

CITY OF FULTON
CANNABIS LICENSING & ADVISORY BOARD
(CLAB)



Gov. Andrew Cuomo signed the Marijuana Regulation and Taxation Act (MRTA) earlier last year (March 2021). The bill passed by state lawmakers allows people 21 and over to legally possess and consume recreational marijuana. The legislation also created licenses for producers and distributors, among others, and the legislation seeks to implement quality control, public health, and consumer protections. Projections indicate that the state will make more than \$4 billion per year in on marijuana sales. The measure is slated to bring in over \$350 million in tax collection to the state's coffers annually and potentially create 30,000-60,000 jobs, according to the Governor's office.

Key provisions of the MRTA bill include:

- Dedicating 40% of revenue to reinvestment in communities disproportionately impacted by the drug war, with 40% to schools and public education, and 20% to drug treatment, prevention and education.
- Equity programs providing loans, grants, and incubator programs to ensure broad opportunities for participation in the new legal industry by people from disproportionately impacted communities as well as by small farmers.
- A goal of 50% of licenses going to equity applicants.
- Elimination of penalties for possession of less than three ounces of cannabis.
- Automatic expungement of records for people with previous convictions for activities that are no longer criminalized.
- Establishment of a well-regulated industry to ensure consumers know exactly what they are getting when they purchase cannabis.

An additional provision to the MRTA bill gave local governments the authority to opt-out; in doing so, they also forfeit the tax revenue that would come from the sale of marijuana. Since Fulton voted no to opt out of allowing retail sales and public consumption of marijuana, Fulton is entitled to a portion of that sales tax revenue, which municipalities that chose to opt out are not entitled to.

NY's MRTA bill also established a cannabis control board, the Office of Cannabis Management (OCM), to enforce a regulatory framework for medical and recreational marijuana as well as adult-use cannabinoid hemp. However, the OCM has only just begun organizing itself, and state guidelines are still to come. Leaving many municipalities feeling overwhelmed and blindfolded regarding cannabis policies and regulations within the laws. The MRTA also allows people with a larger list of medical conditions to access medical marijuana, increase the number of caregivers allowed per patient, and permit home cultivation of medical cannabis for patients.

So, when and where should the city place limits? In the wake of its decision not to opt out of the state law, Fulton has created a new board to produce answers to those questions and to ensure that the needs of the community are met regarding hemp and cannabis access, quality, and safety. There is a great deal of work, legal interpretation, and city code revisions to be done. Therefore, the Cannabinoid & Licensing Board (CLAB) will meet for the first time in March. The board's mission will be to provide input on marijuana-related issues in the City of Fulton. The cannabis advisory board's ultimate task is to provide input and make recommendations regarding cannabis relations to the City Council and Mayor for consideration. CLAB will also be promoting the much more needed education and awareness around cannabis and the MRTA bill as well.

The cannabis advisory board will help to maintain the integrity of Fulton and best prepare the city for the opportunities and incentives that come with the new MRTA bill and the emerging

industrial hemp and recreational cannabis industries. Board members will be carefully selected and represent public safety, the health district, the school district, human resources, and members of the community including farmers and business owners; all efforts will be made to ensure that representation is evenly balanced.

The board will consist of staff and subject matter experts that will assist in discussions to help the city best formulate new policies and regulations to be ready for when cannabis businesses can open. The board is chaired by Sarah Stenuf. The makeup of the board will consist of a wide-ranging community representation, to include:

Mayor Deana Michaels
Sarah Stenuf- Ananda Farms/Veterans Ananda
Council President Audrey Avery
Councilor Douglas Chapman
Fulton PD Rep
Fulton FD Rep
Member of Oswego County Drug Taskforce
Rachael Russell- Tobacco Free NY
Katie Pagliaroli- Oswego Health
Matt Smith- Fulton Codes
Member Fulton Planning
Member Fulton ZBA
Vape Kult Store Owner- Rich DeChick
Cayuga Community College – Dr. Humphrey

CLAB strongly encourages community involvement. We really feel consensus can be found amongst community stakeholders. Therefore, the board encourages stakeholders and community members from all corners of the community including the law enforcement, school districts, civic groups, farmers, and business community to provide input and openly discuss cannabis related issues in the city of Fulton. Public participation will be structured in a manner to provide residents and interested parties the opportunity to provide public comment while maintaining adequate time and opportunity for the Cannabis advisory board to deliberate, discuss, and develop recommendations for the city of Fulton.

WHERE TO BEGIN

1.) CLAB will begin with an introduction and orientation to cannabis policy and related issues on a state and local level. Through the course of these meetings, the cannabis advisory board will be able to address many questions and issues regarding cannabis and hemp by exploring solutions to any questions or concerns. CLAB will explore policy issues and provide the City council and Mayor with input on cannabis related regulations and policies. We will examine current hemp operations to include the sale of hemp and CBD products and discuss policies and regulations regarding hemp businesses. We will also study and discuss how a change in the ordinance(s) would impact the community at large, to include local law enforcement.

2.) New York State may have legalized marijuana for adult consumption and retail sale, but that doesn't mean you can consume it or buy it just anywhere. Locations like places of worship, schools, libraries, day-care centers, community centers, parks, public beaches, treatment centers, and playgrounds are off limits. And municipalities have the power to regulate restrictions on the "time, place and manner" of cannabis use and businesses.

Making sure we are preventing and reducing youth access to cannabis is of utmost importance. Therefore, we need to establish guidelines that allow for adult consumption and sales with best practices to reduce youth access. CLAB will start by creating a digital map identifying “sensitive” places where cannabis use and sale will be prohibited. That, in turn, will ultimately reveal locations where cannabis consumption and retail placed could be allowed and designated where it can’t. Therefore, Fulton can have a solid idea on the places that we already know that the answer is an absolutely ‘no’ on cannabis sales or consumption.

For example, where schools are located; establishments seeking to start a cannabis companies can’t be within 500 feet from the school, according to state law. State education law already prohibits tobacco on school grounds. So, we want to map out where all the schools are. We also can’t be less than 200 feet from places of worship. So, we need to put all the prohibited places on city map of Fulton. Then we also have city land or state parks, which are not permissible for marijuana as well.

So, in Fulton, for example, there are churches, schools, and parks by the waterfront. When we start plugging them in, we’re going to see that not all Fulton or even the “main roads” are going to be permissible because of the churches and the parks. There are other places to consider as well. The like community centers and the YMCA, which often hosts students from local schools, is it going to be considered an educational location? Lastly, there’s also the Community College. Will marijuana sales or uses need to be at least 500 feet from that?

CLAB also needs to question whether the distance restrictions would apply to venues like the ice hockey rink, bowling alleys, roller skating rinks, and other youth attractions. The state also can designate parks, swimming pools, beaches, athletic fields, and recreational faculties as smoke-free. However, if they choose not to, Fulton will have to decide whether our city should.

3.) The board will also assist in local permitting and licensing processes regarding cannabis and hemp businesses. CLAB will assist the City Council and mayor with reviewing applications of interested parties seeking to operate a hemp or marijuana business in the city of Fulton.

Once a location is approved for cannabis sales or consumption, CLAB will then discuss additional requirements, to include the hours of operation for cannabis sales, security requirements, signage, odor, and waste management, as well as all other further requirements set forth by CLAB. This will also include restrictions on marketing and advertising; because State law also bans advertising of adult-use marijuana within 500 feet of schools, parks, playgrounds, childcare, public parks, libraries, and similar locations.

Once a project is completed by CLAB, it will be reviewed by the Mayor and Councilmembers for approval. The CLAB board chairperson will present findings at a work session in the near future.

IMMEDIATE RECOMMENDATIONS

• *Zoning*

While the state legislation mandates marijuana businesses be sited 500 feet from schools, the school district's "drug-free zones" should be 1,000 feet, so local law can be drafted to match that guideline. Therefore, CLAB should immediately establish "red zones" where no cannabis or hemp establishments should be located.

CLAB will work with the zoning board, council, mayor, and local law enforcement to ensure that all companies selling hemp and or cannabis products are legal. All cannabis and hemp companies must have a Certificate of Operations from the city of Fulton as well as all necessary and required licenses, certificates, and documents required by law; to include (but not limited to) required licenses and certificated set forth by the Office of Cannabis Management, the Department of Health, Department of Agriculture and Markets, and the Department of Taxation.

• *Social Consumption*

As far as local regulation of smoking, local governments may impose stricter rules than what is required under Public Health Law Article 13-E. Public Health Law § 1399- r also states that "Nothing herein shall be construed to restrict the power of any county, city, town, or village to adopt and enforce additional local law, ordinances, or regulations which comply with at least the minimum applicable standards set forth in this article." Finally, local governments may impose their own smoking and vaping restrictions for property owned or controlled by the municipality, including parks and playgrounds.

• *Hours of Operation*

I recommend hours of operations for businesses selling marijuana, which are similar to the state's Alcohol and Beverage Control laws, to be sold from 9 a.m. to 8 p.m. from Monday to Thursday, 9 a.m. to 10 p.m. on Friday and Saturday, and noon to 9 p.m. on Sunday.

As for on-site consumption hours of operation, I recommend 9 a.m. to 10 p.m. from Monday to Saturday, and noon to 9 p.m. on Sunday.

• *Security*

Current medicinal marijuana companies all have very stringent security requirements. However, the MRTA is vague on what recreational marijuana security requirements will be. It is definite that security will be addressed in the bill.

Therefore, it is imperative that CLAB collaborate with local law to address these concerns and enforce laws and policies. CLAB will work with law enforcement to determine how to enforce laws to include prohibiting driving while high on cannabis, the illicit sales/distribution of cannabis, and the illegal "establishments" operating without license(s) or certification(s).

The main opposition to the legislation related to law enforcement's ability to keep streets and highways safe under the new legislation. There were only 343 drug recognition experts throughout the entirety of New York State; the specially trained officers are the only way to determine if a driver is impaired due to cannabis.

I recommend that a minimum of 11 DREs be set up for every 2,500 square miles in Oswego County to detect if people are driving under the influence of drugs.

- *Personal Grow - Medical Marijuana Patients*

Personal cultivation is just that – it is for personal use, not a license to sell cannabis grown in your home to other individuals. However, the law does authorize transferring up to 3 ounces of cannabis to a person 21 or older without compensation (Penal Law § 222.05[b]). The law gives counties, cities, towns, and villages the authority to reasonably regulate home cultivation; however, any local rules cannot completely or in practice prohibit home cultivation (Penal Law § 222.15 [6]). If a town does enact local rules on home cultivation, the violation cannot be considered more than an infraction, and it cannot carry a discretionary civil penalty of more than \$200 (id.).

WORKPLAN

OVERVIEW AND PURPOSE

A Fulton city council MRTA discussion prompted the initiative to form a Cannabis Licensing and Advisory Board (CLAB) in Fulton. CLAB will explore policy issues and provide the City

Council and Mayor with input on cannabis business operations, licensing, as well as laws and regulations.

CLAB will examine whether the city should change its current ban on cannabis sales and, if so, whether cannabis retail storefront operations or delivery sales from locations within the city, or both, should be permitted in Hermosa Beach. The group will also study and discuss how a change in the ordinance would impact law enforcement and the community. The work of the CLAB will culminate in a report and recommendation to City Council. The information will be advisory only and does not obligate City Council in any manner.

The group will hold at least four or five public meetings of at least three to four hours in length. The meetings will be conducted by teleconference and will include testimony from the public.

DECISION-MAKING

The Advisory Group will have open and public meetings. The meetings will be conducted virtually, similar to City Council meetings. Staff and subject matter experts will make presentations to assist the Advisory Group in its discussions.

PUBLIC PARTICIPATION

Public participation will be structured in a manner to provide residents and interested parties the opportunity to provide public comment while maintaining adequate time and opportunity for the Advisory Group members to deliberate, discuss, and develop recommendations. To allow for broad participation while allowing time for group deliberation, the amount of time allowed for individual public comments will be based on the number of interested speakers at each meeting.

ADVISORY GROUP ORGANIZATION

As directed by the City Council, the City Mayor will carefully select Advisory Board members representing the cannabis and hemp industry, social equity, public safety, the health district, the school district, and members of the community; all efforts will be made to ensure that representation is evenly balanced.

The following Advisory Group members will be selected and appointed by the City Mayor in accordance with direction provided by City Council:

- Six Community Representatives – Residents or Business Owners
- Business Representative —
- Health Representative —
- School District Representative —

The following City staff will provide guidance and technical support to the advisory group:

- City Manager
- City Mayor
- Chief of Police
- Community Development Director
- Zoning Committee Director
- City Attorney

WORKPLAN OUTLINE

As the advisory group progresses through its workplan, it shall do so recognizing that its ultimate task is to provide input and make recommendations for Council consideration. The workplan will begin with an introduction and orientation to cannabis policy and related issues. Through the course of the meetings, the Cannabis Advisory Group will explore all questions and concerns the city of Fulton has regarding the cannabis and hemp industry to include the following:

- Where should cannabis be sold in Fulton, or should there be a ban set to maintain?
- In the areas where cannabis sales should be allowed, should the sales be in the form of retail or delivery only? Should we allow drive through services?
- If retail sales should be allowed, in what areas of city should they be allowed to locate? How many should be allowed?
- Is there a community population in Fulton that needs cannabis who do not currently have access?
- What is the potential impact of cannabis sales on law enforcement and community character?

Cannabis Licensing & Advisory Board

Composition.

There is hereby created a Cannabis Licensing and Advisory Board.

A. The Board shall advise and make recommendations to the City Council and Mayor regarding State policies and regulations concerning the marijuana and hemp industry and impacts to the community.

B. The Mayor, with the concurrence of the City Council, shall appoint **seven** individuals to the Board, with a minimum of **five** being City residents and **two** possible County residents. A majority of members shall be New York license holders, license applicants, or individuals otherwise knowledgeable of the marijuana and hemp industry. One member shall be chosen from the **Planning Commission**.

Terms—Vacancies.

The members shall serve for a term of **three** years; except in the case of vacancy, the Mayor shall fill the vacancy by appointment, with the concurrence of the City Council, for the remainder of the unexpired portion of the term. Any members who accumulate more than two absences from Board meetings within a one-year period may be removed from the Board on notice given to the Mayor. In the event of the incapacitation of any member during the course of his or her term, the Mayor may replace that member by appointment with the concurrence of the City Council. For the initial appointment, **four** members will be appointed for the full **three**-year term and **three** members for partial one-year terms.

Officers.

At the first meeting of the Board, the members of the Board shall elect a chair and vice-chair. Such officers shall serve for one year. The chair shall preside over the meetings. In the absence of the chair, the vice-chair shall assume those duties.

Quorum.

Four members of the Board shall constitute a quorum.

Meetings.

The Board shall meet as needed, but at a minimum once per month. The Council shall provide a suitable place for the Board's meetings.

Cannabis Licensing & Advisory Board

(a) The City of Fulton Cannabis Licensing and Advisory Board shall consist of **seven** community members who are at least twenty-one years of age, all of whom are city residents, appointed by City Council for **three**-year terms. At the time of appointment, two members shall be marijuana or hemp business owners or representatives of such owners and two members shall have a connection to the health or education field. The remaining members shall be at large. Up to two

ex officio non-voting members may be appointed by the City Council as provided below. The Advisory Board members who are first appointed shall be designated to serve for staggered terms so that no more than two terms expire in one year. One member shall serve one year, two members shall serve two-year terms, four members shall serve three-year terms.

(b) City council has discretion to appoint two non-voting ex officio members who will advise the Advisory Board. These positions are intended for non-city residents from the candidate pool, who would otherwise qualify but are prohibited from appointment because of the resident status requirement.

The city manager serves as secretary to the Advisory Board. The secretary may be known as the licensing clerk and shall serve as the Advisory Board's agent for all functions.

(d) Four members shall constitute a quorum. An affirmative vote of a majority of the members present is necessary to authorize an action of the Advisory Board.

The Advisory Board shall be responsible for both advisory and licensing duties as set forth in this section. Initially the Advisory Board's duties shall be limited to an advisory role. The licensing duties are to be phased in over time. The phase in period shall be no less than six months and no longer than two years from the date of the Advisory Board's first meeting after formation. The Advisory Board shall determine the timing of the phasing. The Advisory Board will establish guidelines for determining what type of license matters will come before the Advisory Board and which will be managed administratively by city staff. The Advisory Board will determine the timing and scope of its licensing duties during this transition phase. All licensing duties will continue to be overseen by the city manager until the Advisory Board formally determines otherwise.

(f) The Advisory Board shall have the ability to issue subpoenas in quasi-judicial proceedings only.

(g) Prior to making any recommendation or taking action, the Advisory Board shall hold a public hearing.

(h) The Advisory Board's advisory functions are:

- (1) Generally, to promote the Fulton's community's interests and values in the local regulation of marijuana and hemp, while considering the downstream consequences of such regulations on the community and on public health and safety while supporting economic development and congruence between local ordinances and state laws.
- (2) To advise the city council, Mayor, and city manager on marijuana and hemp issues, strategies, goals and policies;
- (3) To study and make recommendations to the council, Mayor, and the city manager regarding marijuana and hemp related issues raised by council, city manager, state legislative changes, the public, or the Advisory Board;
- (4) To prioritize and continue any outstanding work from the OCM, DOH, or Dept. of Agr. & Markets;

- (5) To address issues related to jurisdictional parity; and
 - (6) To follow the purpose and intent of the MRTA bill, cannabinoid hemp program, local laws, and any subsequently adopted codes and their provisions.
- (i) The Advisory Board's licensing functions may include:
- (1) To grant or refuse applications for licenses to operate a medical or recreational marijuana business. The Advisory Board's responsibilities shall not include suspension, revocation, or imposition of fines, the city manager shall administer such matters;
 - (2) To perform licensing functions in a manner necessary to conduct the legislative purposes and requirements of the state and city marijuana and hemp licensing laws; and
 - (3) To perform all other responsibilities that the council may delegate to it.
- (j) The city manager shall issue all licenses granted by the Advisory Board upon receipt of the completed application and the operating fee, criminal background fee, annual license fee, and any other applicable fees, as required by law, and meeting the requirements of those set by the state and city of Fulton.
- (k) The Advisory Board shall not perform any administrative functions unless expressly provided in this code.
- (l) The Advisory Board shall not involve itself in any review under the land use regulations unless its opinion is requested by the city council or the planning board.

2022 CANNABIS LICENSING/ADVISORY BOARD SCHEDULE OF HEARINGS AND SUGGESTION FORM DEADLINES

The Cannabis Licensing and Advisory Board (CLAB) and city staff will set their own advisory meeting agendas using previously received suggestion forms and their own topics as determined

by a quorum of their membership. Decisions made by the board on licensing matters shall follow the city's quasi-judicial structure and will be conducted in compliance with drafted Board rules.

CLAB meets once a month on the first Monday of each month with virtual meetings beginning at 3PM.

If you wish to complete and submit a CLAB agenda suggestion form, please complete the linked form on the website in the right-hand menu titled "CLAB suggestion form" and email it to....(create public CLAB email or us....chairperson? Liaison? Regulatory committee?)

Suggestion forms must be received by email no later than 5:00PM on the deadline day for the corresponding hearing dates. Maintenance of this deadline schedule is necessary to ensure timing of corrected documents, Board notification and proper public notice in accordance with the Cannabis Licensing and Advisory Board rules.

*Please note: Deadline dates for submissions may change as needed to accommodate city holidays or to an earlier date to ensure that hearing dates are at least 14 days from submission dates as determined by the CLAB members.

Deadline to submit CLAB Suggestion Form by 5:00PM

Monday, December 3, 2021
Monday, January 24, 2022
Monday, February 21, 2022
Monday, March 21, 2022
Monday, April 25, 2022
Monday, May 23, 2022
Monday, June 20, 2022
Monday, July 18, 2022
Monday, August 22, 2022
Monday, September 19, 2022
Monday, October 24, 2022
Monday, November 21, 2022

Date of Scheduled Public Meeting before the Cannabis Licensing and Advisory Board

Monday, January 3, 2022
Monday, February 7, 2022
Monday, March 7, 2022
Monday, April 4, 2022
Monday, May 2, 2022
Monday, June 6, 2022
*Friday, July 1, 2022
Monday August 1, 2022
*Friday, September 2, 2022
Monday, October 3, 2022
Monday, November 7, 2022
Monday, December 5, 2022

POLICY SUGGESTION FORM

Please see the Schedule of Meetings and Suggestion Form Deadlines for further information and instructions on submitting this form.
Each section must be completed. You may use additional sheets as necessary, however please make sure to use existing section wording for continuity of information.

UPDATE BEFORE NEXT MEETING ON 4/6

TOWN OFFICIAL'S GUIDE TO CANNABIS MRTA – SUMMARY FOR TOWN GOVERNMENT

<https://www.nytowns.org/images/Documents/Announcement/Cannabis%20Guide%20for%20Towns%202021.pdf>

GUIDANCE ON EQUITABLE CANNABIS POLICIES FOR MUNICIPALITIES

Purpose and Process

The following recommendations were created by CLAB to assist the city of Fulton and other municipalities in creating equitable cannabis policies to mirror the Social Equity program established by the OCM under state law and in response to requests from local elected officials and CLAB. As the OCM strives to create a fair and diverse industry across the state of NY, collaboration between state and municipal government will be critical to succeeding.

The OCM is charged by state law with ensuring the meaningful participation in the cannabis industry of communities disproportionately affected by the enforcement of previous cannabis laws, small businesses, and companies led by people of color, women, veterans, and farmers.

Broadly, the OCM refers to these statutory mandates as its efforts to create an equitable industry. If there is evidence of discrimination or barriers to entry in the regulated marijuana industry, state law directs the OCM to take remedial measures to address those hurdles.

This guidance is not legal advice but supplements the OCM's existing Guidance for Municipalities. If municipalities have legal questions regarding marijuana laws in the state of NY, they are encouraged to consult counsel.

Lastly, this guidance is supplemented with current research on youth marijuana use and dispensary systems, specifically: youth access, zoning, and crime. The OCM recognizes that research is ongoing and new studies may bring differing results, thus, the research components of this guidance will be updated on a routine, biannual basis to incorporate the most current empirical research.

Background

The possession and use of cannabis became legal in the state of New York for adults over 21 years old in March 2021. The State has yet to fulfil its statutory obligation regarding the issuing regulations governing adult-use Marijuana Establishments. NYS municipalities are still waiting for filing final regulations by the OCM.

The MRTA bill permits a city or town to adopt ordinances and by-laws that impose reasonable safeguards on the operation of Marijuana Establishments, provided that they are not unreasonably impracticable and are not in conflict with state law or regulations.

Unreasonably impracticable means that the local laws cannot subject licensees to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a marijuana establishment.

Municipalities may also institute a ban. These recommendations are provided for municipalities that have opted not to impose a ban, including those that are engaged in planning and decision-making while a temporary moratorium is in place, or those considering rescinding a ban.

While each municipality is different, a useful overall approach to the local control process is to answer the following questions, with an emphasis on the city or town's local values and meeting the law's equity goals.

- Are caps on licenses necessary?
- What license types will be allowed in the municipality?
- Should a local excise tax be authorized?
- How should each license type be zoned?
- What process will prospective licensees need to follow, and what is the timeline for that process?
- How will prospective licensees be selected to move forward, and what municipal entity or entities will negotiate the host community agreement with them?

Are caps on licenses necessary?

Thus far, New York state law imposes no statewide cap on the number of marijuana licenses that may be issued. Instead, the OCM reviews each application and determines whether the application satisfies the requirements of the OCM's regulations on adult-use cannabis, and whether the applicant is suitable or unsuitable for licensing. Such an approach leaves room for businesses of all sizes, rather than forcing a large number of qualified applicants to compete for a small number of licenses – a process that tends to perpetuate existing inequities.

CLAB will not authorize a license to an applicant unless (a) the applicant is compliant with local bylaws and ordinances; (b) the applicant has held a community outreach meeting within six months of applying for licensure; and (c) the applicant and municipality have executed a host community agreement.

As the municipal guidance is issued by the OCM it will outline several options available for communities to determine if and how cannabis commerce fits into the fabric of the community. It is a common misconception that communities must act quickly and comprehensively now to determine the future of cannabis sales in the community. In order to open in the community, **the businesses will need to satisfy the regulatory requirements of local control, including a signed agreement with the community.**

The OCM respects the local control that is granted to municipalities under and encourages communities to consider how cannabis commerce fits into their long-term municipal planning processes. This may include limiting the number and type of Marijuana Establishments, but there is no requirement that communities take that action. Municipalities may limit the number of marijuana establishments pursuant to the MRTA bill. Communities that chose to opt-out, must allow retailer and social licenses issued in their communities pursuant to the MRTA bill.

What license types will be allowed in the municipality?

State law and OCM regulations create the following license types: cultivators, product manufacturers (sometimes known as “processors” or “producers” of cannabis oils or concentrates), retailers, social, transporters, testing laboratories, research facilities, microbusinesses, and craft cooperatives. More details about each license type can be found in the OCM's Guidance on Types of Marijuana Establishment Licenses and the MRTA bill.

The OCM created a wide variety of license types, all authorized under state law, to encourage the participation businesses of all sizes. Each license type involves distinct areas of business operations that create jobs in distinct fields. For example, independent testing labs may create jobs for scientists, while microbusinesses and cooperatives may create jobs for those with expertise in agriculture, and transporters may create jobs for drivers. Municipalities that want to encourage development of small businesses may decide to consider what type of licenses they wish to allow within the community, such as microbusinesses, craft cooperatives or other cultivators and manufacturers that agree to operate on a limited scale. Local municipalities are not authorized to hinder or prohibit business from opening cannabis cultivation or processing entities according to the MRTA bill.

Once the community has established its local zoning bylaws, ordinance and/or regulations, the OCM recommends that community leaders attend an applicant's community outreach meeting, where residents and municipal officials may raise specific concerns. Applicants may then take the opportunity to address those concerns and move forward to negotiate a host community agreement (see the OCM's Guidance on Host Community Agreements) and otherwise progress through any local selection process.

The OCM is collecting information relative to social consumption and delivery licenses and intends to have draft regulations prepared by January 2023. Under state law, the local controls apply to any Marijuana Establishment, including social consumption facilities and delivery businesses if those licenses are authorized under the OCM's regulations.

How should we utilize funds from local tax?

The MRTA bill sets a 9% sales tax on cannabis, plus an additional 4% tax split between the county and city/town/village, plus an additional tax based on THC content as follows: 0.5 cents per milligram for flower, 0.8 cents per milligram for concentrated cannabis, and 3 cents per milligram for edibles. Dedicating 40% of revenue to reinvestment in communities disproportionately impacted by the drug war, with 40% to schools and public education, and 20% to drug treatment, prevention, and education.

Breakdown of the two different levels of taxes on sales to consumers — one at 9 percent tax that will go to the state, and the other is a 4 percent tax that is distributed on a quarterly basis as follows: from the 4 percent, 25 percent will stay with the county, the remaining 75 percent will be distributed between towns, cities and villages in the county in proportion to the amount of sales that take place within their jurisdiction (see Tax Law §§ 493[b],[c]; 496-b[2]).

How should each license type be zoned?

According to feedback from the OCM on Market Participation and public feedback to the OCM, real estate is one of the primary hurdles for small businesses and businesses owned by people from marginalized communities. When municipalities impose overly strict zoning rules and large buffer zones, they sharply limit the number of parcels available to potential operators. This favors large businesses with substantial financial resources that can outbid other potential operators and overpay for a lease or purchase of property—often at the expense of smaller, local companies—and tends to direct large rewards to a small handful of landlords and property owners.

Overly strict local zoning in other states has also led to complaints that cannabis businesses were crowded into small sections of a municipality, often areas with a vulnerable or low-income population. One study examined the locations of medical marijuana dispensaries in Los Angeles and report that dispensaries were located in primarily commercially zoned areas with greater road access, density of on- and off-premises alcohol outlets, and percentage of Hispanic residents (Thomas and Freisthler, *Examining the locations of medical marijuana dispensaries in Los Angeles*, Drug Alcohol Review, 2017).

The law allows, but does not mandate, municipalities to pass bylaws and ordinances governing the “time, place, and manner” of Marijuana Establishments (cultivators, social entities, retailers, manufacturers, testing labs, and any other licensed cannabis-related businesses) as well as businesses dealing with cannabis accessories. Additional municipal action is not, however, a requirement, meaning that a municipality could determine that a proposed cannabis-related use falls under an existing use authorized by its bylaws or ordinances.

Therefore, the OCM's recommendation is to zone cannabis businesses based on the nature of their primary business operations. It may be most appropriate, for example, for cultivators, microbusinesses, and cooperatives to be zoned, respectively, as agricultural, industrial, and manufacturing businesses, while cannabis retailers would be zoned in the same manner as any

other retailer. Manufacturers, as defined as a Marijuana Establishments, may be appropriate for multiple zones, as they may encompass small microbusinesses or companies creating edibles in commercial kitchens.

If a community has concerns about the new types of businesses, the community outreach meeting for licensure gives community residents and prospective applicants a chance to discuss their concerns and formalize the solutions in a host community agreement.

State law establishes a 500-foot buffer around K-12 schools. A municipality may choose to increase the size of that buffer. It is unclear whether buffer zones around other uses, such as Community Colleges, are legally permissible. The OCM suggests that additional buffer zones or separation requirements may not be necessary and cautions communities against acting arbitrarily.

The OCM has made the prevention of diversion of cannabis to individuals under 21 a priority. Current studies do not show any evidence that medical marijuana dispensaries increase youth access and use of cannabis (Yuyan et al. *Medical marijuana availability, price, and product variety, and adolescent marijuana use*, J Adolescent Health, 2018; Johnson et al. *The design of medical marijuana laws and adolescent use and heavy use of marijuana: analysis of 45 states from 1991-2011*, Drug and Alcohol Dependence, 2017). Another recent study showed that overall, the availability of dispensaries within 5-and 25-mile buffers were not associated with recent or current adolescent cannabis use (Shi, Yuyan, *The availability of medical marijuana dispensaries and adolescent marijuana use*, Preventive Medicine, 2016).

A prominent meta-analysis of studies estimating the effects of medical marijuana laws reported that none of the studies found significant changes in past-month marijuana use following medical marijuana law enactment compared to non-medical marijuana states (Sarvet et al., *Medical marijuana laws and adolescent marijuana use in the United States: a systematic review and meta-analysis*, Addiction, 2017).

While there have been no definitive studies on the impact of the presence of adult-use cannabis dispensaries on youth access, the OCM has acted to ensure that licensees understand their responsibilities. The regulations issued by the OCM include extensive provisions around labeling, packaging, and marketing, as well as Marijuana Establishment employee training, positive identification checks upon entry to a Marijuana Establishment, and inspectional protocols.

CLAB will propose inspectional protocols to include a spot check and “secret shopper” program. In addition, the OCM launched a statewide campaign to educate the public about the safe use of marijuana and the risks associated with failing to use it safely. Preventing diversion to children and adolescents is a critical part of this campaign.

Current research suggests that marijuana dispensaries are not associated with increased crime. One study found that the density of medical marijuana was unrelated to property and violent crimes in local areas (Freisthler et al., *A micro-temporal geospatial analysis of medical marijuana dispensaries and crime in Long Beach California*, Addiction, 2016). However, the OCM also acknowledges that crime occurs at Marijuana Establishments as it does at any similar business.

With this in mind, the OCM adopted – and will enforce – stringent security protocols intended to ensure the safety and security of the staff and consumers at Marijuana Establishments as well as the general public in the areas around Marijuana Establishments. Security provisions include requirements that licensees share safety plans with local law enforcement and emergency responders; cameras that record 24 hours per day; perimeter alarm systems; and incident reporting protocols. The OCM also requires the seed-to-sale tracking of all cannabis and cannabis products offered by licensed Marijuana Establishments in New York.

Like overly restrictive zoning, separation requirements between Marijuana Establishments prolong inequities by exacerbating the scarcity of appropriate real estate. We encourage municipalities to carefully consider whether such separation requirements are necessary.

What process will prospective licensees need to follow, and what is the timeline for that process?

The MRTA bill requires the OCM to prioritize review and licensing decisions for prospective licensees who demonstrate experience in or business practices promoting economic empowerment in communities disproportionately impacted by high rates of arrest and incarceration for drug offenses, in addition to registered marijuana dispensaries. In accordance with the OCM's mandate to promote and encourage full participation in the adult-use cannabis industry by those disproportionately harmed communities, the OCM's recommendation is for municipalities to prioritize review for these economic empowerment applicants at the local level as well. In other words, those prospective licensees should be reviewed for suitability before others.

Some municipalities in NY are considering prioritizing applicants by allowing them to move forward exclusively for a certain period of time. For example, a municipality may consider only economic empowerment applicants and applicants who are local residents for the first six months.

CLAB recommends that Fulton and other municipalities alternate signing host community agreements with economic empowerment applicants and non-economic-empowerment applicants.

Regardless of the entity or entities designated to oversee the selection of Marijuana Establishments, the OCM recommends that it begin by designing an objective selection process and clear timeline for prospective licensees. For example, a certain period to demonstrate intent to apply, a certain period for community outreach meetings, a certain period to discuss concerns and ways to address those concerns with the overseeing entity, a certain period for applying objective criteria and selecting which applicants proceed, and finally, a set period for negotiating a host community agreement that reflects the concerns raised and plan to address them. The timeline should include deadlines for both the applicant and the entity overseeing the process.

In order to make the local control process more accessible, the OCM recommends utilizing local media, social media, and partnerships with community organizations to disseminate the information as broadly as possible. Local forums with question-and-answer sessions will allow the municipality to announce the process as well as interact with prospective licensees and anticipate their questions.

SUMMARY: Recommendations for Creating an Equitable Industry

Given the unique opportunity to build a large and lucrative industry, the OCM encourages municipalities to build the licensee selection process in a way that prioritizes the community's individual needs and NY's commitment to an equitable industry and economic justice. Below is a list of recommendations from this guidance, the state-level licensing process, and other jurisdictions nationwide.

- **ALLOW VARIOUS TYPES OF BUSINESSES:** The OCM created a wide variety of license types, all authorized under state law, to encourage the participation of businesses of all sizes. Each license type involves distinct areas of business operations that create jobs in distinct fields. Municipalities that want to encourage development of small businesses may want to consider what type of licenses they wish to allow within the community, such as microbusinesses, craft cooperatives or other cultivators and manufacturers that agree to operate on a limited scale. The OCM recommends that community leaders attend an applicant's community outreach meeting, where residents and municipal officials may raise specific concerns. Applicants may then take the opportunity to address those concerns and move forward to negotiate a host community agreement and otherwise progress through any local selection process.
- **CONSIDER WHETHER CAPS ARE NECESSARY:** The OCM reviews each application and determines whether the application satisfies the requirements of the OCM's regulations on adult-use cannabis. Such an approach leaves room for businesses of all sizes, rather than forcing a large number of qualified applicants to compete for a small number of licenses – a process that tends to perpetuate existing inequities. It is a common misconception that communities must act quickly and comprehensively now to determine the future of cannabis sales in the community. In order to open in a community, the businesses will need to satisfy the regulatory requirements of local control, including a signed agreement with the community.
- **ZONING:** Communities should give serious consideration to zoning marijuana businesses based on the nature of their primary business operations. State law establishes a 500-foot buffer around K-12 schools; a municipality may choose to increase the size of that buffer. The OCM suggests that additional buffer zones or separation requirements may not be necessary and cautions communities against acting arbitrarily.
- **HOST COMMUNITY AGREEMENTS:** Once a community establishes zoning and a local licensing process, if it chooses to do so, the CLAB recommends that Fulton and other municipalities clearly identify the local permits and license required to operate Marijuana Establishments, as well as the process for initiating negotiations of a host community agreement and a timeline for completion of those negotiations, with deadlines for both the applicant and the municipality.
- **SELECTION PROCESS:** The CLAB recommends that Fulton and other municipalities alternate signing host community agreements with economic empowerment applicants and non-economic-empowerment applicants. In deciding which companies with which to negotiate a host community agreement. CLAB recommends instituting an objective, transparent selection process intentionally focused on repairing past inequities, beginning with prioritizing review for state-designated economic empowerment applicants. The CLAB further recommends that municipalities consider preferences for state-designated Social Equity Program participants, or applications from companies owned by marginalized groups. As part of the selection process, consider evaluating the company's diversity plan and plan to positive impact communities disproportionately harmed, either in the municipality or generally.

Add my retail hemp licensee as reference to what business must have in order to sell hemp products...or similar letter stating that they are approved/pre-approved in order to start approaching board for approval.

I recommend companies also must provide a “menu” of all hemp or cannabis products that are intended to be sold

City of Fulton – they must also have a Certificate of Occupancy