



Office of the West Seneca Town Supervisor
Hon. Gary A. Dickson

Memorandum

To: Honorable Town Board
From: Gary Dickson, Town Supervisor
Date: April 29, 2021
Subject: Marijuana legalization and local control

Dear Colleagues,

As you know, Governor Andrew M. Cuomo recently signed legislation (S.854-A/A.1248-A) legalizing adult-use cannabis. According to Section 131 of the law, cities, towns, and villages may opt-out of allowing adult-use cannabis retail dispensaries or on-site consumption licenses by passing a local law by December 31, 2021, or nine months after the effective date of the legislation. They cannot opt-out of adult-use legalization. The specific issues that we should consider between now and the end of the year are as follows:

1. Does the town wish to prohibit adult-use cannabis retail dispensaries or on-site consumption licenses?
2. If the town does not wish to prohibit them, does the town wish to regulate the time, place, and manner of the operation of licensed adult-use cannabis retail dispensaries and/or on-site consumption site?

The text of Section 131 is attached.

131. Local opt-out; municipal control and preemption.

1. The licensure and establishment of a retail dispensary license and/or on-site consumption license under the provisions of article four of this chapter authorizing the retail sale of adult-use cannabis to cannabis consumers shall not be applicable to a town, city or village which, after the effective date of this chapter, and, on or before the later of December thirty-first, two thousand twenty-one or nine months after the effective date of this section, adopts a local law, subject to permissive referendum governed by section twenty-four of the municipal home rule law, requesting the cannabis control board to prohibit the establishment of such retail dispensary licenses and/or on-site consumption licenses contained in article four of this chapter, within the jurisdiction of the town, city or village. Provided, however, that any town law shall apply to the area of the town outside of any village within such town. No local law may be adopted after the later of December thirty-first, two thousand twenty-one or nine months after the effective date of this section prohibiting the establishment of retail dispensary licenses and/or on-site consumption licenses; provided, however, that a local law repealing such prohibition may be adopted after such date.

2. Except as provided for in subdivision one of this section, all county, town, city and village governing bodies are hereby preempted from adopting any law, rule, ordinance, regulation or prohibition pertaining to the operation or licensure of registered organizations, adult-use cannabis licenses or cannabinoid hemp licenses. However, towns, cities and villages may pass local laws and regulations governing the time, place and manner of the operation of licensed adult-use cannabis retail dispensaries and/or on-site consumption site, provided such law or regulation does not make the operation of such licensed retail dispensaries or on-site consumption sites unreasonably impracticable as determined by the board.