




## MEMORANDUM

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

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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.