

§ 301- Purpose and intent.

It is the purpose and intent of this Article/Chapter is to implement the provisions of the New York State Marijuana Regulation and Taxation Act (MRTA) and implement time, place, manner and saturation restrictions related to retail sale or on-site consumption for persons over the age of 21 within the boundaries and jurisdiction of the Town of Riverhead as authorized by the MRTA so as to protect the public health, safety, and welfare of the residents of the Town of Riverhead. In addition, this Article/Chapter sets forth requirements for operation of retail sale and on-site consumption establishments and limitations related to security, odor, waste disposal and other health and safety concerns. Nothing in this Article/Chapter is intended to promote or condone the sale, consumption or possession in violation of applicable law. The provisions of this Article/Chapter are in addition to all other provisions of the Town Code, including zoning, land use, and development regulations applicable to the underlying zoning district, together with all permits, licenses, approval which may be required pursuant to Town Code, state, local, and such other applicable laws. To the extent that the MRTA or any rule or regulation promulgated by the Cannabis Control Board and/or Office of Cannabis Management is more stringent or restrictive, such law, rule or regulation shall supersede the provisions of this Article/Chapter.

Definitions:

"Applicant" unless otherwise specified in this chapter, shall mean a person applying for any permit, special permit or site plan approval to utilize premises for retail sale of cannabis or cannabinoid hemp (commonly referred to as marihuana) or on-site cannabis lounge/café within the boundaries and jurisdiction of the Town of Riverhead.

"Cannabinoid" means the phytocannabinoids found in hemp and does not include synthetic cannabinoids as that term is defined in subdivision (g) of schedule I of section thirty-three hundred six of the public health law.

"Cannabinoid hemp" means any hemp and any product processed or derived from hemp, that is used for human consumption provided that when such product is packaged or offered for retail sale to a consumer, it shall not have a concentration of more than three tenths of a percent delta-9 tetrahydrocannabinol.

"Cannabis" means 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 consumer" means a person twenty-one years of age or older acting in accordance with the provisions of the MRTA.

"Cannabis Control Board" or "board" means the New York State Cannabis Control Board (CCB) created pursuant to article two of the MRTA.

"Cannabis product" or "adult-use cannabis product" means cannabis, concentrated cannabis, and cannabis-infused products for use by a cannabis consumer.

"Cannabis-infused products" means products that have been manufactured and contain either cannabis or concentrated cannabis and other ingredients that are intended for use or consumption.

"Distributor" means any person who sells at wholesale any cannabis product, except medical cannabis, for the sale of which a license is required pursuant to the provisions of the MRTA.

"Hemp" means the plant *Cannabis sativa* L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more than three-tenths of a percent on a dry weight basis. It shall not include "medical cannabis" as defined in this section.

"Hemp extract" means all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers derived from hemp, used or intended for human consumption, for its cannabinoid content, with a delta-9 tetrahydrocannabinol concentration of not more than an amount determined by the CCB.

"License" means a written authorization as provided under this chapter permitting persons to engage in a specified activity authorized pursuant to MRTA.

"Licensee" means an individual or an entity who has been granted a license under MRTA.

"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 under this article; provided such licensee complies with all requirements imposed by this article on licensed producers, processors, distributors and retailers to the extent the licensee engages in such activities.

"Office" or "Office of Cannabis Management" means the New York State Office of Cannabis Management created pursuant to the provisions of the MRTA. The OCM is governed by the Cannabis Control Board to oversee and implement the MRTA. The OCM

is responsible for licensing and development of regulations outlining how and when businesses can participate in the cannabis industry.

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"On-site consumption" means 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. No person may own more than three on-site consumption licenses. On-site consumption licensees may not own or have any interest in a licensee in the cultivation, processing or distribution tier.

"Person" means an individual, institution, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

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

"Retailer" means any person who sells at retail any cannabis product, to cannabis consumers. A 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. No person may own more than three retail dispensary licenses. Retail licensees may not own or have any interest in a licensee in the cultivation, processing or distribution tier.

"School" means a public or private licensed pre-school, or a public, private, or charter elementary, middle, junior high, or high school, vocational school, and secondary school.

"Smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains cannabis including the use of an electronic smoking device that creates an aerosol or vapor.

§301- Location and Number of Permitted Retail and On-site Consumption Establishments The location and maximum number of each type of establishment permitted in the Town of Riverhead is governed by the table below.

A. Location requirements. Cannabis retail and on-site consumption establishments shall be permitted in only the Business Center; Shopping Center; Destination Retail Center; Rural Corridor; Downtown Center 1; Downtown Center 2; Downtown Center3; Hamlet Center; Rural Corridor; Village Center; Peconic River

Community; and Business F zoning districts subject to the following requirements:

1. No retail or on-site consumption establishment shall be established or located within 1,000 feet, measured from the nearest property lines of each of the affected parcels, of any school, library or daycare facility; and
2. No retail or on-site consumption establishment shall be established or located within 500 feet, measured from the nearest property lines of each of the affected parcels, of any town beach, playground or community center, and children's amusement; and
3. No retail or on-site consumption establishment shall be established or located within 500 feet, measured using a straight line from the center of the nearest entrance of the place of worship to the center of the establishment, of any place of worship; and
4. No retail or on-site consumption establishment shall be established or located within 2500 feet, measured from the nearest property lines of each of the affected parcels, of any other cannabis retail or on-site consumption establishment; and
5. No retail or on-site consumption establishment shall be established or located within 1000 feet, measured from the nearest property lines of each of the affected parcels, of any existing residential use; and
6. No retail or on-site consumption establishment shall be established or located within a mixed-use development project containing a residential use component; and
7. Retailers shall be required to comply with all zoning, land use, and development regulations applicable to the underlying zoning district in which they are permitted to establish and operate as set forth in the Town Code for the Town of Riverhead.

§301- Operation Requirements

- A. Operation requirements. The following operating requirements shall apply to retail sale or on-site consumption establishments in the Town of Riverhead:
 1. Hours of operation. Retail establishments may be open for access to the public over the age of 21 only between the hours of 9:00 a.m. and 8:00 p.m., Monday through Thursday; Friday through Saturday 9:00 a.m. and 10:00 p.m. and Sunday 12:00 p.m.-9:00 p.m. and On-site Consumption establishments

may be open for access to the public over the age of 21 only between the hours of 10:00 a.m. and 10:00 p.m., Monday through Thursday; Friday through Saturday 10:00 a.m. and 12:00 a.m.*with sales and service of cannabis and cannabis products limited to 11:00 p.m. and Sunday 12:00 p.m.-9:00 p.m.

2. It shall be unlawful and a violation of this Chapter for any person to employ any other person at a retail or on-site consumption establishment who is not at least twenty-one (21) years of age.
3. The entrance to the commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the retail or on-site consumption establishment.
4. The owner and operator of a retail or on-site consumption establishment shall require all employees to verify the age of each customer to ensure the customer is not under the age of twenty-one (21) years.
5. Retail or on-site consumption establishment shall meet all health protection operating criteria for the sale of cannabis and cannabis products as required by State law and regulations, and local laws.
6. Retail or on-site consumption establishment shall operate in a permanently constructed structure and shall not operate from a vehicle or non-permanent structure.
7. Retail or on-site consumption establishments may conduct cannabis and cannabis product delivery services subject to such rules, regulations, permit, license or approval required and issued by MRTA, Cannabis Control Board and Office of Cannabis Management.
8. Retail or on-site consumption establishments shall only store, hold, or sell cannabis and cannabis products approved and permitted by the MRTA, Cannabis Control Board and Office of Cannabis.
9. Retail or on-site consumption establishments shall not receive, store, hold, or sell cannabis or cannabis products unless the cannabis and cannabis products are labeled and packaged as required by such applicable laws, rules and regulations promulgated by MRTA, Cannabis Control Board and Office of Cannabis.
10. Retail or on-site consumption establishments may not operate as a permitted food facility, and may not share an entrance with a permitted food facility.
11. Retail or on-site consumption establishments shall not sell or provide alcohol or tobacco to any customer or the public.
12. Retail or on-site consumption establishments are prohibited from giving away any amount of cannabis or cannabis products and are prohibited from providing coupons as part of a business promotion.
13. Retail establishments shall not allow the on-site consumption of cannabis and cannabis products by any customer, person or employee.

§ 301- Security Requirements & Limitations

- A. Security measures at all licensed premises shall comply with the requirements of this Chapter, MRTA and all such applicable rules and regulations promulgated by the Cannabis Control Board and/or Office of Cannabis Management.
- B. A description of the Security Plan shall be submitted with the application for a (special permit/site plan, certificate of occupancy) for use of premises as a retail or on-site consumption establishment. The security system, shall be maintained in good working order and provide twenty-four hours per day coverage.
 - 1. The Security Plan must include, at a minimum, the following security measures:
 - a. Cameras. The applicant, owner and holder of a license to operate a retail or on-site consumption establishment as required by the MRTA/Office of Cannabis Management shall install and use security cameras to monitor and record all areas of the premises (except in restrooms) where persons may gain or attempt to gain access to marihuana or cash maintained by the marihuana business entity.
 - b. Cameras shall record operations of the business to an off-site location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing.
 - c. Recordings from security cameras shall be maintained for a minimum of thirty (30) days in a secure off-site location in the Town of Riverhead or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The off-site location shall be included in the security plan submitted to the Town and provided to the Police Department upon request, and updated within seventy-two hours of any change of such location.
- C. Use of safe for storage. The retail or on-site consumption establishment shall install and use a safe for storage of any processed marihuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto.
 - a. For marihuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the Town in place of the use of a safe so long as the container is affixed to the building structure.
- D. Alarm system. The establishment shall install and use an alarm system that is monitored by a company that is staffed twenty-four hours a day, seven days a week. The Security Plan submitted to the Town shall identify the company monitoring the alarm, including contact information, and updated within seventy-two hours of any change of monitoring company.

301- Odor Management Plan.

A. Any person proposing to apply for permit or approval to use premises as a cannabis retail or on-site consumption establishment, or applying as a new owner of an existing cannabis establishment shall submit an Odor Management Plan to the Planning Department. The Odor Management Plan shall describe sufficient processes which, if implemented, will prevent odors from the cannabis establishment from being detected by a person outside of the establishment.

B. The Odor Management Plan shall include a detailed description of the ventilation system used by the cannabis establishment, including but not limited to, how the ventilation systems prevent odor from escaping the interior of the building and how to mitigate the noxious fumes or gases.

C. The owner shall be responsible for the development, implementation, and maintenance of the Odor Management Plan. Odor mitigation practices shall be based on industry-specific best control technologies and best management practices. The plan shall include the range of odor mitigation practices to be deployed to control odor-emitting activities, sources, and locations, how and when these practices will be deployed, and accounting for any identified odor-emitting activity.

D. The permittee, operator, or person in charge of a cannabis establishment shall maintain, and provide to the Planning Department upon request, all records relating to odor management, including but not limited to, system installation, maintenance, any equipment malfunctions and deviations from Odor Management Plan.

E. The permittee, operator or person in charge of a cannabis facility shall maintain records of odor complaints received and response actions thereto.

F. If an inspection or complaint investigation by the Planning Department or Code Enforcement reveals any deviation from the Odor Management Plan, such deviation shall be a violation of this Chapter.

G. If an inspection reveals that the existing Odor Management Plan does not effectively mitigate odors emanating from the cannabis facility or cannabis facility's cultivation site, the Planning Department or Code Enforcement shall provide the operator or person in charge with a notice of deficiencies. The owner, operator or person in charge of the cannabis establishment shall be required to submit a modified Odor Management Plan within a reasonable amount of time, as determined by the Planning Department or Code Enforcement. Failure to submit a modified Odor Management Plan within the required time period shall be a violation of this Chapter.

H. When a modification is made to a cannabis establishment or operation of the establishment that has the potential to impact the nature or degree of odor, or affects the control of odor, the cannabis facility operator must update its Odor Management Plan within 30 days of .modification. Failure to submit an updated Odor Management Plan within 30 days of modification shall be a violation of this Chapter.

301 - Waste Management Plan.

A. Any person proposing to apply for a public health permit for a cannabis facility, or apply as a new owner of an existing cannabis facility shall submit a Waste Management Plan along with the submission of a public health permit application or plans to the Planning Department.

8. A Waste Management Plan shall address the storing, handling, disposing and reusing of all waste by-products and shall characterize the volume and types of waste generated for all commercial cannabis activities in compliance with the best management practices and all such applicable laws, rules and regulations promulgated by the Cannabis Control Board and/or Office of Cannabis Management.

C. A cannabis retail and on-site consumption establishment shall not sell or otherwise transfer title of cannabis waste, except as permitted by applicable laws, rules and regulations promulgated by the Cannabis Control Board and/or Office of Cannabis Management.

D. All waste generated from commercial cannabis operations must be properly stored and secured, whether in the control of the cannabis facility operator or not, in order to prevent access to the public.