



Town of West Seneca

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MEMO

To: The Honorable Town Board

From: Tina M. Hawthorne, Town Attorney

Date: September 29, 2021

Subject: The Marihuana Regulation and Taxation Act (MRTA) and
Draft of Local Opt-Out Law *Local Law 2021-8*

MRTA was adopted by New York State in March of 2021. The Act creates the Cannabis Law that creates state offices, establishes a licensing system, and comprehensively regulates different aspects of medicinal and adult use cannabis and hemp. The Town cannot opt-out of legalizing marijuana possession (less than 3 ounces) and use by adults over the age of 21. The Town does, however, have the ability to adopt local laws opting out of allowing retail dispensaries and on-site consumption sites. At the request of the Town Board, I have drafted proposed local laws.

If the Board is so inclined to opt-out of either retail dispensaries or on-site consumption or both, the first date a public hearing to adopt a local law(s) may be held is November 1, 2021. In choosing a date for the public hearing, you must allow for sufficient time for publication.

Some points to know:

1. To opt-out, the Town must pass a local law by December 31, 2021, or the Town will not have another opportunity to do so.
2. If the Town opts-out, it may opt back in at a later date by repealing the local law.
3. All opt-out laws of retail dispensaries or on-site consumption licenses are subject to a permissive referendum.
4. If the Town decides to allow retail dispensaries and on-site consumption sites, it may adopt local laws regulating the time/place/manner of those establishments so long as it does not make the operation of them "unreasonably impractical." No local laws can be adopted on the operation or licensure of them.
5. There will be a 13% tax on cannabis sales: 9% is an excise tax that will go to New York state and 4% is sales tax. Sales tax will be divided 25% to counties and 75% to cities, towns, and villages in proportion to the amount of sales that take place within their jurisdiction. Opting out means zero revenue for the Town because it is in proportion to the sales that take place with the Town.
6. Establishments that wish to be a retail dispensary must apply for a license. There is also an on-site

consumption license that can be applied for. Prior to applying for both licenses, the applicant must notify the Town between 270 days and 30 days prior. The Town may then submit an opinion to the board for consideration in granting any license, and the board must respond to the Town explaining how the option was considered in granting or denying the application.

7. Retail dispensaries and on-site consumption establishments cannot be within 500 feet of a school or 200 feet of a house of worship.
8. Personal cultivation in private residences will go into effect once regulations on home cultivation have been put in place. The law gives the Town the authority to reasonably regulate home cultivation so long as it does not prohibit home cultivation.
9. Consumption of cannabis is treated the same as tobacco, with the exception of a prohibition against consuming in cars. There are rules about being 100 feet from entrance, exit, or outdoors areas of elementary or secondary school, public library, or school bus.

#3

**TOWN OF WEST SENECA
LOCAL LAW NO. _____ OF THE YEAR 2021**

A Local Law of the Town of West Seneca to opt-out of allowing cannabis retail dispensaries and on-site cannabis consumption sites as authorized by New York State Cannabis Law Article 4,

as follows:

Be it enacted by the Town Board of the Town of West Seneca,

CHAPTER 119 - CANNABIS LAW

Section 119-1 Legislative Intent

It is the intent of this local law to opt-out of allowing cannabis retail dispensaries and on-site cannabis consumption sites in the Town of West Seneca that would otherwise be allowed under New York State Cannabis Law Article 4.

Section 119-2 Authority

This local law is adopted pursuant to New York State Cannabis Law § 131 that expressly authorizes the Town Board to adopt a local law requesting the Cannabis Control Board to prohibit the establishment of cannabis retail dispensary licenses and on-site cannabis consumption licenses within the jurisdiction of the Town.

Section 119-3 Local Opt-Out

The Town Board of the Town of West Seneca hereby opts-out of allowing cannabis retail dispensaries sites and on-site cannabis consumption sites from being established and operated within the Town's jurisdiction as authorized under New York State Cannabis Law Article 4.

Section 119-4 Severability

If any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 119-5 Permissive Referendum/Referendum on Petition

This local law is subject to a referendum on petition in accordance with New York State Cannabis Law § 131 and the procedure outlined in New York State Municipal Home Rule Law § 24.

Section 119-6 Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.

#1

**TOWN OF WEST SENECA
LOCAL LAW NO. _____ OF THE YEAR 2021**

A Local Law of the Town of West Seneca to opt-out of allowing cannabis
retail dispensaries sites as authorized by New York State Cannabis Law Article 4,
as follows:

Be it enacted by the Town Board of the Town of West Seneca,

CHAPTER 119 - CANNABIS LAW

Section 119-1 Legislative Intent

It is the intent of this local law to opt-out of allowing cannabis retail dispensaries sites in the Town of West Seneca that would otherwise be allowed under New York State Cannabis Law Article 4.

Section 119-2 Authority

This local law is adopted pursuant to New York State Cannabis Law § 131 that expressly authorizes the Town Board to adopt a local law requesting the Cannabis Control Board to prohibit the establishment of cannabis retail dispensary licenses within the jurisdiction of the Town.

Section 119-3 Local Opt-Out

The Town Board of the Town of West Seneca hereby opts-out of allowing cannabis retail dispensaries sites from being established and operated within the Town's jurisdiction as authorized under New York State Cannabis Law Article 4.

Section 119-4 Severability

If any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 119-5 Permissive Referendum/Referendum on Petition

This local law is subject to a referendum on petition in accordance with New York State Cannabis Law § 131 and the procedure outlined in New York State Municipal Home Rule Law § 24.

Section 119-6 Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.

#2

**TOWN OF WEST SENECA
LOCAL LAW NO. _____ OF THE YEAR 2021**

A Local Law of the Town of West Seneca to opt-out of allowing on-site
consumption sites under New York State Cannabis Law Article 4, as follows:

Be it enacted by the Town Board of the Town of West Seneca,

CHAPTER 119 - CANNABIS LAW

Section 119-1 Legislative Intent

It is the intent of this local law to opt-out of allowing on-site cannabis consumption sites in the Town of West Seneca that would otherwise be allowed under New York State Cannabis Law Article 4.

Section 119-2 Authority

This local law is adopted pursuant to New York State Cannabis Law § 131 that expressly authorizes the Town Board to adopt a local law requesting the Cannabis Control Board to prohibit the establishment of cannabis on-site consumption licenses within the jurisdiction of the Town.

Section 119-3 Local Opt-Out

The Town Board of the Town of West Seneca hereby opts-out of allowing on-site cannabis consumption sites from being established and operated within the Town's jurisdiction as authorized under New York State Cannabis Law Article 4.

Section 119-4 Severability

If any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

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This local law is subject to a referendum on petition in accordance with New York State Cannabis Law § 131 and the procedure outlined in New York State Municipal Home Rule Law § 24.

Section 119-6 Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.