



# TOWN OF WESTBROOK

## Planning, Zoning & Development

866 Boston Post Road, Westbrook CT

Tel.: (860)399-3091

### MEMORANDUM

TO: Westbrook Zoning Commission

FROM: Michael D’Amato, AICP, CZEO, Steve Hnatuk, CZEO

DATE: March 21, 2022, Revised April 20, 2022, Revised May 19, 2022, Revised June 8, 2022, **Revised June 22, 2022, Revised July 13, 2022**

SUBJECT: Regulations for Cannabis Establishments

#### June 2022 Update

As part of [PA 22-103](#) which was signed into law on Tuesday May 24, the legislature repealed the language within the previous Act which included density limits for these establishments to one (1) per twenty-five thousand (25,000) residents until at least June of 2024.

Additionally, after review of the proposed regulations by legal counsel, the determination was made that towns do not possess the ability to regulate Cannabis Transporters or Delivery Services. Due to the limited concern over these facilities, prior Zoning Commission and Planning Commission text proposal language had already been modified to allow Transporters and Delivery Services as allowed uses by Zoning Permit, the lowest level of approval. These definitions and terms have subsequently been removed entirely from the regulations and will be treated as similar uses.

Following comment by the Planning and Zoning Commission meetings in May, additional changes have been made to the regulations section 3.1 pertaining to regulation of Cannabis Retail Establishments which limits those facilities in the NCD zone to properties which only have 75 ft of frontage on Boston Post Road.

All changes since June 22, 2022 draft are highlighted in – **Red Text**

#### SUMMARY

Following the passage of Public Act 21-1 AN ACT CONCERNING RESPONSIBLE AND EQUITABLE REGULATION OF ADULT-USE CANNABIS, (June Special Session), as of **July 1, 2021**, the personal use and possession of cannabis by adults over the age of 21 became legal in the State of CT. The law also requires that the CT Department of Consumer Protection draft regulations pertaining to the use and sale of cannabis and to begin accepting applications for licenses. In addition to the development of a licensing program at the State level the law went on to specify that as of 7-1-21 any Municipality that did not adopt regulations pertaining to these uses or a town-wide prohibition would be obligated to review them as they would a “similar” use (liquor store). At this point, since the Town has not adopted any language to regulate these uses, should an application be received requesting approval for a cannabis establishment not only would we be unable to prohibit the use, but we also do not have any standards by which to review an application for appropriateness. There are a few other important points to take away from this legislation:

- Towns that wish to adopt a Town-wide prohibition must do so via Ordinance through their legislative body.
- Towns cannot prohibit cannabis delivery to a consumer, qualifying patient or caregiver.
- Until June 2024, the number of establishments allowed in each town is capped. At one (1) micro cultivator and 1 retail establishment per 25,000 residents. (*Westbrook 1 of each*)
- Three (3) percent of all tax revenue generated by a retail establishment is transmitted to the host Municipality. This is anticipated to be between \$100,000 and \$150,000 based upon average annual sales of \$4MM.

The Zoning Commission has complete discretion as to where and how they wish to permit to operate these types of establishments. The draft regulation below provides the minimum standards required in addition to the Special Permit requirements outlined in Section 9.E.

**(NEW) Section 6.S: Use Related Standards: Cannabis Establishments**

**1. Purpose**

The purpose of this section is to allow for the comprehensive review and deliberation on cannabis establishments to ensure any cannabis establishments as proposed, is in harmony with and will not have a detrimental effect with on the surrounding area and that both the operation and location are protective of public health and welfare.

**2. Definition of Terms:**

For the purpose of this section only, the terms referred to herein shall be defined and used as outlined and defined in PA-21-1 (SB 1201) as amended.

**Cannabis Establishment:** a non-profit, person(s) or business entity otherwise engaged in an activity which would be defined as a producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer, food and beverage manufacturer, and product manufacturer, product packager by PA-21-1 (SB 1201).

**Cannabis Hybrid Retailer:** A person that is licensed to purchase cannabis and sell cannabis and medical marijuana products.

**Cannabis 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 sell cannabis to consumers and research programs.

**Cultivator:** A person that is licensed to engage in the cultivation, growing and propagation of the cannabis plant at an establishment with no less than fifteen thousand square feet of grow space.

**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 any expansion authorized by the commissioner.

**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.

**Producer:** A person that is licensed as a producer pursuant to section 21a-408i of the general statutes and any regulations adopted thereunder.

**Product Manufacturer:** A person that is licensed to obtain cannabis, extract and manufacture products exclusive to such license type.

**Product packager:** A person that is licensed to package and label cannabis.

**3. Cannabis Establishments Allowed by Special Permit:**

Cannabis Establishments may be permitted in non-residential zones subject to the standards specified herein in addition to the standards set forth in Section 9.E of these Regulations.

Cannabis Establishments	CTC	NCD	CB	TIC	RD	LI	ID
Hybrid Retailer/Retailer/Dispensary	X	SP2	X	SP2	X	SP2	SP2
Cultivator	X	X	X	X	X	SP2	SP2
Micro-Cultivator	X	X	X	X	X	SP2	SP2
Food and Beverage Manufacturer	X	X	X	X	X	SP2	SP2
Product Manufacturer	X	X	X	X	X	SP2	SP2
Product Packager	X	X	X	X	X	SP2	SP2
Producer	X	X	X	X	X	SP2	SP2

**3.1: Cannabis Retailers**

**A.) All retail establishments shall meet the following criteria:**

1. Shall not be located within the same building as any child-day care facility, cannabis establishment or church and shall not be located adjacent to any park, playground or public or private school.
2. Any such establishment’s parking area and exterior modifications shall be designed to minimize significant impacts to **any properties within 250 ft of the property line of any parcel containing a Cannabis Retailer** and the neighborhood within which it will be located.
3. Any Cannabis Retailer in the NCD zone shall be located on a lot which contains a minimum of 75 feet of frontage on Boston Post Road.
4. Hours of operation will be limited to no earlier than 8:00 AM or later than 9:00 PM.
5. No consumption of any cannabis product may take place on site.
6. Signage shall comply with the requirements of PA 21-1 as amended, and be in accordance with section 7.B of these regulations.
7. Shall not be located within ~~1,000~~ **5,000** feet of any portion of a building used as a Cannabis Retailer, Hybrid Retailer, or Dispensary facility.

**B.) Any application for a Cannabis Retailer approval shall include:**

1. An operational plan to indicate at a minimum, how the facility will be managed related to:
  - a. Hours of operation
  - b. Security and Access
  - c. Installed Signage
  - d. Parking and Circulation Plan
  - e. Odor monitoring and mitigation to demonstrate that odors and fumes will be substantially removed from the air prior to being vented from the building

**3.2: Cultivation and Microcultivation establishments:**

**A.) All Cultivators shall be reviewed in accordance with the following criteria:**

1. All cultivation shall be conducted within a building.
2. Limited retail may be allowed in accordance with State Licensing provided the request is made at the time of application to the Town or a revised Special Permit is sought.
3. Shall not be located within 500 ft of any residential structure.

**B.) Any application for Cultivation Establishment shall include:**

1. An operational plan to indicate at a minimum, how the facility will be managed related to:
  - a. Hours of operation
  - b. Security and Access
  - c. Water Demands
  - d. Odor monitoring and mitigation to demonstrate that odors and fumes will be substantially removed from the air prior to being vented from the building
  - e. Ability to withstand interruption to power supply

**3.3: Accessory/Co-Located Uses:**

Limited Retail, Manufacturing and/or packaging of cannabis products may be allowed in accordance with the State of Connecticut Licensing requirements provided such request is made at the time of application. If a Special Permit for a cultivation establishment, has been issued, a modification of the Special Permit will be required to establish and/or co-locate an additional cannabis related use on the property.

**3.4: Conditional Approval**

In addition to any conditions imposed pursuant to Section 9.E of the Regulations, all special permits for Cannabis Establishments shall be subject to the following conditions:

- A.) Special Permits shall be approved with the condition that the applicant continuously maintains the appropriate licensure issued by the State of Connecticut.
- B.) The conditional approval shall not be considered fully executed until a copy of the State issued license has been provided to the Zoning Enforcement Officer. Such approval must be filed with the Town within six months of the issuance of the Special Permit.
  - 1. The Zoning Enforcement Officer ~~Agent~~ may issue not more than two six-month extensions to this requirement provided the applicant can demonstrate that an application has been filed with the Department of Consumer Protection and the expected decision date will fall within the timeframe of the extension.
- C.) No entity shall commence operations, sales or advertisements without a valid, current license from the State and fully executed Special Permit from the Town.

**Staff Comments:**

**1. Planning Commission Referral:**

The revised application was referred to the Planning Commission for review and comment on June 13, 2022. The Planning Commission found that the regulation as drafted is CONSISTENT with the POCD and recommends that the Zoning Commission adopt the proposed regulations with the following revisions:

1. Revise the Use Table to remove Hybrid Retailer and Retailer in the LI and ID Zones as Retail is not otherwise permitted in these zones.
2. Add similar criteria and application submission requirements as detailed in Section 3.1. and 3.2. for the licensing of Cannabis Manufacturers, Packagers and Producers. As drafted the regulations do not require that these types of uses meet the same criteria or submit the same detailed plan requirements as Retailers or Cultivation Establishments.
3. Section 3.1.A.3. Add the word “to” after the word impacts, on the third line. (added)
4. Add some language to Section 7.B. - Sign Regulations to cross reference the new sign provisions for Cannabis Retailers.

**2. RiverCOG Referral:**

The application was referred to the Lower Connecticut River Valley Council of Governments which found no significant intermunicipal impact to adjacent towns or adverse impacts to the ecosystem of Long Island Sound.

**3. Zoning Commission Staff comments:**

**a. The following additional information has been provided for further clarification of the designation of Cannabis Establishment uses in various zones:**

**Neighborhood Commercial (NCD) District**

*The purpose of the Neighborhood Commercial District is to promote a flexible mix of residential and commercial uses that are innovative and compatible with the New England village-scale streetscape; do not generate large volumes of traffic; and are constructed of materials that preserve the residential character of the area.*

Proposed uses allowed: Cannabis Retailer (SP), Cannabis Hybrid Retailer (SP)

Similar Existing allowed uses: Retail store <5,000 SF (Site Plan), Retail store >5,000 SF (SP), Business/professional office on first floor (Site plan), business/professional office on second floor (SP), Vehicle rental or leasing (Special permit),

**Turnpike Interchange Commercial (TIC) District**

*The purpose of the Turnpike Interchange Commercial (TIC) District is to encourage a mix and intensity of land use along Interstate 95 which will meet community and regional needs, provide opportunities for economic development, and preserve important resources. Standards are designed to assure a high quality of development which will create a balance between community acceptance and regional needs. The larger sites and more spacious setback requirements are intended to allow for unified, coordinated growth with a diversity of quality commercial and light industrial uses.*

Proposed uses allowed: Hybrid retailer (SP), Retailer (SP), Cultivator (SP)

Similar Existing allowed uses: Retail store <5,000 SF (Site Plan), Retail store >5,000 SF (Site Plan), Commercial greenhouse and garden center (Site Plan), Wholesale/retail store (SP)

**Light Industrial (LI) District**

*The purpose of the Light Industrial District is to provide for appropriate locations and standards for light industrial-type uses.*

Proposed uses allowed: Hybrid retailer (SP), Retailer (SP), Cultivator (SP), Micro-Cultivator (SP), Food and Beverage Manufacturer (SP), Product Manufacturer (SP), Product Packager (SP), Producer (SP)

Similar Existing allowed uses: Wholesale Business (SP), Wholesale/retail store (SP), Light manufacturing and/or fabrication (SP), Truck terminal (SP), Storage warehouse (SP), Research laboratory (SP)

**Industrial (ID) District**

*The purpose of the Industrial District is to provide for appropriate locations and standards for industrial-type uses.*

Proposed uses allowed: Hybrid retailer (SP), Retailer (SP), Cultivator (SP), Micro-Cultivator (SP), Food and Beverage Manufacturer (SP), Product Manufacturer (SP), Product Packager (SP), Producer (SP)

Similar Existing allowed uses: Wholesale Business (SP), Wholesale/retail store (SP), Retail stores within not more than two buildings with an aggregate footprint greater than 5,000 S.F. but not more than 10,000 S.F., provided the property on which the retail stores are situated has direct access to and from the Connecticut Turnpike (I-95) entry and exit ramps. Said access highway shall be within one mile of said entry and exit ramps as measured along the centerline of said access highway (SP), Business service establishments for only those uses permitted in the ID District and those uses found appropriate for the ID district under Section 3.B.2.1. (SP), Light manufacturing and/or fabrication (SP), manufacturing (SP), Truck terminal (SP), Storage warehouse (SP), Research laboratory (SP).

**Additional Information:**

- Department of Consumer Protection Regulation of Adult Use Cannabis, Effective January 26, 2022  
<https://eregulations.ct.gov/eRegsPortal/Search/RMRView/PR2021-036>
- Department of Consumer Protection Adult-Use Cannabis Licensing Program  
[https://portal.ct.gov/cannabis/Knowledge-Base/Articles/Licensing-Home-Page?language=en\\_US](https://portal.ct.gov/cannabis/Knowledge-Base/Articles/Licensing-Home-Page?language=en_US)