



Adult Use Marijuana & Local Control

Maine Townsman - June, 2018

The new "Adult Use Marijuana" law (LD 1719, eff. May 2, 2018) is the Legislature's major re-write of the law enacted by the voters in November 2016 and legalizing "recreational" marijuana.

The new law makes a number of significant concessions to local control over adult use marijuana. First and foremost, the law incorporates a local "opt-in" requirement similar to the local option for liquor sales. Local adult use marijuana establishments are prohibited unless the municipal legislative body (town meeting or town or city council) votes to permit them. In short, prohibition is the default, and no local action is required in order to prevent adult use marijuana establishments from operating locally.

In addition, if a municipality votes to permit some or all types of adult use marijuana establishments (i.e., retail stores and cultivation, nursery cultivation, testing and manufacturing facilities – social clubs are no longer allowed under the new law), the municipality may, by ordinance, limit the number of such establishments, impose land use regulations on them, and require local licenses for them.

On the other hand, municipalities cannot generally prohibit home cultivation of marijuana for personal use, restrict the areas within the municipality in which home cultivation for personal use is allowed, or charge a license or other fee for home cultivation for personal use. However, a municipality may, by ordinance, limit the total number of mature marijuana plants cultivated on any one tract or parcel of land so long as the ordinance allows cultivation of three mature plants, 12 immature plants and an unlimited number of seedlings by each person who is 21 years of age or older and who is domiciled on the property.

Municipalities also have no authority to tax any adult use marijuana establishments other than levying traditional property taxes. (There is no State tax-revenue sharing with municipalities under the new law.)

For the record, the new law is totally separate from the law governing medical marijuana (the Maine Medical Use of Marijuana Act, 22 M.R.S. §§ 2421-2430-B). Nothing has changed in terms of local control and medical marijuana.

Incidentally, MMA's Legal Services staff is preparing an "Information Packet" on adult use marijuana. By the time this Legal Note is published, the new packet should be available free to members at www.memun.org. (By R.P.F.)

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