

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

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### **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 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 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.

Cannabis establishments will be licensed by the Connecticut Department of Consumer Protection but must also receive local zoning approval. Final license approval by the State of Connecticut will not be granted without such 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. 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).

On January 26, 2022, the CT Department of Consumer Protection (DCP) released policies and procedures for cannabis establishments, entitled [Regulation of Adult Use Cannabis](#). This document contains important information regarding how cannabis production will be regulated by the DCP, which should be reviewed by municipalities to ensure approvals granted meet the intent of the Planning and/or Zoning Commissions.

## ZONING REGULATIONS

Planning and/or Zoning Commissions 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 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 enables a variety of cannabis-related businesses, from cannabis growers, to producers of cannabis products, to retail stores and delivery services. The law establishes eight different license types, each with unique attributes. The license types are as follows:

LICENSE TYPE	LICENSE DESCRIPTION
Retailer	A retailer may purchase and sell recreational cannabis to consumers and research programs. This license excludes medical marijuana dispensaries and hybrid retailers.
Hybrid Retailer	A hybrid retailer may purchase and sell recreational cannabis, along with medical marijuana products.
Cultivator	A cultivator may cultivate, grow, and propagate cannabis at an establishment of not less than 15,000 square feet of grow space.
Micro-Cultivator	A micro-cultivator may cultivate, grow, and propagate cannabis at an establishment of not less than 2,000 square feet and not more than 10,000 square feet of grow space . Micro-cultivators may deliver cannabis to consumers, but not sell on-site. Delivery must cease within 30 days of five cannabis delivery services commencing operation. <sup>1</sup>
Product Manufacturer	A product manufacturer may obtain cannabis, and extract and manufacture cannabis products.
Food and Beverage Manufacturer	A food and beverage manufacturer may own and operate a business that acquires cannabis, and creates food and beverages.
Product Packager	A product packager may package and label cannabis products.
Delivery Service or Transporter	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.

<sup>1</sup> Micro-cultivators may apply for expansions of grow space in 5,000 square foot increments annually, to a maximum of 25,000 square feet of grow space. They may apply for a cultivator license if they desire to expand beyond 25,000 square feet.

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.

Passage of [Public Act 22-103](#) in May of 2022 amended certain provisions of the original cannabis law. Most notably, this Public Act removed the population-based limits on retailer and micro-cultivator licenses. Therefore, municipalities are no longer restricted to one retailer or micro-cultivator per 25,000 residents. The number of establishments of other license types remains unlimited. Retailer and micro-cultivator licenses do still require a special permit or other affirmative approval from the municipality (Sec. 148 (e)). 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 official<sup>2</sup> must notify the Secretary of the Connecticut Office of Policy and Management and the Department of Consumer Protection via [this online form](#) no more than 14 days from the adoption of the changes (Sec. 148 (b)).

## **REFERENDUM PROVISION**

Planning and/or Zoning Commissions 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)).

<sup>2</sup>The term ‘chief zoning official’ is undefined at this time but presumed to mean the Zoning Enforcement Officer.

## 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)).