



Municipal Obligations Related to the Passage of Public Act 21-1: *An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis*

**Prepared by Justin LaFountain, CZEO, Planner II
August, 2021**

Overview

On June 22, 2021, Governor Ned Lamont signed [Public Act No. 21-1](#), which legalizes the adult use of cannabis products and establishes a framework for regulating a cannabis industry in Connecticut. The legislation has many wide-ranging impacts related to cannabis, including legalizing the possession of cannabis by adults age 21 and over (up to 1.5 ounces on their person and up to 5 ounces in homes or locked in vehicle glove boxes), erasing previous marijuana convictions, and declaring that the smell of marijuana is no longer justification for police to search a motor vehicle. Additionally, beginning July 1, 2023, individuals age 21 and older may cultivate up to three mature and three immature cannabis plants at their residence without any special permissions.

Legal cannabis establishments will be licensed by the Connecticut Department of Consumer Protection but must also receive municipal zoning approval. Final license approval by the State of Connecticut will not be granted without local zoning approval. The law defines cannabis establishments as any cannabis producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer (retail and medical), food and beverage manufacturer, product manufacturer, product packager, and delivery service or transporter. These categories are further defined later in this document. It is anticipated that new cannabis establishments may begin to appear in Connecticut as early as the end of 2022.

Importantly, the new legislation authorizes municipal governments to regulate certain aspects of cannabis locally, including the location of production, sales, and usage. Municipalities that are home to cannabis retailers (including hybrid retailers) or micro-cultivator establishments will receive revenues equal to 3% of gross receipts of those establishments.

The municipality's governing body (town meeting, board of selectmen, etc.) and its zoning commission both have roles to play in regulating cannabis operations and use. This paper will discuss the specific issues municipalities and municipal zoning commissions should address. This document is not intended to provide legal advice. The legislation discussed herein is new, and municipal attorneys should be consulted with any legal questions. For further information, we recommend the [municipal impact overview](#) from the Connecticut Office of Policy and

Management (OPM) and this [video](#) from the Connecticut Chapter of the American Planning Association (CCAPA) and the Connecticut Association of Zoning Enforcement Officials (CAZEO).

Zoning Regulations

Planning and zoning commissions (or zoning commissions where the two bodies are not combined) are permitted to regulate cannabis establishments through municipal zoning regulations. Zoning regulations may prohibit cannabis establishments, establish reasonable restrictions on the hours and signage of cannabis establishments, or place proximity restrictions on cannabis establishments from churches, schools, charitable institutions, hospitals, veteran’s homes, and/or military barracks (Sec. 148 (b)).

Regulations That Do Not Address Cannabis

If a municipality chooses not to address cannabis establishments specifically in their zoning regulations, the new law states that cannabis establishments shall be permitted as if they were any other similar use in any zone (Sec. 148 (c)). The intent of the legislation was that existing zoning for similar uses (e.g., liquor stores) would apply to cannabis retailers by default, but that specificity is absent in the statute.

Cannabis Establishment License Types

The new law will enable a variety of cannabis-related businesses, from indoor cannabis growers, to producers of edible cannabis products, to retail stores, to delivery services. The law establishes eight different State license types which could be used in defining each specific cannabis establishment in zoning regulations. Each license has unique attributes. The license types relating to land use are as follows:

License Type	License Description
Retailer License	A retailer may purchase and sell recreational cannabis to consumers and research programs. This license excludes medical marijuana dispensaries and hybrid retailers.
Hybrid Retailer License	A hybrid retailer may purchase and sell recreational cannabis, along with medical marijuana products.
Cultivator License	A cultivator may cultivate, grow, and propagate cannabis at an indoor establishment of not less than 15,000 square feet of grow space.
Micro-Cultivator License	A micro-cultivator may cultivate, grow, and propagate cannabis at an indoor establishment of not less than 2,000 square feet and not more than 10,000 square feet of grow space.
Product Manufacturer License	A product manufacturer may obtain cannabis, and extract and manufacture cannabis products.
Food and Beverage Manufacturer License	A food and beverage manufacturer may own and operate a business that obtains cannabis, and creates food and beverages using cannabis.

Product Packager License	A product packager may package and label cannabis products.
Delivery Service or Transporter License	A delivery service may deliver recreational cannabis to consumers, and may deliver medical marijuana to qualifying patients. A transporter may transport cannabis products between cannabis establishments, laboratories, and research programs.

It is important that municipalities address the variety of cannabis-related uses enabled by the new legislation. For example, if cannabis retail stores are addressed within the zoning regulations, but cannabis cultivators are not, the cultivators would by default be regulated by the zoning of the nearest similar use already in the zoning regulations.

The law allows municipalities to grant zoning approvals to a maximum of one retailer and one micro-cultivator per every twenty-five thousand residents of a municipality, until June 30, 2024, when the Connecticut Department of Consumer Protection (DCPD) may increase the permitted number (Sec. 148 (e)). Until that date, a city of 40,000 residents, for example, would be allowed up to two retailers and two-micro-cultivators. The number of establishments of other license types is unlimited. In order to monitor compliance, retailer and micro-cultivator licenses require a special permit or other affirmative approval from the municipality (Sec. 148 (g)).



An existing cannabis retailer in Lee, MA. (Photo credit: Josh Landes, WAMC; wamc.org/new-england-news/2019-07-05/lee-mas-first-recreational-marijuana-shop-opens)

While municipalities may restrict a delivery service from basing its business locally, municipalities may not prohibit delivery of cannabis products within municipal limits (Sec. 83 (b)).

Signage

The Public Act includes restrictions on signage for cannabis establishments (Sec 33). Signage is prohibited from:

- Targeting or being designed to appeal to individuals under 21;
- Claiming or implying that cannabis products have curative or therapeutic effects;
- Being visible to the public within 500 feet of an elementary or secondary school ground, recreation center, child care center, playground, park, or library;
- Including the words ‘drug store,’ ‘pharmacy,’ ‘apothecary,’ ‘drug(s),’ or ‘medicine shop;’ or
- Advertising any specific brand or kind of cannabis product.

The law notes that zoning commissions may establish reasonable restrictions regarding the hours and signage of cannabis establishments (Sec. 148 (b)).

Notification of Regulation Changes

If zoning regulations are amended in regards to cannabis establishments, the chief zoning official¹ must notify the Secretary of the Connecticut Office of Policy and Management no more than 14 days from the adoption of the changes (Sec. 148 (b)). Such changes are to be submitted via email to daniel.morley@ct.gov. The zoning official must also notify the Connecticut Department of Consumer Protection.²

Referendum Provision

An important caveat to the above information is the referendum provision of the new law, which enables voters to force a referendum on whether the retail sale of cannabis will be allowed within the municipality. A referendum must be held if 10% of registered voters in a municipality petition for such a referendum. Although the legal ramifications of a referendum vote that conflicts with existing zoning regulations are uncertain, amending the zoning regulations to be in harmony with the referendum results would be wise to avoid future legal conflicts.

Municipal Ordinances

Regulation of Public Smoking of Cannabis

Municipal governing bodies also have authority over certain aspects of cannabis. As of October 1, 2021, governing bodies have the authority to establish ordinances regulating the use of cannabis in lighted cigarette, pipe, or similar form on land under the control of the municipality. Current ordinances related to the use of tobacco products may be sufficient to address this topic, but they should be reviewed if a municipality wishes to also prohibit the smoking of cannabis on municipal land. If a municipality with a population of greater than 50,000 people chooses to limit cannabis consumption on public lands, the municipality must designate a place where public consumption of cannabis is permitted. If they choose, municipalities may also prohibit and set fines for the smoking of cannabis in outdoor sections of restaurants ((Sec. 84 (H) (xvi)). The law does not allow municipalities to prohibit the use of edible cannabis products on municipally-controlled land or outdoor restaurant spaces.

Recouping of Public Service Costs

Municipalities may charge a retailer or hybrid retailer for any necessary and reasonable costs incurred by the municipality for public safety services, including costs to direct traffic, relating to the opening of the establishment. Municipalities may charge retailers for expenses incurred only in the first 30 days after opening, and charges may not exceed \$50,000 (Sec. 83 (d)). Separate local host agreements, such as those entered into by municipalities and cannabis establishment operators in Massachusetts, are not permitted (Sec. 83 (c)).

¹ The term 'chief zoning official' is undefined at this time but presumed to mean the Zoning Enforcement Officer.

² As of the writing of this paper, a specific email address for DCP has not been provided.