

Municipal Law Mess in New Jersey - *Cannabis Business Executive*

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A newly proposed state law extending New Jersey town's time to adopt local cannabis specific laws will likely cause problems for applicants who may need to submit their applications before towns are forced to take a position.

Under New Jersey's adult use cannabis legislation, municipalities have until August 21, 2021 to adopt local ordinances setting zoning rules for cannabis establishments in each town. Under the statute, each of the State's 565 municipalities has the right to adopt their own rules in terms of how many licensed establishments are permitted, their hours of operation, and in which parts of town they are permitted – or to opt out entirely and prohibit any cannabis establishment in town. If towns do not adopt a local ordinance by August 21, 2021, then the statute's default rules apply for the next five years and adult use establishments are permitted in all industrial, commercial and retail zones in a town.

New Jersey's local law process requires zoning laws like those to go through a time-consuming process to be enacted. Each zoning law must go through a first and second reading at different town council meetings, be referred to the town planning board which will hold one or more public meetings, before the council can vote to adopt the law. As a result, with the August 21 deadline looming, towns are beginning to scramble to start that authorization process.

To date, at least 62 towns have taken an "opt-out" position either by formally introducing or adopting ordinances to ban cannabis establishments or by telling applicants they did not want cannabis in

their town, and at least 21 towns have introduced or adopted ordinances to allow one or more licensed establishments in town. Some towns are permitting only cultivation and manufacturing, while banning retail dispensaries. Some towns are allowing only medical marijuana dispensaries and banning all other cannabis establishments. Some towns are permitting each class of establishment, but are imposing hefty local application fees, annual permit fees and imposing additional qualitative licensing application processes on top of the anticipated state application process. For applicants trying to lock in real estate in anticipation of the upcoming license application window, knowing the status of these varying local rules is critical.

However, with hundreds of towns still undecided, on June 21, 2021 a bill was introduced to extend the deadline for towns to adopt local laws until October 20, 2021. While this may provide more time for towns to make up their mind, it will likely create havoc for applicants.

Under the adult use statute, the Cannabis Regulatory Commission (CRC) is required to release its initial rules by August 21. The statute further provides that within 30 days thereafter, i.e., by September 20, the CRC “shall” begin accepting applications for licensure.

That process and timeline assumed that towns would be locked in on their local ordinances by August 21, so applicants would know if they are proposing to open a facility in a location that is compatible with local zoning requirements. By moving the town law deadline to October 20, applicants may be in a position in which they are submitting applications on September 20 without knowing what local zoning laws the town will impose. The potential extension of only the town ordinance deadline is setting the adult use application process up for significant litigation between applicants and townships over whether applicants will be subject to ordinances adopted after their applications are submitted. If New Jersey is going to make changes to the process, it should do so in a comprehensive manner to avoid these problems.