



Office of Cannabis Management

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A.B.
REID**

Acting
Executive Director

Attachment B

November 12, 2024

SENT VIA EMAIL

City of Amsterdam
61 Church St
Amsterdam, NY 12010

Re: Response from the New York State Cannabis Control Board under Cannabis Law Section 76(4)

Dear City of Amsterdam:

This letter is in reference to the Cannabis Control Board's decision to approve the license for Higher Grounds, LLC located at 2 Ann Street, Amsterdam, NY 12010.

Pursuant to Article 4 of the Cannabis Law, the Cannabis Control Board (Board) is authorized to issue registrations, licenses, and permits related to adult-use retail dispensaries, registered organization with dispensary (ROD), or for on-site consumption (License) within the State. Section 76(4) of the Cannabis Law provides that when a city, town, or village within New York State (Municipality), or a community board within New York City (Community Board), expresses an opinion (Opinion) either for or against the Board's issuance for a License authorizing retail cannabis sale within their geographic bounds, the Board shall respond in writing with an explanation as to how it considered the Opinion. Furthermore, Part 119 of Title 9 of New York Codes Rules and Regulations (9 NYCRR) proscribes the timeframe of thirty (30) days, with the option to request thirty (30) additional days, in which a Municipality or Community Board may submit their Opinion to the Board.

On or about November 15, 2023, the Board received an Opinion from your office (Office) outlining concerns on the review and issuance of a license to Higher Grounds, LLC and the Board is responding as follows:

The Board would like to address your concerns regarding illicit cannabis sales within your jurisdiction. Thank you for sharing this complaint as it has been referred to the Office of Cannabis Management's ("OCM") Enforcement Division for investigation and the Board has considered the results of the investigation in their determination to award or deny a license. OCM analyzed the charges referenced in the municipal opinion. When a fingerprint check from the applicant was completed none of the charges appeared and the applicant was able to provide paperwork that the charges were dismissed via ACOD process.

In accordance with OCM's procedures and requirements, OCM has thoroughly evaluated these concerns as part of its licensing process. Licensed cannabis operators are held to strict compliance standards, as outlined in the



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Cannabis Law and related Regulations. In particular, Section 125.3(e) of the Regulations addresses security and the storage of cannabis. This section requires licensees to report any significant security breaches, diversion or theft, criminal activity occurring on or involving the licensed premises, or any other events that could compromise public health or safety, including incidents impacting the health or safety of the licensee's workforce.

When an incident occurs, licensees must submit a detailed incident report to OCM. This report includes the circumstances of the incident, the corrective actions taken, and confirmation that the appropriate law enforcement authorities have been notified. This mandatory reporting ensures a swift and transparent response to any threats to public safety. Additionally, Section 120.1(k) emphasizes that violations of the Regulations or the Cannabis Law by a licensee can result in significant penalties. These penalties may include fines, suspension, revocation of the license, and even debarment, as outlined in Part 133 of the Regulations.

Pursuant to 9 NYCRR, the Board implemented distance and proximity requirements between licensed retail dispensaries, including RODs, on-site consumption sites, and microbusiness retail locations, from other similarly licensed entities, houses of worship, schools, and public youth facilities, where applicable.

The Municipality Rulemaking regulations (9 NYCRR) require:

- A proposed adult-use cannabis retail dispensary location to not be located in a municipality that opted out of allowing retail dispensary locations.
- A minimum distance of 2,000 feet between adult-use cannabis retail dispensaries in municipalities with a population less than 20,000.
- A minimum distance of 1,000 feet between adult-use cannabis retail dispensaries in municipalities with a population 20,000 or more.
- A minimum straight-line measurement of 200 feet between any cannabis dispensary and a building exclusively used as a house of worship.
 - The two entities must be located on the same street for the 200-foot requirement to be applicable.
- A minimum straight-line measurement of 500 feet between any cannabis dispensary and a public youth facility or building exclusively used as a school.
 - The two entities must be located on the same street for the 500-foot requirement to be applicable.
 - 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. Please note, in order of a location to be considered a public youth facility it must be designated as such by a local municipality via the passage of a local law



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Furthermore, while the Board recognizes the municipalities concerns regarding distance from a proposed housing project build, there are no statutory or regulatory distance requirements established for this type of structure that would result in a denial of license. In its consideration of the proposed license, the Board reviewed and confirmed the foregoing proximity requirements in its decision to grant or deny the licensee to the applicant.

After careful review and consideration of the opinion received from your Locality, and pursuant to the Cannabis Law and related regulations, a license was approved for Higher Grounds LLC located at 2 Ann Street Amsterdam NY 12010.

If you have any questions regarding this letter, please contact the New York State Office of Cannabis Management at municipalities@ocm.ny.gov.

Sincerely,
Cannabis Control Board