

# Marihuana Regulation and Taxation Act (“MRTA”)

- On March 31, 2021, the MRTA was signed into law as Chapter 92 of the Laws of 2021, adding a new Chapter 7-A of the New York State Consolidated Laws known as the Cannabis Law
- Legislates 3 different categories of products:
  1. **Adult Use Cannabis**
  2. **Medical Cannabis**
  3. **Hemp/Cannabinoid Hemp**
- Significant changes to the Penal Code, the Tax Law, and the Public Health Law, to name just a few
- A broad overview of **Adult Use Cannabis**

# Cannabis Control Board

## (“CCB”)

- 5 member board; chairperson (nominated) and 2 others appointed by the Governor, 1 appointed by the Senate president; 1 appointed by the Assembly Speaker (CL §7(1),(2))
- Duties include:
- To grant/revoke/limit the issuance of licenses (CL §10(1)-(3))
  - Has the sole discretion to limit – or not to limit – the number of licenses issued within the state or any political subdivision therein, such as the Town of Southampton
  - This is to be done in a manner that prioritizes social and economic equity applicants, with the goal of 50% of the licenses awarded to such applicants, and takes into consideration small business opportunities and concerns, avoiding market dominance of the industry
  - Social and economic equity applicants = applicants who are from communities disproportionately impacted by the enforcement of cannabis laws, or who qualify as a minority or women-owned business, distressed farmers, or disabled veterans (CL §87)
- To draft regulations (CL § 10(4), (16), §13)
- To prepare an annual report on the law’s effectiveness (CL §10(17))

# Office of Cannabis Management (“OCM”)

- The Office of Cannabis Management is established within the Division of Alcohol Beverage Control (CL §8)
  - Executive Director is appointed by the CCB (CL §9)
  - Basic function is to assist the CCB, review applications, maintain records, perform inspections
  - To perform the duties as delegated by the CCB in administering the law (CL §11)

# Equity Officer and Advisory Board

- State Equity Officer (CL §12)
  - Help CCB and OCM develop and implement social equity plan
  - Establish public education programming for communities that have been impacted by cannabis prohibition, with information detailing the licensing process and how to participate
- State Cannabis Advisory Board (CL §14)

# Adult Use Cannabis

- Multiple types of adult use licenses
  - Cultivator
  - Processor
  - Distributor
  - **Retail Dispensary** (CL §72)
  - Delivery
  - Nursery
  - **On-site consumption** (CL §77)
- Town is preempted from regulating any type of license other than a retail dispensary license and/or on-site consumption license



# Retail Dispensary and On-Site Consumption

- Cannot be located within 500 feet of a school or within 200 feet of a house of worship (CL §72(6); §77(3))
- May only be sold to 21+ and may not be sold to a visibly intoxicated person (CL §85)
- An applicant shall notify the municipality in which the premises is located of its intent to apply for a license (CL §76)



# Additional on-site consumption factors to consider (CL §77(5))

- The CCB may consider additional factors in determining whether public convenience and advantage and the public interest will be promoted by the granting of an on-site consumption license





# Retail Dispensary and On-Site Consumption Local Regulations

- The Town can adopt local laws placing restrictions on the time, place, and manner of the operation of retail dispensaries and on-site consumption establishments (CL §131(2))
- Cannot do so in such a way that makes the operation of the retail dispensary or on-site consumption site “unreasonably impracticable”
- Town is preempted from regulating anything other than the time, place, and manner of the operation



# NY STATE LAW

“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.”

# RETAIL





# THEORY

W E L L N E S S

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THEORY  
WELLNESS, LLC





WELCOME.







# On-site Consumption



# Local Opt-Out for Retail Dispensary and On-Site Consumption

- Town can adopt a local law opting-out of allowing retail dispensaries and/or on-site consumption sites (CL §131)
  - Said local law requests that the Cannabis Control Board prohibit the establishment of retail dispensary licenses and/or on-site consumption site licenses within the Town
- Must be adopted before December 31, 2021
- Said local law is subject to a permissive referendum pursuant to Municipal Home Rule Law §24 (CL §131(1))



## **Timeframes to consider:**

- Pursuant to NYS Election Law, a ballot proposition must be submitted to the Suffolk County BOE no later than August 2nd for the November 2nd general election (§4-108(1)(b) – 2019 amendment to 3 months prior)
- Consider the following timeline for opt-out legislation
  - May 25th – Notice of Public Hearing on TB agenda to opt-out of the issuance of retail dispensary and/or on-site consumption licenses within the Town
  - June 8th – Public Hearing
  - June 22nd – Public Hearing
  - July 13th – Resolution of Adoption, if the Town Board is so inclined
  - July 13th – July 27th – allow for Spanish translation of ballot proposition
  - August 2nd – transmit to the BOE prior to this date for inclusion on the ballot

# On-site Consumption

- “**Cigar bars** that, in the calendar year ending December thirty-first, two thousand two, generated ten percent or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines, and is registered with the appropriate enforcement officer, as defined in subdivision one of section thirteen hundred ninety-nine-t of this article. Such registration shall remain in effect for one year and shall be renewable only if: (a) in the preceding calendar year, the cigar bar generated ten percent or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, and (b) the cigar bar has not expanded its size or changed its location from its size or location since December thirty-first, two thousand two;”

# On-site Consumption

- “**Outdoor dining** areas of food service establishments with no roof or other ceiling enclosure; provided, however, that smoking and vaping may be permitted in a contiguous area designated for smoking and vaping so long as such area: (a) constitutes no more than twenty-five percent of the outdoor seating capacity of such food service establishment, (b) is at least three feet away from the outdoor area of such food service establishment not designated for smoking and vaping, and (c) is clearly designated with written signage as a smoking and vaping area;”