

TOWN OF WASHINGTON
PUBLIC FORUM
September 9, 2021
Implementation of State Marijuana Legislation
For Dispensaries and Lounges in the Town of Washington

The Washington Town Board is seeking input from residents on the NYS Marijuana Regulation & Taxation Act. On Thursday, September 9, 2021 residents will be able to provide input as to whether the Town should Opt-Out of allowing facilities within the Town, outside of the Village of Millbrook. Residents unable to attend the meeting may send their comments to Deputy Clerk Mindy Moore at mmoore@washingtontny.org with "MRTA comments" in the reference line.

The following information is provided to allow citizens to make informed decisions and share their thoughts with the Town Board. Based on the input from local citizens the Town Board will determine if a Local Law shall be introduced to Opt-Out of allowing adult-use cannabis retail dispensaries or on-site consumption licenses from locating within the Town of Washington.

Local Opt-out

Cities, towns, and villages can opt-out of allowing adult-use cannabis retail dispensaries or on-site consumption licenses from locating within their jurisdictions. Municipalities cannot opt-out of adult-use legalization. Adult-use cannabis possession and use by adults 21 years of age or older in accordance with the Marijuana Regulation & Taxation Act (MRTA), is legal in New York State.

To opt-out of allowing adult-use cannabis retail dispensaries or on-site consumption licenses, a municipality must pass a local law by December 31, 2021 or nine months after the effective date of the legislation. This means that if a municipality has already passed a local law or measure prohibiting adult-use cannabis licenses from operating in its jurisdiction, the municipality will have to pass a new local law conforming to the opt-out requirements outlined in the MRTA.

If a municipality does not opt-out by December 31, 2021, the municipality will be unable to opt-out at a future date. However, a municipality may opt back in, to allow either, or both, adult-

use retail dispensary or on-site consumption license types by repealing the local law which established the prohibition.

All local laws passed by municipalities opting out of allowing adult-use retail dispensaries or on-site consumption licenses are subject to a permissive referendum as outlined in section twenty-four of the Municipal Home Rule Law.

This creates a process allowing voters of the municipality to petition the outcome of a local law, which if successful, will trigger the question of

whether or not to approve the local law, to be placed on the ballot at the next general election of state or local government officials for the municipality.

Local Control and Preemption

Except for the opt-out provision described in the section above, all municipalities including counties, are preempted from adopting any law, rule, ordinance, regulation, or prohibition pertaining to the operation or licensure of adult-use, medical or cannabinoid hemp licenses.

However, towns, cities and villages are permitted to pass local laws and regulations governing the time, place and manner of adult-use retail dispensaries and on-site consumption licenses provided that the local law and regulations do not make the operation of the license unreasonably impracticable as determined by the Cannabis Control Board. For example, cities, towns, and villages are permitted to pass laws and regulations pertaining to local zoning and the location of licensees, hours of operations and adherence to local building codes.

Municipalities may not issue local licenses to cannabis licensees.

Taxes

There is a local excise tax imposed on the sale of cannabis products from a retail dispensary to a cannabis consumer at 4 percent of the products price. This tax is distributed to local governments based on where the retail dispensary is located. 25 percent of the tax revenue goes to the county and 75 percent goes to the cities, town, or villages within the county as a proportion of cannabis sales. If a town and a village within the town both allow adult-use sales, the revenue shall be distributed based on agreed upon distribution agreement between the town and village. If no such agreement exists, then the revenue distribution between the town and village will be divided evenly.