

August 10, 2021
Public Hearing #2

WHEREAS, On March 31, 2021, Governor Andrew Cuomo signed the Marijuana Regulation and Taxation Act (“MRTA”); and

WHEREAS, MRTA tasks The Office of Cannabis Management (“OCM”), governed by a five-person Cannabis Control Board (“CCB”), with implementing regulations for New York’s cannabis industry and overseeing the licensure, cultivation, production, distribution, sale, and taxation of medical, adult-use and cannabinoid hemp; and

WHEREAS, the first tangible step towards a functioning cannabis industry in New York is the forming of the Office of Cannabis Management’s Cannabis Control Board; and

WHEREAS, to date, there have been no actual nominations for the members who will serve on the CCB who will ultimately oversee and determine its regulatory framework and licensing, nor has there been any named nomination for an executive director of the Office of Cannabis Management (OCM), who will lead the implementing agency in charge of all things cannabis; and

WHEREAS, while MRTA broadly outlines how the adult-use program will operate, many details concerning the licensing and permitting processes for new businesses will be promulgated by a newly established, yet to be appointed, Cannabis Control Board and Office of Cannabis Management; and

WHEREAS, no sales will commence until the OCM develops rules and regulations for marijuana business licensing and operations; and

WHEREAS, while municipalities cannot opt out of legalized marijuana possession/use by adults over the age of 21, towns have the ultimate choice of whether they would like to allow dispensaries and on-site consumption lounges within the Town’s jurisdiction pursuant to section twenty-four of the municipal home rule law; and

WHEREAS, in order to opt out, a municipality must pass a local law by Dec. 31, 2021;
and

WHEREAS, if a municipality does not opt out by Dec. 31, 2021, they will not have another opportunity to do so; and

WHEREAS, adoption of this local law does not inhibit the Town's ability to reconsider opting back in once the Cannabis Control Board is in place, the Office is officially formed, and regulations implementing the Marijuana Regulation and Taxation Act (MRTA) are officially promulgated; and

WHEREAS, a public hearing was held on August 10, 2021, to consider adopting a Local Law to opt out of allowing cannabis retail dispensaries and on-site consumption sites as authorized under Cannabis Law Article 4 in the Town of Islip.

NOW, THEREFORE, on motion of Supervisor Angie M. Carpenter, seconded by Councilperson John C. Cochrane, Jr., be it,

RESOLVED, that the Town Board hereby adopts Local Law No. 1 of 2021 entitled, "Local Law to opt out of allowing cannabis retail dispensaries and on-site consumption sites as authorized under Cannabis Law Article 4" in the Town of Islip; as indicated on the attached, with additions noted by underlining and deletions indicated by strikeouts.

Upon a vote being taken, the result was: 4-0-1 with Councilwoman Trish Bergin abstains.

[SUBJECT TO PERMISSIVE REFERENDUM]

§8-1 Title.

This chapter shall be known as "Local law to opt out of allowing cannabis retail dispensaries and on-site consumption sites as authorized under Cannabis Law Article 4."

§8-2 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 Islip that would otherwise be allowed under Cannabis Law Article 4.

§8-3 Authority.

This local law is adopted pursuant to Cannabis Law §131 which 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/or on-site consumption licenses within the jurisdiction of the town and is subject to a permissive referendum, the procedure of which is governed by Municipal Home Rule Law §24.

§8-4 Local Opt-Out.

The Town Board of the Town of Islip hereby opts out of allowing cannabis retail dispensaries and on-site cannabis consumption sites from being established and operated within the town's jurisdiction.

§8-5 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.

§8-6 Permissive Referendum/Referendum on Petition.

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

§8-7 Effective date.

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