

**Adopted Feb. 1, 2024**

## **Local Law 3 of 2024**

### **A Local Law amending Chapter 140, Zoning of the Code of the Town of Rochester**

#### **Section 1. Chapter 140, Zoning Amendment**

Chapter 140, Zoning, of the Code of the Town of Rochester shall be amended to include a new chapter §140-32.1, **Adult Use Cannabis Related Businesses**, as follows.

#### **§140-32.1**

##### **Adult Use Cannabis Related Businesses**

- A. Authorization.  
This local law is authorized under New York State Cannabis Law Article VI section 131 and 10 NYCRR 119.
- B. Findings.  
The Town of Rochester finds that the orderly development of commercial business is essential to maintaining and protecting the health, safety, and welfare of the residents of the Town. Businesses which cater to adults should be located and regulated in order to minimize the impact to residents and youth.
- C. Purpose:
  - 1. To provide for the placement of adult use cannabis retail dispensaries, adult use on-site cannabis consumption facilities, microbusinesses, and Registered Organization with Dispensing (ROD) facilities.in appropriate places.
  - 2. To minimize the adverse impacts of adult use cannabis retail dispensaries, adult use on-site cannabis consumption facilities, microbusinesses, and Registered Organization with Dispensing (ROD) facilities. on residential neighborhoods, schools, and other places where children commonly congregate.
  - 3. To regulate the siting, design, placement, security, safety, hours of operation, monitoring, and modification of adult use cannabis retail dispensaries, adult use on-site cannabis consumption facilities, microbusinesses, and Registered Organization with Dispensing (ROD) facilities.
- D. State Approval.  
Any adult use cannabis retail dispensaries, adult use on-site cannabis consumption facilities, microbusinesses, and Registered Organization with Dispensing (ROD) facilities approved pursuant to this local law must be licensed in accordance with New York State Cannabis Law Article IV, Adult-Use Cannabis.

E. Definitions

**ADULT-USE CANNABIS RETAIL DISPENSARY**

An entity or individual licensed to purchase and deliver cannabis and cannabis products from cannabis establishments and to deliver, sell or otherwise transfer cannabis and cannabis products to cannabis establishments and to consumers.

**ADULT-USE ON-SITE CANNABIS CONSUMPTION FACILITY:**

An entity or individual licensed for the sale and on-site consumption of cannabis products.

**CANNABIS, MICROBUSINESS:**

A business licensed by New York State engaged in the cultivation, processing, distribution, retail sale and delivery of the licensee's own cannabis products. An adult-use microbusiness must engage in cannabis cultivation and at least one additional licensed activity including processing, distribution, or retail sale.

**CANNABIS, REGISTERED ORGANIZATION WITH DISPENSING (ROD)**

A registered organization adult-use cultivator processing distributor retail dispensary licensed pursuant to section 68-a of the New York State Cannabis Law.

F. Applicability.

These regulations shall apply to all structures and uses of retail sales and/or consumption lounges where cannabis can be purchased or consumed.

1. No adult use cannabis retail dispensary or on-site cannabis consumption facility shall be established except in compliance with the provisions of this chapter.
2. When an adult use cannabis retail dispensary or on-site cannabis consumption facility is proposed in an existing building, regardless of prior site plan (including approval for retail sales on the property), that applicant shall require Special Use Permit and Site Plan approval for that use.
3. An adult use cannabis retail dispensary or on-site cannabis consumption facility may be located in the B, AB-3, or I zoning districts, except when located on a parcel as identified in section F(4) of this local law.
4. An adult use cannabis retail dispensary or on-site cannabis consumption facility shall not be located within a 500-foot radius from the property boundary of any parcel which has the following use:
  - a. Any private or public-school pre-k through 12.
  - b. Any daycare center, or any facility where children commonly congregate.

A facility is not, however, limited to a building. A "facility where children commonly congregate" includes but is not limited to facilities in which children gather for particular purposes in a structured and scheduled manner, or which are dedicated to the use by children, such as playgrounds, youth service programs, day care centers, youth sports facilities, dance schools, and gymnastic schools.

Exception: The O&W Rail Trail is not included in the restrictions noted above.

- c. Any other cannabis establishment, as may be applicable under this code.
  - d. Any drug or alcohol rehabilitation facility.
  - e. Any building containing a place of worship.
5. An adult use cannabis retail dispensary or on-site cannabis consumption facility shall not be located inside a building containing residential units, including transient housing such as motels and dormitories.

G. Special permit approval criteria.

- 1. An adult use cannabis retail dispensary or on-site cannabis consumption facility shall be contained entirely within a principal building or structure.
- 2. An adult use cannabis retail dispensary or on-site cannabis consumption facility shall be located within a permanent building and may not be located in a trailer, cargo container, motor vehicle or other similar nonpermanent enclosure.
- 3. No outside storage of cannabis, related supplies or promotional materials is permitted.
- 4. No smoking or consumption of any product containing cannabis or cannabis-related products shall be permitted on the premises of a cannabis retailer. No burning of any product containing cannabis or cannabis-related products shall be permitted on the premises of a cannabis retailer.

H. Allowable hours of operation

- 1. An adult-use on-site cannabis consumption facility may operate for the transaction of business from 9:00 am through 12:00 midnight.
- 2. An adult-use cannabis retail dispensary may operate for the transaction of business from 9:00 am through 9:00 pm

I. Signs

Size of sign shall be dictated relative to the zone where the adult use cannabis retail dispensary or on-site cannabis consumption facility is located per §140-21 of this Town of Rochester Code.

**Section 2. Chapter 140, Schedule of District Uses Amendment**

The Schedule of District Uses shall be amended as follows:

1. **CANNABIS CONSUMPTION FACILITY, ON-SITE** shall be added as an allowed use with Special Use Permit approval in the AB-3, B, and I zoning districts.
2. **CANNABIS, MICROBUSINESS** shall be added as an allowed use with Special Use Permit approval in the AB-3, B, and I zoning districts.
3. **CANNABIS, REGISTERED ORGANIZATION WITH DISPENSING** shall be added as an allowed use with Special Use Permit approval in the AB-3, B, and I zoning districts.
4. **CANNABIS RETAIL DISPENSARY, ADULT USE** shall be added as an allowed use with Special Use Permit approval in the AB-3, B, and I zoning districts.

**Section 3. Severability**

If any part or provision of this local law is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of this Law even without such part or provision or application.

**Section 4. Effective Date**

This local law shall become effective upon the filing of this local law in the office of the New York Secretary of State pursuant to Section 27 of the Municipal Home Rule Law