



Town of Westport
Planning and Zoning Commission
Town Hall, 110 Myrtle Avenue
Westport, CT 06880
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www.westportct.gov

Hearing: Sept. 2, 2021

Decision: Sept. 2, 2021

September 3, 2021

RE: Text Amendment #799/ PZ-21-00597, to Prohibit Cannabis Establishments except for Medical Marijuana Dispensary Facilities in all Zoning Districts

To Whom It May Concern

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on September 2, 2021, it was moved by Ms. Dobin and seconded by Mr. Cohn to adopt the following resolution.

RESOLUTION #PZ-21-00597

WHEREAS THE PLANNING AND ZONING COMMISSION met on September 2, 2021, and made the following findings:

Background

1. On July 1, 2021, Public Act 21-1, "*An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis*," went into effect as adopted by the state legislature. The legislation legalized adult recreational use, sales, and cultivating of marijuana in Connecticut.
2. Attorney Nicholas Bamonte of the Town Attorney's Office prepared a memorandum dated 7/2/21 describing options available to local municipalities in response to Public Act 21-1. The Planning and Zoning Commission discussed their options with the Town Attorney at their July 22, 2021, meeting.
3. The Planning and Zoning Commission, at the conclusion of their discussion on July 22, 2021, requested Attorney Bamonte prepare on their behalf a text amendment to prohibit Cannabis Establishments for the next 24-months throughout the Town of Westport.

Proposal

4. Text Amendment #799 proposes modifications to the Zoning Regulations in response to Public Act 21-1 that if adopted will add definitions in §5-2 for “Cannabis;” and “Cannabis Establishments;” modify the definition in §5-2 for “Dispensary Facility;” and add §31-6, “Prohibition on Cannabis Establishments,” prohibiting Cannabis Establishments with the exception of (medical) Dispensary Facilities, in all zoning districts in Westport for 24-months.
5. The amendment if adopted, will apply to all properties in Westport.
6. The amendment if adopted will NOT impact the (medical) Dispensary Facility located at 1460 Post Road East, that obtained an approval in 2018 from the Planning and Zoning Commission for retail sales ONLY of medical marijuana, pursuant to issuance of a license from the Department of Consumer Protection.

Department Comments

7. Text Amendment #799 was referred to Town Department Heads; no objections were received.
8. The Text Amendment was also referred to the Superintendent of Schools who offered in comments dated 8/26/21 the school district supports the amendment.
9. The Text Amendment was additionally referred to the regional planning agencies as required by CGS §8-3b. No objections were received from WestCOG of which Westport is a member; nor were objections received from MetroCOG of which Fairfield and Easton are members and that share municipal boundaries with Westport.
10. The Department of Energy and Environmental Protection in an email dated 8/2/21 offered “no comments.” A referral of the amendment was sent as required pursuant to CGS §22a-104(e).
11. Planning and Zoning staff in comments dated 8/26/21 identified subsequent to the adoption of Text Amendment #799, Next Steps might include the drafting and adoption of an ordinance by the local legislative body (the RTM) or the drafting of a “permanent” zoning regulation by the Planning and Zoning Commission to prohibit or regulate Cannabis Establishments in Westport.
12. The Planning and Zoning staff comments conclude by suggesting adoption of a 24-month prohibition on Cannabis Establishment as proposed, will allow more time for study of both potential positive and negative impacts associated with allowing Cannabis Establishments, and will allow time to monitor how other municipalities respond to Public Act 21-1.

Public Participation

13. A hearing was held to receive testimony from members of the public as required pursuant to State Statutes.
14. The public hearing was held remotely using electronic means due to COVID-19. The public hearing was broadcast live on public access television, live on-line on the Town's website, and interested parties were provided the opportunity to join the meeting and offer "live" testimony.
15. Emails from residents addressed to the Planning and Zoning Commission were received prior to the public hearing, and "live" testimony was offered from residents at the public hearing.
16. All application materials, and public comments received in writing were posted on the Town's website to maintain transparency while conducting remote meetings during COVID-19.

NOW THEREFORE, BE IT RESOLVED Text Amendment #799: Appl. #PZ-00597 submitted by the Planning and Zoning Commission to add definitions in §5-2 of the Westport Zoning Regulations for "Cannabis" and "Cannabis Establishments;" to modify the definition for "Dispensary Facility;" and to add a new section to §31, Regulations Applying to All Districts, entitled §31-16, "Prohibition on Cannabis Establishments," prohibiting Cannabis Establishments, with the exception of Dispensary Facilities, in all zoning districts in the Town of Westport is hereby **ADOPTED AS MODIFIED**. A copy of the text amendment is on file in the Town Clerk's Office, is on file in the Planning and Zoning Office and is attached herein.

MODIFICATIONS

1. The definition in §5-2 for "Dispensary Facility" was modified to "Medical Dispensary Facility."
2. The definition in §5-2 for "Cannabis Establishment" was modified to include "Medical Dispensary Facility" to be consistent with the modification referenced in #1 above.
3. The prohibition language in §31-16 was modified to:
 - A. Add exception language for a "Medical Dispensary Facility" so such a facility is not subject to the prohibition; and
 - B. To remove language that would have imposed a 24-month limitation on the proposed prohibition and add language resulting in a permanent prohibition on all Cannabis Establishments except for Medical Dispensary Facilities.

REASONS

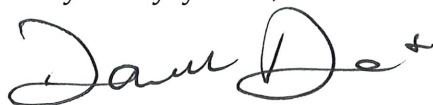
1. The Commission modified the existing and proposed definitions in §5-2 listed in Text Amendment #799 to more clearly distinguish what is currently allowed pursuant to Text Amendment #735, adopted in 2017, enabling sales of marijuana to patients and caregivers for palliative use for medical purposes (aka Medical Marijuana), from what is now prohibited pursuant to this amendment (all types of Cannabis Establishments associated with recreational marijuana).
2. The Commission modified proposed §31-16 to remove the 24-month sunset provision, resulting in a permanent prohibition on Cannabis Establishments (except for “Medical Dispensaries Facilities”), following receipt of testimony during the public hearing that raised uncertainty whether the Department of Consumer Protection (DCP) would in fact be “ready” within 24-months to issue licenses for any of the 11-types of Cannabis Establishments listed in PA 21-1 or whether any lessons could be learned in this short time frame from municipalities that “opt-in” and allow recreational sales.
3. The Commission unanimously concluded a modification to Sec. 31-16 is appropriate at this time so there is no arbitrary deadline by which the P&Z Commission or other elected officials including the RTM must complete their research relating to the various issues associated with allowing Cannabis Establishments and public hearings nor a limit on the time available to foster discussions exploring this important topic with the public.

VOTE:

AYES	-7-	{Dobin, Lebowitz, Cammeyer, Cohn, Tesler, Zucaro, Bolton}
NAYS	-0-	
ABSTENTIONS	-0-	

The effective date of this amendment is: September 15, 2021.

Very truly yours,



Danielle Dobin, Chairman
Planning & Zoning, Commission

Attached
Text Amendment #799, Adopted as Modified

cc: First Selectman
Conservation Director
Fire Marshal
Parks and Rec. Director
Police Chief
RTM P&Z Committee Chairman
RTM Moderator
Tax Assessor
Town Engineer
Town Attorney
Assistant Town Attorney
WWHD Director

Text Amendment #799
Submitted: 7/29/21
Revised: 7/30/21
Received: 9/2/21
Public Hearing: 9/2/21
Adopted as Modified: 9/2/21
Effective date: 9/15/21

Deleted language is ~~[struck out and in brackets]~~; New language is underlined;
Modifications are underlined and in Red.

From §5-2, Specific Terms

Medical Dispensary Facility

~~[A place of business where marijuana may be dispensed or sold at retail to qualifying patients and primary caregivers for which the Department of Consumer Protection has issued a dispensary facility license to an applicant under §21a-408 to §21a-408q, inclusive of the Connecticut General Statutes and §21a-408 of the Regulations of Connecticut State Agencies.]~~

A “Medical Dispensary Facility” constitutes a “Dispensary Facility” as that term is defined in Section 1 of Public Act No. 21-1 of the June 2021 Special Session: 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 the department [of consumer protection] has issued a dispensary facility license under chapter 420f of the general statutes and any regulations adopted thereunder.

Cannabis

“Cannabis” means marijuana, as defined in section 21a-240 of the general statutes.

Cannabis Establishments

“Cannabis Establishment” means a producer, **medical** 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 Public Act No. 21-1 of the June 2021 Special Session (“medical dispensary facility” constitutes a “dispensary facility” under Public Act No. 21-1).**

From §31, Regulations Applying to All Districts

§31-16, Prohibition on Cannabis Establishments

Prohibition:

In accordance with the authority granted under Section 148 of Public Act No. 21-1 of the June 2021 Special Session, "An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis," all Cannabis Establishments, with the exception of Medical Dispensary Facilities, are prohibited in all zoning districts in the Town of Westport.