

RESOLUTION No. 2023-

**RELATIVE TO ENACTING OF CHAPTER 378 OF NIAGARA FALLS
CODIFIED ORDINANCES ENTITLED: ADULT-USE CANNABIS
BUSINESSES – LOCATION, HOURS OF OPERATION AND LICENSING**

BY:

Council Member Kenny Tompkins

BE IT RESOLVED that the City Council of the City of Niagara Falls, New York hereby amends the City’s Codified Ordinances by enacting Chapter 378, entitled “Adult-Use Cannabis Businesses – Location, Hours of Operation and Licensing.”

CHAPTER 378

**ADULT-USE CANNABIS BUSINESSES – LOCATION,
HOURS OF OPERATION AND LICENSING**

378.01 Purpose

378.02 Definitions

378.03 Hours of Operation and Distance for Adult-Use Cannabis Businesses

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378.01 PURPOSE

The City of Niagara Falls, consistent with New York State Law, including, but not limited to the *Marihuana Regulation and Taxation Act*, and in accordance with New York Office of Cannabis Management regulations, finds that it is in the best interest of the residents of the City of Niagara Falls to ensure the public good, welfare, health, safety and morals by regulating the Time, Place and Manner whereby duly licensed Cannabis Businesses may operate within City Limits.

378.02 DEFINITIONS

ADULT-USE CANNABIS RETAIL DISPENSARY: A duly licensed cannabis business that sells cannabis products for off-site consumption.

ADULT-USE CANNABIS ON-SITE CONSUMPTION SITE: A duly licensed cannabis business that sells cannabis products for on-site consumption.

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COMMUNITY FACILITY: a facility that may include, but not be limited to, a facility that provides day care to children; a public park; a playground; a public swimming pool; a library; or a center or facility where the primary purpose of which is to provide recreational opportunities or services to children or adolescents. The City Market shall be considered a Community Facility.

HOUSE OF WORSHIP: a whole building owned or leased by a religious corporation as described by New York State Religious Corporation Law or used by a religious corporation or association of any denomination pursuant to the written permission of the owner thereof, which is used by members exclusively as a meeting place for divine worship or other religious observances presided over by a member of the clergy.

LICENSE: a written authorization as provided under the Cannabis Law permitting persons to engage in a specified activity authorized pursuant to the Cannabis Law.

LICENSEE: an individual or an entity who has been granted a license under the Cannabis Law.

ROAD: any wide way leading from one place to another, including but not limited to, an alley, avenue, boulevard, causeway, court, crescent, drive, lane, loop, place, plaza, promenade, street, terrace, or way.

SCHOOL GROUNDS: any building, structure and surrounding outdoor grounds, including entrances or exits, contained within a public or private pre-school, nursery school, elementary or secondary school's legally defined property boundaries as registered in a county clerk's office as defined by Section 409 of the Education Law.

378.03 HOURS OF OPERATION AND DISTANCE FOR ADULT-USE CANNABIS BUSINESSES

A. Adult-use cannabis retail dispensary:

1. **All adult-use cannabis retail dispensaries within the City of Niagara Falls shall abide by the following regulations:**
 - a) **No adult-use cannabis retail dispensary shall be located within one thousand (1000) feet of another similarly licensed adult-use cannabis retail dispensary.**
 - b) **No adult-use cannabis retail dispensary shall be located within five hundred (500) feet of school grounds as described in Section 378.02.**

- c) No adult-use cannabis retail dispensary shall be located within two hundred (200) feet of a House of Worship as described in Section 378.02.
 - d) No adult-use cannabis retail dispensary shall be located within five hundred (500) feet of a community facility as described in Section 378.02.
2. Hours of Operation:
- a) No adult-use cannabis retail dispensary shall be allowed to operate from 2:00 ante meridiem (a.m.) to 8:00 ante meridiem (a.m.).
 - b) Adult-use cannabis retail dispensaries shall be allowed to operate for a maximum of seventy (70) hours per week.
3. Inspection. All adult-use cannabis retail dispensaries shall submit to an inspection by the City of Niagara Falls Department of Code Enforcement once yearly and upon receipt of a complaint.

B. Adult-use Cannabis for On-Site Consumption:

1. All Adult-use Cannabis On-Site Consumption Sites within the City of Niagara Falls shall abide by the following regulations:
- a) No Adult-use Cannabis On-Site Consumption Sites shall be located within one thousand (1000) feet of another similarly licensed adult-use cannabis on-site consumption site.
 - b) No Adult-use Cannabis On-Site Consumption Sites shall be located within five hundred (500) feet of school grounds as described in Section 378.02.
 - c) No Adult-use Cannabis On-Site Consumption Sites shall be located within two hundred (200) feet of a House of Worship as described in Section 378.02.
 - d) No Adult-use Cannabis On-Site Consumption Sites shall be located within five hundred (500) feet of a community facility as described in Section 378.02.

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2. Hours of Operation:

- (a.) No Adult-use Cannabis On-Site Consumption Sites shall be allowed to operate from 4:00 ante meridiem (a.m.) to 8:00 ante meridiem (a.m.).
- (b.) Adult-use Cannabis On-Site Consumption Sites shall be allowed to operate for a maximum of seventy (70) hours per week.

3. Inspection:

- (a.) All adult-use cannabis on-site consumption sites shall submit to an inspection by the City of Niagara Falls Department of Code Enforcement once yearly and upon receipt of a complaint.

378.04 MEASUREMENT

- A. The measurements in Section 378.03(A) and 378.03(B) are to be taken in a straight line from the center of the nearest entrance of such house of worship or the nearest point of school grounds to the center of the nearest entrance of each such premises licensed and operating pursuant to Section 72 and Section 77 of the Cannabis Law.
- B. Under this section “entrance” shall mean a main door of a house of worship, or of premises licensed and operating pursuant to New York Cannabis Law, regularly used to give ingress to the students of the school, to the general public attending the house of worship, and to patrons or guests of the premises licensed and operating pursuant to this Section or of the premises sought to be licensed, except that where a school or house of worship or premises licensed and operating pursuant to New York Cannabis Law or the premises sought to be licensed is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. Such definition shall not include cellars, back and side doors, delivery entrances, or emergency exits.
- C. If the School or House of Worship or premises licensed and operating pursuant to this Section or the premises sought to be licensed is situated on a corner lot, such establishment is considered to be on both roads of the intersection, whether or not there is an entrance to the building on both roads.

378.05 CITY BUSINESS LICENSE REQUIRED

Notwithstanding any provision of law or regulation, no person, business, corporation, partnership, collective, etc. licensed by the State of New York to operate an Adult-Use Cannabis Retail Dispensary and/or Adult-Use Cannabis On-Site Consumption Site within the City of Niagara Falls shall open, keep, maintain, own, operate or carry on any such business unless such person or entity shall have first been issued a license therefor by the City of Niagara Falls as provided in Chapter 308 of the Codified Ordinances (Business Licenses).

378.06 PENALTIES

Any person violating any of the provisions of this ordinance shall be deemed guilty of a violation and subject to a fine of not more than two hundred fifty dollars (\$250.00) or imprisonment for a period not to exceed fifteen (15) days, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. In addition to the penalties described above, any licensed person that is issued a citation pursuant to this Chapter of said violation(s) will be reported to the New York Cannabis Control Board by the City of Niagara Falls.

378.07 SEVERABILITY

If any section, subdivision or provision of this local law or the application thereof to any person or circumstance be adjudged to be invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the section, subdivision or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law, or the application thereof to other persons or circumstances.

378.08 EFFECTIVE DATE

This local law shall take effect immediately upon its adoption and filing with the City Clerk.

Bold and Underline Indicate Additions
Bold and Brackets Indicate {Deletions}

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