

Roadmap to Adult-Use Cannabis Licensing



October 24, 2023



**Office of Cannabis
Management**



Agenda

- Overview of the Office
- Conditional Adult-Use Licenses
- Creating an Equitable Adult-Use Cannabis Industry
- October 4th Licenses and Key Dates
- Role of Municipalities in Approving Licenses
- Role of Municipalities in Rule Making
- Distance Requirements
- Cannabis Enforcement Initiatives



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Overview

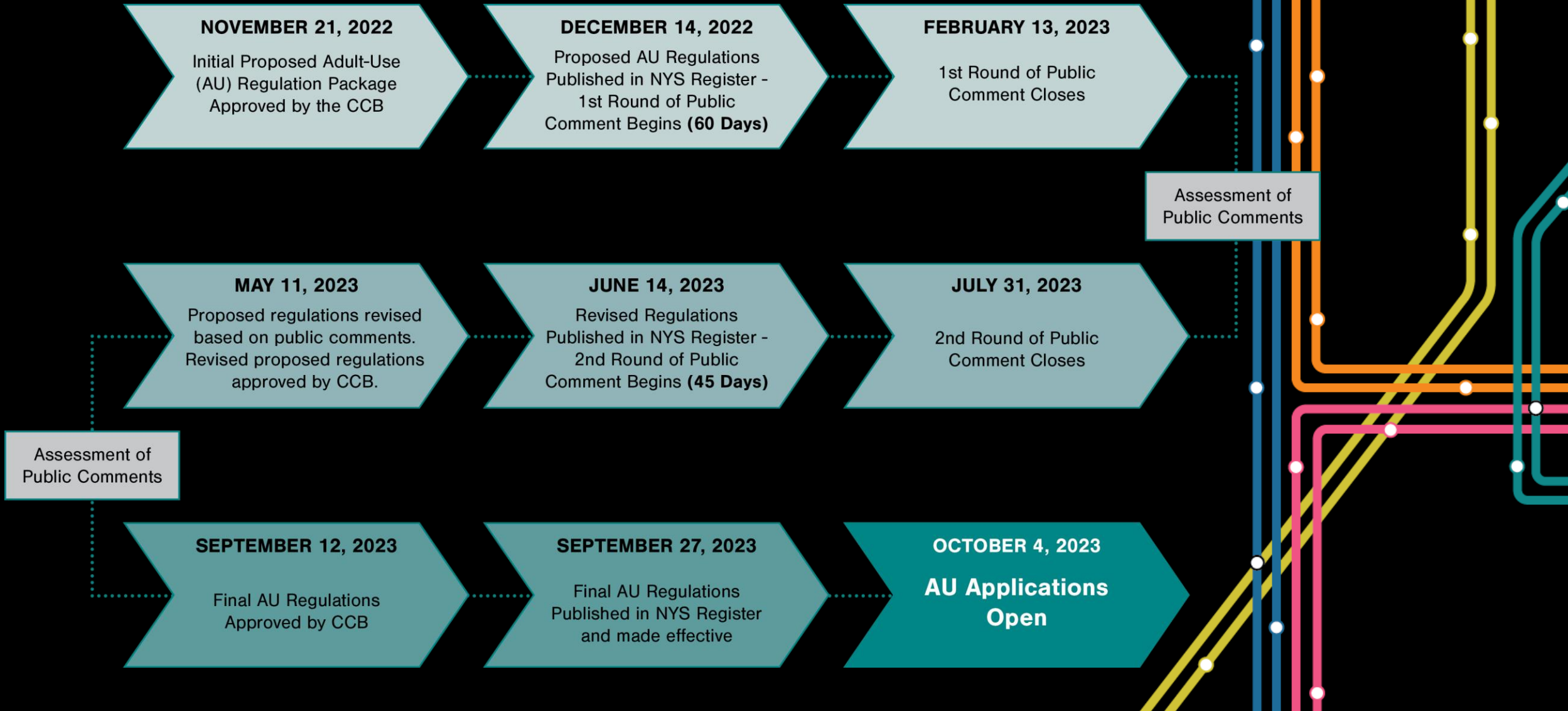
Marijuana Regulation & Taxation Act (MRTA) was signed into law by the Governor in March 2021. The MRTA created the Cannabis Law and amended other existing laws.

The MRTA:

- Made it legal for adults 21+ to possess and use cannabis;
- Expanded the existing medical cannabis and cannabinoid hemp programs;
- Created licenses for adult-use cannabis businesses;
- Established the Cannabis Control Board and Office of Cannabis Management to oversee the cannabis and hemp industries; and
- Set requirements to create a more equitable adult-use cannabis market.

Roadmap to
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Roadmap to Adult-Use Licensing





Conditional Licenses:

- **Adult-use Conditional Cultivator (AUCC)**
- **Adult-use Conditional Processors (AUCP)**
- **Conditional Adult-use Retail Dispensaries (CAURD)**



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Creating an Equitable Adult-Use Cannabis Industry



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Social and Economic Equity

All cannabis license applicants will have the opportunity to become Social and Economic Equity (SEE) certified in one (or more) of the following paths:

- Individual from a Community Disproportionately Impacted (or CDI)
- Distressed farmer
- Service-disabled veteran-owned business
- Minority and women-owned businesses (MWBE)

Extra priority shall be given to applications that demonstrate that an applicant meets all the following:

- Is a member of a community disproportionately impacted by the enforcement of cannabis prohibition;
- Has an income lower than eighty percent of the median income of the county in which the applicant resides; and
- Was convicted of a cannabis-related offense prior to the effective date of this chapter, or had a parent, guardian, child, spouse, or dependent, or was a dependent of an individual who, prior to March 31, 2021, was convicted of a cannabis-related offense.

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Two-Tier Market

Supply Tier

- **Cultivator**
- **Processor**
- **Distributor**
- Nursery
- Cooperative
- **Microbusiness** (vertically integrated but treated functionally the same as supply tier)

Retail Tier

- **Retail Dispensary**
- Delivery
- On-site Consumption

Note: Nursery, Cooperative, Delivery and On-site Consumption licenses will be released at a later date

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October 4th Licenses and Key Dates




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Dates of Adult-Use Retail Licenses

- On September 12, 2023, the CCB approved the Adult-Use Regulations.
- The applications for adult-use license types will be available on New York Business Express (NYBE).
- The applications for these licenses will begin **Wednesday, October 4, 2023.**
- An adult-use dispensary applicant with proof of control over a retail location will be on track to go through an earlier **Friday, November 17, 2023,** approval process.
- Adult-Use Applications closes on **Monday, December 18, 2023.**



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Adult-Use License Types Available

Oct. 4th – Dec. 18th Application Window

Cultivator*

Grows, clones, harvests, dries, cures, grades, and trims cannabis plants.

**Certain cultivation types and tiers only*

Processor

Extracts concentrated cannabis and/or compounds or manufactures cannabis products.

Microbusiness

Must cultivate cannabis, and may also process, distribute, and sell its own products.

Distributor

Sells pre-packaged, lab-tested cannabis products wholesale to licensed retailers.

Retail Dispensary

Sells cannabis products directly to consumers.



Adult-Use License Types Available

Estimated Allocations for Licenses

Cultivator*

Grows, clones, harvests, dries, cures, grades, and trims cannabis plants.

Tier 1: 20

Tier 2: 20

Processor

Extracts concentrated cannabis and/or compounds or manufactures cannabis products.

Type 1: 55

Type 2: 100

Type 3: No Limit

Microbusiness

Must cultivate cannabis, and may also process, distribute, and sell its own products.

220

Distributor

Sells pre-packaged, lab-tested cannabis products wholesale to licensed retailers.

30

Retail Dispensary

Sells cannabis products directly to consumers.

500-1000



Adult-Use Retail Dispensary *License Overview*

Adult-use retail dispensaries are authorized to:

- Purchase cannabis products at wholesale from a distributor;
- Sell cannabis products at a brick-and-mortar retail dispensary storefront to customers over 21 years old;
- Deliver cannabis products that have been purchased by customers directly from the retail dispensary or the retail dispensary's website;
- Operate a Limited Retail Consumption Facility near the dispensary for consumption of the pre-packaged products purchased at the dispensary; and
- Host cannabis events at the premises.
- **Notification to Municipalities** form must be sent.





Microbusiness: *License Overview*

A microbusiness **must cultivate cannabis**, and may also choose to:

- Process their cannabis into cannabis products,
- Distribute their cannabis products to retailers, and
- Operate a retail premises where their products can be sold and consumed.
- **Notification to Municipalities** form must be sent to the municipal proper if where the selling of cannabis occurs.

A microbusiness must **cultivate in one of the following tiers:**

- Indoor canopy up to 3,500 ft² ;
- Mixed light canopy up to 5,000 ft²;
- Outdoor canopy up to 10,000 ft²; or
- Combination of up to 5,000ft² of outdoor canopy and up to 2,500 ft² of mixed light canopy.





Microbusiness: *License Overview*

A microbusiness must locate its retail location near its cultivation location, based on the population of the place it cultivates at.

If the cultivation premises...	Then the retail premises...
Is in a city with a population over 1,000,000	must be in the same county as the cultivation
Is in a city with a population under 1,000,000	must be within 25 miles of the cultivation premises





Role of Municipalities in Approving Licenses



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What role do municipalities play in the Board's process to approve or deny a cannabis license?

- Per Cannabis Law, municipalities are allowed the opportunity to **express an opinion** on whether they support the Cannabis Control Board's approval of a:
 1. **Retail Dispensary,**
 2. **Microbusiness,** (When the microbusiness is selling in your municipality)
 3. **An Article 4 registered organization with dispensing license.**
- The **municipality opinion** will become part of the record upon which the Cannabis Control Board shall grant or deny an application for a cannabis license.
- Municipalities do not have a role in the Board's process to approve or deny any other cannabis licenses types (i.e., nursery, cultivator, processor, distributor).

Notification to Municipalities

- There is a specific form an applicant must use for this notification
available at: www.cannabis.ny.gov/municipal-notification
- This notification to a municipality must be sent by:
 1. Certified mail, return receipt requested;
 2. Overnight delivery service with proof of mailing; or
 3. Personal service upon the offices of the clerk or the municipality
- A municipality will have **30-days to reply** to the Office with their advisory opinion. A 30-day extension can be requested, if made within the original 30-day time. Email: municipalities@ocm.ny.gov
- **A total of 60-days will be given if the extension is requested.**

Notification to Municipalities

An applicant must notify the municipality 30-days prior to their application being filed with the Office. The Office does not consider an application for a retail dispensary or microbusiness (with retail authorization) filed with the Office until:

1. The applicant provides proof of control over the proposed retail location;
2. The applicant provides proof of notification to the municipality; and
3. The applicant receives a location determination from the Office as to whether the retail location meets the proximity requirements in the Cannabis Law and corresponding regulations.

Any applicant that applies with proof of control of a retail location (for a proposed retail dispensary or microbusiness with retail authorization) can upload their application on or prior to **November 17, 2023, at 5:00PM**, and still meet the notice to municipality requirement established by Section 76.

If the Office receives an application with a proposed retail location, issues a location determination but determines that there was no evidence of notification to the municipality, the Office will deem the application incomplete and will be unable to move forward processing the application.

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Role of Municipalities in Rule Making



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Section 119- Municipality Rulemaking

- [§ 119.1](#)- Preemption and Prohibitions on Municipality Rulemaking
- § 119.2- Authorizations for Municipality Rulemaking
- § 119.3- Notifications to Municipalities
- § 119.4- Distance Requirements and Measurement of Distance Requirements
- § 119.5- Unreasonably Impracticable; Review and Determination.

New York State Preemption for Municipality Rulemaking

- Pursuant to section 131 of the Cannabis Law, municipalities are preempted from adopting any local law, rule, or prohibition pertaining to the operation, registration, licensure, or permitting:
- Imposing a special fee that is specific to cannabis businesses
- Denying any right, or approval to any adult-use retail dispensary, microbusiness, ROD, licensee that has been operational prior to the establishment of a school, house of worship, or public youth facility (Grandfathered In)
- Setting a standard for ventilation or odor control for an *indoor area* of an adult-use on-site consumption premises unless such standard is also applicable to all indoor areas of any businesses which allow the smoking or vaping of tobacco



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Authorizations for Municipality Rulemaking

Municipalities are authorized to adopt local laws and regulations governing:

- **§ 119.2 Authorizations for Municipality Rulemaking.**
- The hours of operation of when cannabis products can be sold at adult-use retail dispensaries shall not be from 2:00 a.m. to 8:00 a.m., unless given express written permission by such municipality. Licensee shall not be restricted to less than seventy (70) hours a week, unless the licensee agrees to do so;
- The visual or architectural integrity of if located within historical districts;
- Parking;
- Traffic control, including, but not limited to, pedestrian and vehicular traffic;
- Odor, pursuant to article 13-E of the Public Health Law and the Clean Indoor Air Act, except as preempted under subdivision (b) of section 119.1 of this Part;
- Noise.

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Distance Requirements



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Laws or regulations which limit where cannabis dispensaries can be located

Zoning Restrictions	Retail Dispensary Premises
School	Cannot be on the same road and within 500ft of a building and its grounds occupied exclusively as a school.
House of Worship	Cannot be within 200 ft of a building occupied exclusively as a house of worship.
In a town, city, or village with a population over 20,000	Cannot be within 1,000 ft of another retail dispensary, microbusiness retail location, or ROD retail co-location.
In a town, city, or village with a population less than 20,000	Cannot be within 2,000 ft of another retail dispensary, microbusiness retail location, or ROD retail co-location.

Laws or regulations which limit where cannabis dispensaries can be located

- **Public youth facility** means a location or structure owned by a government or government subdivision or agency, that is accessible to the public, where the primary purpose is to provide recreational opportunities or services to children or adolescents of whom the primary population is reasonably expected to be seventeen (17) years of age or younger.
- **Proximity to Public Youth Facilities.**
 - Measurement will be taken from the center of the nearest entrance of the premises licensed and operating as a retail dispensary, on-site consumption, microbusiness, or ROD;
 - The center of the nearest entrance of the nearest building of such public youth facility;
 - If no entrance exists, the nearest structure of such public youth facility;
 - If no structure exists, the nearest points of the grounds of the public youth facility's legally defined property boundary as registered in a county clerk's office;
 - If no clear delineation of grounds exists, the nearest point of equipment, the primary purpose of which is reasonably expected to be used by children seventeen (17) years of age or younger.

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Cannabis Enforcement Initiatives



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Illicit Sales


- OCM's Enforcement Division has been conducting investigations (locations, owners, products sold etc.) on all illicit cannabis operations since January of 2022.
- The Enforcement Division routinely confers with local DA's and law enforcement across the state about strategies in cannabis enforcement.
- OCM investigators work on multi-agency task forces to shut down illicit store fronts.
- The Enforcement Division continues to staff up and engage in enforcement actions across the state:
 - visiting illicit stores,
 - issuing cease and desist letters to stores conducting themselves contrary to existing law,
 - assisting local law enforcement in their investigations involving illicit stores.

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Overview of Enforcement Activities

Revisions to the Cannabis Law and Tax Law were included in the SFY 23-24 Budget to establish a comprehensive framework to address the spread of unlicensed cannabis shops statewide. Specifically, the new laws:

- Empowers the OCM to take enforcement actions against businesses selling cannabis without the required license, including so-called "sticker shops" and other similar unlicensed businesses selling cannabis.
- Bolsters the enforcement authority of the OCM
 - Allow OCM to conduct regulatory inspections of all businesses selling and giving away cannabis.
 - Allow for the inspect these businesses by using a court order if the businesses do not allow OCM to conduct an inspection.
- Empowers OCM to seize cannabis found in unlicensed cannabis businesses.
- Empowers OCM to assess civil penalties (Tax and OCM fines and penalties) against unlicensed cannabis business.



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Closure of Illicit Stores

- OCM has the authority to revoke, cancel, or suspend any registration, license, or permit issued under Cannabis Law for a violation of the Cannabis Law.
- OCM has the authority to conduct regulatory inspections, during normal business hours, of any place of business, including a vehicle used for such business, where a business is engaging in activity for which a license would be required under the Cannabis Law. Including:
 - medical cannabis
 - adult-use cannabis
 - cannabis product
 - cannabinoid hemp
 - hemp extract
- Or any products marketed or labeled as such, are cultivated, processed, stored, distributed, or sold by any person holding a registration, license, or permit under the Cannabis Law.

Dispensary Verification Tool

- Licensed Dispensaries will display this sign
- QR Code links to a list of [NYS Licensed Dispensaries](#)
- Medical Dispensaries have a similar tool



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Enforcement Reporting

Information about activities that may be in violation of the Cannabis Law can be sent to OCM via email or through our web site.

Suspected violations or complaints can be reported at:

<https://cannabis.ny.gov/report-an-incident>

Whenever possible please include the following information when submitting a complaint:

- Name of business
- Time of alleged illicit activity
- Location of alleged illicit activity
- Pictures of alleged illicit activity
- Indicate if there has been previous police contact (i.e., 911 calls)
- Proximity to sensitive use locations (e.g., school, house of worship)
- Contact information of the person reporting the alleged illicit activity
(for any follow up questions investigators may have)

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Stay Connected to OCM

- Sign up for OCM email updates at:
cannabis.ny.gov
- Email questions
to: municipalities@ocm.ny.gov
- Follow OCM on social media:
@nys_cannabis

