensee to cannabis consumers.

WAREHOUSE – means any building, structure, location, property, business, or entity where any cannabis and/or cannabis product is maintained and/or stored for any length of time.

Section 7. Locations

A. The following zones shall be used for specific cannabis businesses as described above:

Zones M-1 and M-2: Retail Dispensary, Cultivator, Nursery, Processor, Distribution, Microbusiness, Delivery, Warehouse.

Zone C-2: Retail Dispensary, Cultivator, Nursery, Distribution, Microbusiness, Delivery.

Zone C-1: Retail Dispensary