

WILTON PLANNING AND ZONING  
COMMISSION

AMEND REGULATIONS

REG# 21391

TEMPORARY PROHIBITION ON ADULT USE CANNABIS ESTABLISHMENTS  
TITLE OF REGULATIONS TO BE AMENDED IN THE TOWN  
OF WILTON

REFERENCE SECTION(S) TO BE AMENDED

TOWN OF WILTON PLANNING & ZONING COMM. 238 DANBURY Rd WILTON CT  
APPLICANT'S NAME ADDRESS 06897

AMENDMENT DESCRIPTION: Describe in detail the reasons for the proposed amendment. Attach additional sheets as required.

THE PURPOSE OF THIS AMENDMENT IS TO TEMPORARILY PROHIBIT  
ADULT USE CANNABIS ESTABLISHMENTS IN THE TOWN OF WILTON.  
FOR A PERIOD OF 12 MONTHS.

THE FOLLOWING MATERIAL SHALL BE ATTACHED: ✓

Fifteen **COLLATED** copies of all application materials shall be submitted.

NA \$460 FILING FEE payable to: Town of Wilton.

✓ THE PROPOSED AMENDED TEXT.

\*\*\*ELECTRONIC SUBMISSION OF ALL APPLICATION MATERIALS (e.g. Flash drive, PDF email)\*\*

THE APPLICANT understands that this application is to be considered complete only when all information and documents required by the Commission have been submitted and is responsible for the payment of all legal notices incurred.

THE UNDERSIGNED WARRANTS the truth of all statements contained herein and in all supporting documents according to the best of his or her knowledge and belief.

APPLICANT'S SIGNATURE

AUG 30, 2021  
DATE

203-563-0185  
TELEPHONE

TOWN PLANNER

SUBMITTED ON BEHALF OF PLANNING & ZONING COMMISSION

PLANNING & ZONING  
COMMISSION  
Telephone (203) 563-0185  
Fax (203) 563-0284



TOWN HALL ANNEX  
238 Danbury Road  
Wilton, CT 06897

## MEMORANDUM

To: Planning and Zoning Commission

FROM: Michael E. Wrinn, Town Planner

RE: Text Amendment #21391 – Prohibition of Cannabis Establishments in all Zoning Districts in Wilton for a period of 12 months

DATE: September 8, 2021

Attached you will find a copy of the draft zoning regulations pertaining to the temporary prohibition of adult-use cannabis in Wilton. As drafted, this regulation would prohibit all adult use cannabis establishments for a period of one year from the effective date of the regulation change. This matter is scheduled for a public hearing on Monday, September 27<sup>th</sup> at your regularly scheduled meeting,

### Background

Public Act 21-1 “An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis” (a 300+ page document) was adopted by the state legislature and became effective on July 1, 2021.

<https://www.cga.ct.gov/2021/act/Pa/pdf/2021PA-00001-R00SB-01201SS1-PA.PDF> .

The Act legalizes the recreational use of marijuana in Connecticut but also gives local municipalities the ability to amend their zoning regulations regarding cannabis establishments:

1. To prohibit the establishment of cannabis establishments or
2. To allow them and establish restrictions for their use, such as hours of operation and signage or
3. To restrict their proximity to certain established uses (churches, schools, charitable institutions).

A temporary prohibition will allow the Commission time to investigate and study the complicated legislation and better understand the dynamics of potential impacts to Wilton and develop regulations to minimize these negative impacts to the town.

## **WILTON PLANNING AND ZONING COMMISSION**

### **Proposed Text Amendment # 21391 : RE: Temporary Prohibition of Cannabis Establishments**

#### **Purpose:**

The purpose of this regulations, in accordance with the authority granted under Section 148 of Public Act 21-1 of the June 2021 Special Session, "An Act Concerning Responsible and Equitable Regulation of Adult Use Cannabis," is to temporarily prohibit adult-use cannabis establishments in the Town of Wilton.

#### **1- ADD THE FOLLOWING SECTIONS TO THE ZONING REGULATIONS:**

##### **Add the following to Section 29-2.B Definitions:**

18. A: "Cannabis" means marijuana, as defined in Section 21a-240 of the general statutes

18. B: "Cannabis Establishment" means a producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer, food and beverage manufacturer, product manufacturer, product packager, delivery service or transporter, as those terms are defined in Section 1 of the Public Act 21-1

##### **Add a new Section 29-9L to the regulations:**

##### **Section 29-9.L – Prohibition on Cannabis Establishments**

Prohibition: In accordance with the Authority granted under Section 148 of Public Act 21-1 of the June 2021 Special Session, "An Act Concerning Responsible and Equitable Regulations of Adult-Use Cannabis," all Cannabis Establishments are prohibited in all zoning districts in the Town of Wilton for a period of **12** months commencing from the effective date \_\_\_\_\_ of this section.

#### **2 - REMOVE THE FOLLOWING DEFINITIONS FROM SECTION 29-2. B DEFINITIONS:**

**38. Dispensary Facility, Licensed:** a place of business where marijuana, as defined in Section 21a-408 of the Connecticut General Statutes, may be dispensed or sold at retail to qualifying patients and primary caregivers and for which the Connecticut Department of Consumer Protection has issued a dispensary facility permit to an applicant under the Act and section 21a-408-1 to 21a-408-70, inclusive, of the Regulations of Connecticut State Agencies.

**108. Paraphernalia:** drug paraphernalia, as defined in Section 21a-240 of the Connecticut General Statutes, which for purposes of these regulations, is limited only to those devices and products designed to assist in ingesting, inhaling or otherwise introducing lawfully-prescribed medical marijuana into the human body.

**121. Production Facility, Licensed:** a secure, indoor facility where the production of marijuana occurs and that is operated by a person to whom the Connecticut Department of Consumer Production has issued a producer license under the Act and sections 21a-408-1 to 21a-408-70 inclusive, of the Regulations of Connecticut Agencies.


### **3 - REMOVE THE FOLLOWING SECTIONS FROM THE ZONING REGULATIONS:**

**Section 29-6.B.3. x. - Licensed Dispensary Facility ( Special Permit Use in the General Business District)**

**Section 29-7.B.2.s – Licensed Production Facility ( Special Permit Use in the Design Enterprise District 10)**



## MEMORANDUM

To: Municipal CEOs  
From: Nicholas R. Bamonte, Esq.   
Date: July 2, 2021  
Re: Municipal Authority to Regulate Recreational Marijuana

---

The state legislature recently approved Senate Bill 1201, “An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis” (the “Act”), now codified as Public Act 21-1, which legalizes recreational use of marijuana in Connecticut effective July 1, 2021, but also provides the following regulatory authority and limitations to local municipalities.

### Effective July 1, 2021:

#### 1. Regulation by Referendum (Section 83 of the Act):

- Upon petition and subsequent vote at a regular election, municipalities may (a) prohibit all recreational sale of marijuana in the municipality; or (b) limit recreational sale to certain types of sellers that have been established under the Act and are required to obtain licenses from the Department of Consumer Protection (“DCP”). See attached Exhibit A summarizing the new “cannabis establishment” licenses authorized under the Act, depicted throughout this memo in *italics*.
- The petition must be signed by at least 10% of the electors of a municipality and filed with the town clerk at least 60 days before any regular election.
- The ballot must comply with C.G.S. § 9-250 and, depending on the petition request, state the question as follows:
  - “Shall the sale of recreational marijuana be allowed in [insert name of municipality]?” or
  - “Shall the sale of cannabis under [insert specific type of state license or licenses] be allowed in [insert name of municipality]?” or
  - “Shall the sale of recreational marijuana be prohibited in [insert name of municipality]?”
- No elector shall vote for more than one question.
- The vote must comply with C.G.S. § 9-369. of the general statutes and
- The vote becomes effective on the first Monday of the next month and remains in effect unless and until a new vote is taken.
  - At least one year after the first vote, a new vote may be taken at a special election called for that purpose and that complies with C.G.S. § 9-164.
- Absentee voting is allowed if the elector satisfies the existing requirements under C.G.S. Chapter 145.



- Any class of cannabis establishments already allowed or established in a municipality before the vote becomes effective is not subject to any resulting prohibition or limitation on sale.
2. Regulation by Zoning Regulation or Local Ordinance (Section 148 of the Act):
- Municipalities may amend their zoning regulations or pass a local ordinance to:
    - prohibit the establishment of a cannabis establishment,
    - establish reasonable restrictions regarding the hours and signage (but only if as such signage restrictions apply to all signs in a municipality) of a cannabis establishment within the municipality, or
    - establish restrictions on the proximity of cannabis establishments to churches, public or parochial schools, convents, charitable institutions (whether supported by private or public funds), hospitals or veterans' homes or any camps, barracks or flying fields of the armed forces.
  - The chief zoning official of a municipality must report in writing any zoning changes adopted by the to the Secretary of the Office of Policy and Management and to DCP within 14 days of adoption.
  - Unless otherwise provided for by a municipality through its zoning regulations or ordinances, a cannabis establishment must be zoned as if for any other similar use.
  - 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.
  - Until June 30, 2024, municipalities can only grant zoning approval for one *retailer* and one *micro-cultivator* for every twenty-five thousand residents of the municipality per the most recent decennial census (the “density cap”).
    - On and after July 1, 2024, DCP may change the specific number of residents required per approval.
  - A special permit or other affirmative approval is required for any *retailer* or *micro-cultivator* seeking to be located within a municipality.
    - A municipality cannot grant special permit or approval for any *retailer* or *micro-cultivator* if that would result in an amount that exceeds the density caps described above.
    - When awarding final licenses for a *retailer* or *micro-cultivator*, DCP may assume that, if an applicant has obtained municipal zoning approval, the approval of a final license will shall not result in a violation of the above requirements or any other municipal restrictions on the number or density of cannabis establishments.
3. Public Safety Reimbursement (Section 83 of the Act):
- For up to 30 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 related to opening, including, but not limited to, public safety costs incurred to direct traffic, not to exceed \$50,000.
4. Limitations (Section 83 of the Act):
- Municipalities cannot prohibit (a) delivery of cannabis within the municipality or (b) transport of cannabis to, from or through the municipality by any person authorized to do so under the Act.

- Municipalities cannot accept donations from, or enter into a local host agreement with, any establishment or person that has applied for a state license to open or operate a cannabis establishment in the municipality.

Effective October 1, 2021:

1. Regulation of Municipal Property (Section 84 of the Act, which amends C.G.S. § 7-148):
  - The authority for municipalities to regulate smoking on property owned or controlled by the municipality will be expanded to include smoking or vaping of cannabis.
  - If the municipality's population is greater than 50,000, the regulations must designate a place in the municipality where public consumption of cannabis is permitted.
  - The regulations may prohibit the smoking of cannabis and the use of electronic cannabis delivery systems and vapor products containing cannabis in the outdoor sections of a restaurant.
  - The regulations may prescribe penalties for the violation of such regulations, but the fine cannot exceed \$50.00 for a violation involving consumption by an individual or \$1,000.00 for a violation by any business.
2. Expansion of Smoking Location Prohibitions (Section 86, 87 and 88 of the Act):
  - Existing law prohibiting smoking or vaping in certain locations will be expanded to now include the space within 25 feet of any doorway, window or air intake vent of a municipally owned or leased building.
  - This same expansion applies to school buildings. Smoking and vaping is already prohibited on "school grounds" under existing law, which will not change.

## EXHIBIT A

### Types of Cannabis Establishments/Licenses under the Act

1. *Producer*: a person that is licensed as a producer pursuant to section 21a-408i of the general statutes and any regulations adopted thereunder (medical marijuana)
2. *Dispensary facility*: means a place of business where cannabis may be dispensed, sold or distributed in accordance with chapter 420f of the general statutes and any regulations adopted thereunder, to qualifying patients and caregivers, and to which DCP has issued a dispensary facility license under chapter 420f of the general statutes and any regulations adopted thereunder (medical marijuana)
3. *Cultivator*: 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. *Micro-cultivator*: 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 DCP
5. *Retailer*: 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 and to sell cannabis to consumers and research programs
6. *Hybrid retailer*: a person that is licensed to purchase cannabis and sell cannabis and medical marijuana products
7. *Food and beverage manufacturer*: a person that is licensed to own and operate a place of business that acquires cannabis and creates food and beverages
8. *Product manufacturer*: a person that is licensed to obtain cannabis, extract and manufacture products exclusive to such license type
9. *Product packager*: a person that is licensed to package and label cannabis
10. *Delivery service*: person that is licensed to deliver cannabis from (A) micro-cultivators, retailers and hybrid retailers to consumers and research program subjects, and (B) hybrid retailers and dispensary facilities to qualifying patients, caregivers and research program subjects, as defined in section 21a-408 of the general statutes, or to hospices or other inpatient care facilities licensed by the Department of Public Health pursuant to chapter 368v of the general statutes that have a protocol for the handling and distribution of cannabis that has been approved by DCP, or a combination thereof
11. *Transporter*: a person licensed to transport cannabis between cannabis establishments, laboratories and research programs

\*Note: As of July 1, 2021, DCP is authorized to accept applications from any medical marijuana *dispensary facility* to convert its license to a *hybrid-retailer* license and any medical marijuana *producer* for expanded authorization to engage in the adult use cannabis market under its existing license.



July 12, 2021

The following is adapted from a memo created by the Naugatuck Valley Council of Governments on the Responsible and Equitable Regulation of Adult-Use Cannabis Act (Public Act 21-1) and its local impacts, based on information provided by State of Connecticut. More information can be found at [www.ct.gov/cannabis](http://www.ct.gov/cannabis). This document is intended for informational purposes only. It is recommended that you contact your local attorney regarding state law referenced in this memo.

## Overview

Production, retail sale, and public consumption of recreational cannabis can be controlled by municipal zoning and ordinance.

- The number and siting of “cannabis establishments” may be regulated and restricted by zoning. Under the Act, a cannabis establishment is defined as a producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer (i.e., licensed to sell both recreational cannabis and medical marijuana), food and beverage manufacturer, product manufacturer, product packager, delivery service, or transporter (§ 1).
- The consumption of recreational cannabis on municipally-owned property may be regulated through zoning or ordinance. Personal consumption of cannabis by adults on private property is within the purview of State regulation and has been decriminalized.

## Cannabis Act - General Provisions

### STARTING JULY 1, 2021

- Individuals aged 21 or older (consumers) may possess at any time up to (1) 1.5 ounces of cannabis plant material and five ounces of such material in a locked container in the person’s residence or locked glove box or trunk in the person’s motor vehicle, (2) an equivalent amount of cannabis products, or (3) an equivalent combined amount of cannabis and cannabis products (§§ 2-3, 115, 153, and 159-160).
- Smoking marijuana generally is not allowed where cigarette smoking is already prohibited; will be banned on state lands or waters managed by CT DEEP (§ 14); DOC facilities (§ 92); and will remain illegal in motor vehicles by drivers and passengers (§ 112 and 113).
- The bill allows consumers to give cannabis to other consumers for free, i.e., without compensation or consideration (§ 14).

### STARTING JULY 1, 2023

- Any individual age 21 or older may cultivate up to three mature and three immature cannabis plants in his or her primary residence, if the plants are kept secure (§ 162).

## Role of the Citizen

### STARTING JULY 1, 2021

- A municipality must hold a referendum on whether to allow the sale of recreational cannabis in general or in one or more specific types of cannabis establishments if at least 10% of its electors petition for such a vote at least 60 days before a regular election (§ 83).

## Taxation

### STARTING JULY 1, 2021 AND BEYOND

- A 3% municipal sales tax is imposed on the gross receipts from the sale of cannabis by a cannabis or hybrid retailer or micro-cultivator. This tax, which is in addition to the state 6.35% sales tax and a state excise tax based on THC content, is assessed based on the physical location of the retailer, regardless of the home or delivery address of the buyer. The tax is collected by the state and remitted to the municipality. (For deliveries across municipal boundaries, the municipality where the delivery service delivers from receives the revenue.) Such remittances become a part of a municipality's general revenue may only be used for the following purposes:
  - a. Streetscape improvements and other neighborhood developments in communities where cannabis or hybrid retailers or micro-cultivators are located.
  - b. Education programs or youth employment and training programs in the municipality.
  - c. Services for individuals living in the municipality who were released from DOC custody, probation, or parole.
  - d. Mental health or addiction services.
  - e. Youth service bureaus and municipal juvenile review boards; and
  - f. Community civic engagement efforts.
- For the first 30 days after the opening of a cannabis or hybrid retailer, a municipality may charge the retailer up to \$50,000 for necessary and reasonable costs for public safety services related to the opening (§ 83).

## Municipal Ordinance

### STARTING JULY 1, 2021

- A municipality may prohibit the consumption of cannabis in municipally-owned spaces through the enactment of (or amendment to) a local ordinance prohibiting such activity.
- Municipalities with a resident population of more than 50,000 persons that regulate the public use of cannabis must designate a location where public consumption is allowed (§84).

### EFFECTIVE October 1, 2021,

- The existing prohibition of smoking and e-cigarette use in certain establishments and all municipally-controlled buildings is extended to cannabis, hemp, and electronic cannabis delivery systems (§§ 86-87).

- Municipalities may ban cannabis smoking (including e-cigarette use) at outdoor sections of restaurants. Through regulations, municipalities may set fines for violations, up to (1) \$50 for individuals or (2) \$1,000 for businesses.

## Zoning Regulation

### STARTING JULY 1, 2021

- Municipalities may wish to review zoning regulations prior to initiation of recreational sales to determine whether and what potential amendments may be desired to regulate the location of cannabis production and retail sale (§ 148).

### STARTING SEPTEMBER 1, 2021

- With the approval of the Connecticut Department of Consumer Protection and approval from the local zoning commission, existing medical marijuana dispensaries may become “hybrid retailers” to also serve adult-use consumers.
- 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.

## WHAT MUNICIPALITIES MAY NOT DO

Municipalities may not:

- Prohibit the delivery of cannabis to (1) consumers or (2) qualifying medical marijuana patients or their caregivers, if the delivery is made by someone authorized to do so under the bill (e.g., retailers, dispensary facilities, or delivery services).
- Prohibit the transport of cannabis to, from, or through the municipality by anyone licensed or registered to do so.
- Prohibit the delivery of cannabis 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 Cannabis Act.
- Condition any official action on, or accepting any donations from, any cannabis establishment or applicants for cannabis establishment licenses in the municipality.
- Negotiate or enter into a local host agreement with a cannabis establishment or license applicant.

## Zoning Options

Municipalities have three options when it comes to zoning and recreational cannabis:

1. Take no action,
2. Zone for it, or
3. Zone against it.

### Take no action with respect to recreational cannabis

A municipality is not compelled to amend its zoning regulations or ordinances regarding cannabis. In such case, a cannabis establishment shall be zoned as if for any other similar use. It will the

responsibility for each municipality to accept that application and make an “appealable” decision onto whether the municipality has a “similar use” in its zoning regulations. (§148)

### **Zoning FOR recreational cannabis**

A municipality may amend its zoning to permit specific categories of cannabis establishments.

A “cannabis establishment” is a producer, dispensary facility, cultivator, microcultivator, retailer, hybrid retailer (licensed to sell both recreational cannabis and medical marijuana), food and beverage manufacturer, product manufacturer, product packager, delivery service, or transporter. Municipalities can decide how these “specific cannabis establishment types” fit into their community and regulate them by right or as a conditional use by special permit. It is up to each municipality to determine what establishment types are acceptable, how they are to be regulated, and what type of approval is warranted.

A zoning commission may add and define cannabis establishment types to their regulations as permitted uses allowed under a special permit or other conditional approval (as is typically the case for liquor production, distribution, and retail sales establishments).

Municipalities contemplating permitting cannabis establishments may wish to review their zoning as it relates to special permits, special exceptions, and site development plans to determine if they are sufficient to regulate the chosen cannabis establishment types.

### **Zoning AGAINST Cannabis Establishment Uses**

A municipality may prohibit one or more types of cannabis establishments by identifying it as a “prohibited use” in its zoning. This would effectively ban such use throughout the municipality. However, as noted on the preceding pages, certain cannabis-related activities may not be banned (e.g., consumption on private property, and cannabis transport and delivery by licensed persons).

Prohibition on retail sales will not prohibit consumption or purchase of cannabis by residents of the municipality or its delivery into that municipality, but it will result in a municipality forgoing any local sales tax revenue for such activity.