



Town of Glastonbury

OFFICE OF COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Town Plan and Zoning Commission

FROM: Office of Community Development Staff

DATE: August 6, 2021

SUBJECT: Text Amendment – Temporary and Limited Moratorium on Cannabis Establishments

The Town Council referred to the Town Plan and Zoning Commission the attached proposed moratorium text amendment at their meeting of July 27, 2021. As you are aware, Public Act 21-1 enables the adult use of cannabis and a process for licensing a wide variety of cannabis establishments. The Act also enables municipalities to adopt certain regulations on cannabis establishments, including prohibiting them, or regulating their locations.

We have attached two presentations that provide good summaries of the new law, including which agencies oversee relevant aspects of the law, when establishment licenses are anticipated, and what municipalities can regulate. The Department of Consumer Protection (DCP) needs to adopt a series of regulations and policies before state licensing of cannabis establishments can occur. However, a lottery for various license types is anticipated this fall. Applicants that advance through the lottery are granted provisional licenses. The State anticipates that potential establishments would seek local zoning approvals upon receipt of provisional licenses, and will require local zoning approvals in order to obtain final licenses. Final license approvals are anticipated to begin in the spring of 2022. However, there is nothing to prevent a cannabis establishment from applying now for local zoning approval, and if such an application were submitted, the use would have to be treated as any other similar use, e.g. a retail establishment as any other retail use. Thus, a moratorium is a prudent step for the Town to have the time to thoughtfully consider the most appropriate regulatory approach for Glastonbury.

The Town Council has proposed an 18-month moratorium to develop local Building Zone regulations. The moratorium is proposed to take effect Sept. 1st, and would preclude any applications for the various license types enumerated by Public Act 21-1.

Following is a motion for a positive recommendation to the Town Council:

MOVED, that the Town Plan & Zoning Commission recommends to the Town Council adoption of the proposed 18-month temporary and limited moratorium on cannabis establishments, and further recommends that the joint Town Council and Town Plan and Zoning Committee on Building Zone Regulations evaluate potential new cannabis regulations.

TEMPORARY AND LIMITED MORATORIUM ON CANNABIS ESTABLISHMENTS

The following amendment to the Glastonbury Building Zone Regulations is proposed to establish a temporary and limited moratorium on cannabis establishments, as defined by Public Act 21-1 (June 2021 Special Session), an Act Concerning Responsible and Equitable Regulation of Adult Use Cannabis (hereinafter referred to as "Act"), which took effect July 1, 2021. Section 148 of the Act authorizes municipalities to enact certain zoning regulations or ordinances for cannabis establishments. Without specific zoning regulations, such uses *must* be regulated as any similar uses would be.

Given limited time to review and update the Building Zone Regulations before state licensure of cannabis establishments is expected to begin, the Town of Glastonbury proposes a temporary and limited 18-month moratorium on cannabis establishments. The moratorium will provide time for the Town Council and Town Plan and Zoning Commission to consult with one another, other boards and commissions, and the community on the development of new regulations governing cannabis establishments or prohibiting the establishment of cannabis establishments.

Proposed Amendment to Section 3 of the Glastonbury Building Zone Regulations

New Section 3.27 Cannabis Establishments Temporary and Limited Moratorium

- a) Statement of Purpose. This section has been adopted to provide the Zoning Authority with the time necessary to consider adoption of potential changes to the Zoning Regulations pursuant to Section 8-2 of the Connecticut General Statutes and the Act. Said Public Act contains provisions allowing municipalities to prohibit or place reasonable restrictions on cannabis establishments.

This temporary and limited term moratorium has been adopted to provide the Town with the time necessary to develop regulations for cannabis establishments that meet statutory requirements and promote the public's general health, safety and welfare or develop regulations prohibiting the establishing of cannabis establishments.

- b) Definitions. For the purposes of this section, the following terms are defined as:

1. "Cannabis" means marijuana as defined in Section 21a-240, C.G.S.
2. "Cannabis Establishment" means " means a producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer, food and beverage manufacturer, product manufacturer, product packager, delivery service or transporter.
3. "Cultivator" means a person that is licensed to engage in the cultivation, growing and propagation of the cannabis plant at an establishment with not less than fifteen thousand square feet of grow space.
4. "Food and Beverage Manufacturer" means a person that is licensed to own and operate a place of business that acquires cannabis and creates food and beverages.

**Draft as Approved by Town Council 07/27/21 and
Referred to Town Plan & Zoning Commission**

5. "Grow space" means the portion of a premises owned and controlled by a producer, cultivator or micro-cultivator that is utilized for the cultivation, growing or propagation of the cannabis plant, and contains cannabis plants in an active stage of growth, measured starting from the outermost wall of the room containing cannabis plants and continuing around the outside of the room. "Grow space" does not include space used to cure, process, store harvested cannabis or manufacture cannabis once the cannabis has been harvested.
 6. "Hybrid Retailer" means a person that is licensed to purchase cannabis and sell cannabis and medical marijuana products.
 7. "Micro-cultivator" means a person licensed to engage in the cultivation, growing and propagation of the cannabis plant at an establishment containing not less than two thousand square feet and not more than ten thousand square feet of grow space, prior to any expansion authorized by the commissioner.
 8. "Person" means an individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or any other legal entity and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination thereof.
 9. "Product Manufacturer" means a person that is licensed to obtain cannabis, extract and manufacture products exclusive to such license type.
 10. "Product Packager" means a person that is licensed to package and label cannabis.
 11. "Retailer" means a person, excluding a dispensary facility and hybrid retailer, that is licensed to purchase cannabis from producers, cultivators, micro-cultivators, product manufacturers and food and beverage manufacturers to sell cannabis to consumers and research programs.
 12. "Sale" or "sell" has the same meaning as provided in section 21a-240 of the Connecticut General Statutes.
- c) Applicability. During this temporary and limited-term moratorium, cannabis establishments shall be prohibited in the Town of Glastonbury and no applications shall be received by the Town Plan and Zoning Commission or the Office of Community Development to establish a cannabis establishment.
- d) Effective Date/Term. This temporary and limited moratorium shall become effective on September 1, 2021 and shall remain in effect for a period of 18 months until March 1, 2023.

Municipal and Zoning Implications of PA 21-1

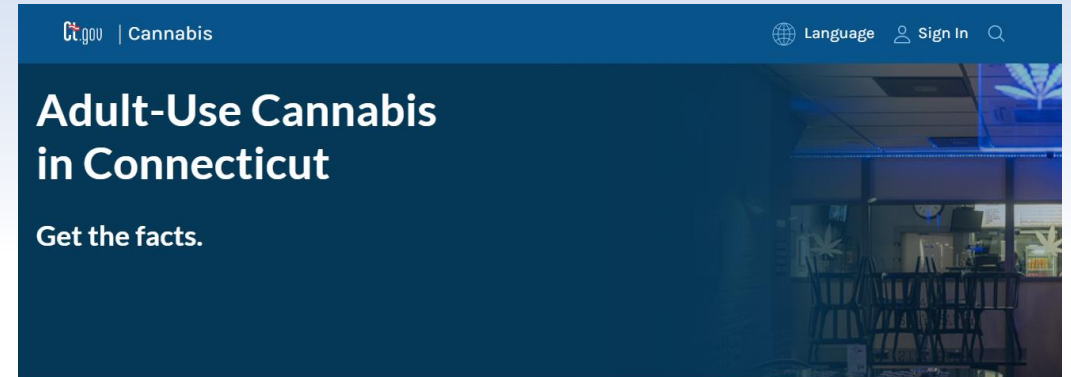
Mohit Agrawal, OTG

CAZEO/CCAPA Legislative Wrap-Up II

July 29, 2021

Adult-use cannabis is now legal in Connecticut

On June 22, 2021, Governor Lamont signed into law *Public Act No. 21-1, An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis*.¹



Cannabis is legal in Connecticut.

Residents over the age of 21 can legally possess and consume marijuana. Get all the facts on the new law.

[LEARN MORE >](#)

www.ct.gov/cannabis

¹ Bill Summary: <https://cga.ct.gov/2021/BA/PDF/2021SB-01201-R02SS1-BA.PDF> | Bill Text: <https://cga.ct.gov/2021/ACT/PA/PDF/2021PA-00001-R00SB-01201SS1-PA.PDF>

Resources

Relevant sections of the Act for municipal officials are 83, 84, 126, and 148.

OTG and OPM are working with CCM, COST, CCAPA, CAZEO, the COGs, and other organizations on outreach and messaging.



STATE OF CONNECTICUT

OFFICE OF POLICY AND MANAGEMENT
Intergovernmental Policy and Planning Division

SB 1201 – AN ACT CONCERNING RESPONSIBLE AND EQUITABLE
REGULATION OF ADULT-USE CANNABIS

www.ct.gov/cannabis

MUNICIPAL AUTHORITY - IMPACT OVERVIEW

Sec. 83 – effective July 1, 2021: Addresses various issues on municipalities' authority to regulate cannabis, such as (1) requiring them, upon petition of 10% of their voters, to hold a local referendum on whether to allow the recreational sale of marijuana or whether to allow certain types of cannabis businesses within the municipality; (2) barring them from prohibiting the delivery of cannabis by authorized persons; and (3) allowing them to charge retailers, hybrid retailers, and micro-cultivators for certain initial public safety expenses.

<https://portal.ct.gov/OPM/IGPP-MAIN/IGPP-Home-Page>

Overview of the legislation

Category	Change in law
Possession	Possession of specified amounts of cannabis among adults age 21 and over is legal.
Retail sales & cannabis revenue	Retail sales of cannabis aim to begin in Connecticut in the second half of 2022. The law enacts a tax rate structure on the retail sale of cannabis that includes a new source of revenue for municipalities.
Erases prior convictions	Certain cannabis-related convictions that occurred between January 1, 2000 and October 1, 2015 will be automatically erased; others can be erased through a simple petition process.
Equity in the cannabis market	The law creates an equitable marketplace under which at least half of all initial licenses are reserved for social equity applicants, targeting those communities that have been most negatively impacted by the so-called war on drugs (DIAs).
Equity in using new revenue	The law directs much of the new revenue from cannabis sales—an amount reaching approximately \$40 million annually once the market is mature—to DIAs for economic development in the cannabis industry and other industries.
Substance misuse programs	Portions of the revenue obtained from retail sales of cannabis will be directed to support substance misuse prevention, treatment, and recovery services
Other provisions	The law also makes progress in the areas of enforcement of safe driving, preventing underage use, advertising, safe products, employment, the medical marijuana program, and prohibits use of cannabis in state parks, state beaches, and on state waters

Regulation of cannabis

- Primary regulator for cannabis is DCP
 - Issuance of licenses/permits
 - Safety and types of products available for sale
- Social Equity Council is a new state body
 - Social equity applicants
 - New programs to support social equity applicants and DIAs
- Partnership with municipalities
 - Siting of establishments
 - Public consumption

Cannabis establishment license types

- Producer*
- Cultivator
- Micro-Cultivator
- Product Manufacturer
- Food and Beverage
Manufacturer
- Product Packager
- Dispensary Facility*
- Hybrid Retailer
- Retailer
- Delivery Service
- Transporter

* These license types currently exist in the state's medical marijuana program.

Key steps in licensing

- Applications accepted for lottery
- Lottery winners selected
- Review by DCP and/or SEC of lottery winners
- Provisional license provided
- Next 14 months: applicant secures siting, initiates construction, etc.
- Final license review by DCP

Market Timeline

Summer 2021

- SEC Establishes S.E. Criteria
- Medical Delivery Approved

Fall 2021

- Medical Licensee Conversions
- S.E. Cultivator Applications Accepted (3 month window)
- Lottery Applications Open (staggered by credential)

Winter 2021-2

- Lottery Applications Accepted (staggered by credential)
- Provisional License Review
- S.E Cultivators Licenses Awarded

Spring 2022

- Provisional License Review & Approval
- Issue Provisional Licenses
- S.E Cultivators Begin Operation

Summer 2022

- Provisional License Review & Approval
- Issue Provisional & Final Licenses
- Business Ramp Up

Fall 2022

- Issue Final Licenses
- Business Ramp Up
- Market Opens

Licenses and revenues

- There is no global cap on the number of any specific license-type.
- Until June 30, 2024, cap of 1:25,000 for # retailers and micro-cultivators in each town. Cap applies separately. Rounded up.
- Rough estimate: ~150-200 retailers, ~\$4M in annual revenue each. Results in ~\$120K in municipal tax revenue.

Zoning authorities

- Municipalities may, through zoning or ordinance:
 - Prohibit siting of cannabis establishments;
 - Reasonably restrict hours and signage; and
 - Restrict proximity to religious institutions, schools, charitable institutions, hospitals, veterans' homes, or certain military establishments
- The retailer and micro-cultivator caps will be enforced by towns through special permits

Public consumption

- The Act delegates responsibility for determining rules for public consumption to municipalities for “property owned by or under the control of [a] municipality”
 - Municipalities may enforce through fines
- Clean Indoor Air Act
- Prohibited on state lands, parks, and waters
- Smoked/vaped cannabis treated differently from ingested cannabis

Responsible and Equitable Regulation of Adult-Use Cannabis Act (“RERACA”)

**CAZEO/CCAPA Land Use Legislative Wrap-Up
(Part 2): Adult Use Cannabis**

Federal v. State : Conflict of Law

The Controlled Substances Act (1970)

- **The Controlled Substances Act (CSA)**, signed into law by President Richard Nixon in 1970, is the main federal statute regulating possession and use of certain substances, such as heroin, LSD, cocaine, and cannabis.
 - Under the CSA, regulated drugs and substances fall into five "Schedules."
 - Schedule One is reserved for drugs that have a high potential for abuse, no currently accepted medical use, or a lack of accepted safety for use under medical supervision.
 - Schedule One drugs include, for example, heroin and LSD and, as of the date of this presentation.... Cannabis or Marijuana
 - CSA Federal Citation (*21 U.S.C. Chapter 13*)
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RERACA & PUMA : Cannabis Licenses

Nine New Cannabis Licenses Created by RERACA:

(1) Cultivator; (2) Micro-Cultivator; (3) Retailer; (4) Hybrid Retailer; (5) Product Manufacturer; (6) Food and Beverage Manufacturer; (7) Product Packager; (8) Delivery Service; and (9) Transporter.

Two Existing Cannabis Licenses Created by PUMA:

(1) Producer and (2) Dispensary.

Authority for Municipal Regulation

Section 148 of the RERACA provides “any municipality may, by amendment to such municipality's zoning regulations or by local ordinance, (1) prohibit the establishment of a cannabis establishment, (2) establish reasonable restrictions regarding the hours and signage within the limits of such municipality, or (3) establish restrictions on the proximity of cannabis establishments to any of the establishments listed in subsection (a) of subdivision (1) of section 30-46 of the general statutes.” (i.e. certain sensitive receptors listed in Liquor Licensing Statutes ... schools, churches, charities, hospitals... Etc.)

Authority for Municipal Regulation

1. Bans
2. Moratoriums
3. Zoning Regulations
4. Public Referendum Option (see RERACA § 83)

Sec. 83. ((Effective July 1, 2021) (a) Upon the petition of not less than ten per cent of the electors of any municipality, lodged with the town clerk at least sixty days before the date of any regular election ... the selectmen of the municipality shall warn the electors of such municipality that, at such regular election, a vote shall be taken to determine: (1) *Whether or not the recreational sale of marijuana shall be permitted in such municipality*, or (2) *whether the sale of marijuana shall be permitted in such municipality in one or more of the classes of license of cannabis establishments*.

The ballot label designations in a vote upon the question of cannabis establishment license shall be "Shall the sale of recreational marijuana be allowed in (Name of municipality)?" or "Shall the sale of cannabis under (Specified license or Licenses) be allowed in (Name of municipality)?" or "Shall the sale of recreational marijuana be prohibited (No Licenses) in (Name of municipality)?"

Authority for Municipal Regulation

Except...

1. Any cannabis establishments already allowed in a municipality shall not be affected by any vote.
 2. No municipality shall prohibit delivery of cannabis to a consumer, qualifying patient or caregiver when the delivery is made by a retailer, hybrid retailer, dispensary facility, delivery service, micro-cultivator or other person authorized to make such delivery pursuant to RERACA.
 3. Any restriction regarding hours, zoning and signage of a cannabis establishment adopted by a municipality *shall not apply to an existing cannabis establishment located in such municipality if such cannabis establishment does not convert* to a different license type, for a period of five years after the adoption of such prohibition or restriction. (RERACA § 148(d))
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Authority for Municipal Regulation

No Host Community Agreements in Connecticut... instead:

“For up to thirty days after the opening of a retailer or hybrid retailer, a *municipality may charge such retailer or hybrid retailer* for any necessary and reasonable costs incurred by the municipality for provision of public safety services in relation to such opening, including, but not limited to, public safety costs incurred to direct traffic, *not to exceed fifty thousand dollars.*” (RERACA § 83(d))

Authority for Municipal Regulation

Generally, if a municipality has not set zoning standards specific to “cannabis establishments” then they are treated “as if for any other similar use, other than a cannabis establishment,” under zoning.

(See RERACA § 148(c))

“Retailers” and “micro-cultivators” are specifically required under the Cannabis Bill to obtain a “special permit or other affirmative approval” (primarily to ensure that population density restrictions are met). *(See RERACA § 148 (g))*

Until June 30, 2024, no municipality shall grant zoning approval for more retailers or micro-cultivators than a number that would allow for one retailer and one micro-cultivator for every twenty-five thousand residents of such municipality, as determined by the most recent decennial census. *(See RERACA § 148 (e))*

Municipal Zoning Changes:

The chief zoning official of a municipality shall report, in writing, any zoning changes adopted by the municipality regarding cannabis establishments pursuant to this subsection to the Secretary of the Office of Policy and Management and to the department not later than fourteen days after the adoption of such changes. (See *RARACA § 148 (b)*)

Municipal Zoning :

Unless otherwise provided for by a municipality through its zoning regulations or ordinances, a cannabis establishment shall be zoned as if for any other similar use, other than a cannabis establishment, would be zoned.(See *RARACA § 148 (c)*)

Drafters intended for the closest “similar use” to be liquor retail establishments.

Municipal Zoning :

Current Municipal Zoning – Permits or Bans Known Cannabis License Types (Dispensary and Production Licenses - between 2012 and 2020)

➤ Current Zoning Language – Largely Silent re: Adult Uses (although some municipalities have addressed in advance)

Municipal Zoning Tracker / Database

Current Events

Current Cannabis Consideration:

1. Location – influenced by license type (and known zoning regs) ... also, ownership considerations.
 2. Zoning – all license applicants must be able to provide evidence of “all necessary local zoning approval for the cannabis establishment operation” prior to receiving a final license.
 3. Strategic Business Planning – Business Plans / Corporate Structure.
 4. Funding
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Other RERACA Fun Facts:

Advertising and Marketing :

Cannabis establishments and any person advertising any cannabis or services related to cannabis shall not:

- 1) Advertise cannabis, cannabis paraphernalia or goods or services related to cannabis in ways that target or are designed to appeal to individuals under twenty-one years of age
 - 2) Engage in advertising by means of television, radio, Internet, mobile applications, social media, or other electronic communication, billboard or other outdoor signage, or print publication unless the advertiser has reliable evidence that at least ninety per cent of the audience for the advertisement is reasonably expected to be twenty-one years of age or older;
 - 3) Advertise cannabis, cannabis products or cannabis paraphernalia in any physical form visible to the public within five hundred feet of an elementary or secondary school ground, recreation center or facility, child care center, playground, public park or library;
-

Other RERACA Fun Facts:

Advertising and Marketing :

Cannabis establishments and any person advertising any cannabis or services related to cannabis shall not:

- 4) Exhibit or use certain words in advertising, publications, or within or upon the outside of the premises, including “dispensary”, “drug store”, “pharmacy”, “apothecary”, “drug”, “drugs” or “medicine shop”.
 - 5) Advertise on or in public or private vehicles or at bus stops, taxi stands, transportation waiting areas, train stations, airports or other similar transportation venues including, but not limited to, vinylwrapped vehicles or signs or logos on transportation vehicles not owned by a cannabis establishment;
 - 6) Display cannabis or cannabis products so as to be clearly visible to a person from the exterior of the facility used in the operation of a cannabis establishment, or display signs or other printed material advertising any brand or any kind of cannabis or cannabis product on the exterior of any facility used in the operation of a cannabis establishment;
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Other RERACA Fun Facts:

Window Displays

No cannabis establishment shall display cannabis, cannabis products or drug paraphernalia in a manner that is visible to the general public from a public right-of-way not on state lands or waters managed by the Department of Energy and Environmental Protection.

Other RERACA Fun Facts:

Use of Tax Revenue:

The tax collected pursuant to this section shall be used by such municipality to (A) make improvements to the streetscapes and other neighborhood developments in and around each community in which a cannabis retailer, hybrid retailer or micro-cultivator is located, (B) fund education programs or youth employment and training programs in such municipality, (C) fund services for individuals released from the custody of the Commissioner of Correction, probation or parole and residing in such municipality, (D) fund mental health or addiction services, (E) fund youth service bureaus established pursuant to section 10-19m of the general statutes and to municipal juvenile review boards, or (F) fund efforts to promote civic engagement in communities in such municipality.

(RERACA § 126(b)5)

Other RERACA Fun Facts:

Home Grow:

(Effective October 1, 2021) Any qualifying patient who is eighteen years of age or older may cultivate up to three mature cannabis plants and three immature cannabis plants in the patient's primary residence at any given time, provided such plants are secure from access by any individual other than the patient or patient's caregiver and no more than twelve cannabis plants may be grown per household.

(Effective July 1, 2023) Notwithstanding the provisions of section 13 of this act, any consumer may cultivate up to three mature cannabis plants and three immature cannabis plants in the consumer's primary residence, provided such plants are secure from access by any individual other than the consumer and no more than twelve cannabis plants may be grown at any given time per household.

Other RERACA Fun Facts:

Licensed Professionals:

Except when required by federal law, an agreement between the federal government and the state, or because of a substantial risk to public health or safety, no state entity shall deny a professional license because of an individual's: (1) Employment or affiliation with a cannabis establishment; (2) possession or use of cannabis that is legal under section 21a-279a of the general statutes, or chapter 420f of the general statutes; or (3) cannabis use or possession conviction for an amount less than four ounces.

Comparative Analysis (with Mass.)

CT Population 3.5 mill / 169 Local Municipalities (per Wikipedia)

Mass. Population 6.89 mill / 294 towns & 57 cities (per Wikipedia)

Massachusetts Adult-Use Cannabis Statistics :

124 towns and cities have banned cannabis businesses

188 towns and cities allow cannabis

39 Remainder Pending / Planning

146 Retail Stores

40 Cultivators

Ethical Concerns

Ethical Concerns / Protecting Privilege

- Conn. Informal Opinion 2013-02:

At a minimum, a lawyer advising a client on Public Act 12-55 must inform the client of the conflict between the state and federal statutes, and that the conflict exists regardless of whether federal authorities in Connecticut are or are not actively enforcing the federal statutes.

It is our opinion that lawyers may advise clients of the requirements of the Connecticut Palliative Use of Marijuana Act. Lawyers may not assist clients in conduct that is in violation of federal criminal law. Lawyers should carefully assess where the line is between those functions and not cross it.

QUESTIONS?

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