

Section 6.05 Cannabis (Retail Sale, Production and Cultivation, Medical Marijuana Dispensary Facilities and Production facilities)

Non-Severability: The Commission finds that cannabis-related uses would be acceptable in the Town of Sterling only if all restrictions and limitations set forth in this Section 6.05 are maintained. Therefore, if a court should determine that any of the provisions in this Section 6.05 are unlawful, the entire shall be deemed invalid and cannabis establishments shall be deemed to be prohibited in the Town of Sterling.

~~401~~ A.

Applicability:

1. Medical marijuana dispensary facilities and production facilities shall be governed by CGS Sec. 21a-408 et seq. as amended and Sections 21a-408-1 to 21a-408-70, inclusive, of the Regulations of Connecticut State Agencies as they may be amended and ~~permitted only in the following zone, subject to special permit approval in accordance with Section 5.2 of these Regulations;~~ Site Plan approval in accordance with Section ~~5.3~~ 7.04 of these Regulations, and the requirements of this section.
2. Cannabis retail and hybrid-retail facilities shall be governed by The Responsible and Equitable Regulation of Adult-Use Cannabis Act (“RERACA”), the Connecticut (CT) Public Act 21-1 / Senate Bill 1201 as amended inclusive of the Regulations of Connecticut State Agencies as they may be amended and ~~permitted by only in the following zone, subject to special permit approval in accordance with these Regulations;~~ Site Plan approval in accordance with ~~Appendix C~~ Section 7.04 of these Regulations, and the requirements of this section.
3. Adult-use cannabis cultivator and micro-cultivator facilities shall be governed by the RERACA, the CT Public Act 21-1/ Senate Bill 1201 as amended inclusive of the Regulations of Connecticut State Agencies as they may be amended and ~~permitted only in the following zone, subject to special permit approval in accordance with these Regulations;~~ to Site Plan approval in accordance with Section ~~XX~~ 7.04 of these Regulations, and the requirements of this section.

~~402~~ B.

Separation Requirements. Uses identified in this section shall be subject to the following separation restrictions:

1. No medical marijuana production, or adult-use cannabis cultivator or micro-cultivator facility shall be allowed within 500 feet of a church, temple or other place used primarily for religious worship, public building, public school, public playground, public park or public child day care facility, except if such facility is located within the Town’s Industrial Park, then there shall be no minimum separation distance requirement.
2. No medical marijuana production, or adult-use cannabis cultivator or micro-cultivator facility shall be allowed on a site where such facility is located less than 500 feet from

an existing single-family or multi-family residential use, except if such facility is located within the Town's Industrial Park, then there shall be no minimum separation distance requirement.

3. No medical marijuana dispensary or production, or adult use cannabis retailer, hybrid-retailer cultivator or micro-cultivator facility shall be allowed within the same building, structure or portion thereof that is used for residential purposes, or that contains another medical marijuana dispensary, production facility, or adult use cannabis retail, hybrid retail, cultivator or micro-cultivator facility.
4. No adult-use cannabis retail or hybrid-retail shall be located less than 5,000 feet from another adult-use cannabis retail or hybrid-retail. Distance shall be measured from the radius of the front door to front door of each establishment, except if such facility is located within the Town's Industrial Park, then there shall be no minimum separation distance requirement.
5. All distances contained in this section, shall be measured by taking the nearest straight line between the respective lot boundary of the property subject to the separation requirement and the proposed building/structure containing the proposed cannabis facility.

103 C. Design Standards.

1. Any retail facility shall be designed to match the residential typology of the immediate area and shall be located on a State Road with direct fee-simple deeded frontage on the State Road it abuts.
2. Any production facility outside of the Town's Industrial Park shall be defined to match the typology of Sterling's traditional agricultural architecture if visible from an existing road/street and/or abutting residential property.
3. All facilities (retail, production and/or cultivation) shall submit a plan to control odor
4. ~~All cultivation shall occur within a building. Outdoor grow and/or growing is prohibited.~~

104 D. Minimum Floor Area Requirements.

1. No medical marijuana production facility shall be allowed in a building with less than 10,000 square feet of gross floor area.

105 E. Sign and exterior display requirements:

1. Exterior signage shall be restricted to a single sign no larger than 16" x 18" containing the legal name of the entity and the street address of the facility. Section 6.2.3b shall not apply.

106 F. Off-Street Parking requirements:

1. Required off-street parking shall be in compliance with the Zoning Regulations. Parking for the facility shall be contained on the same property associated with the proposed activity. A parking plan and traffic analysis shall be submitted with every application associated with Medical Marijuana and/or cannabis retail and/or production facility.

107 G. Security Requirements:

1. All cannabis or medical marijuana dispensary facilities and production facilities shall have an adequate security system to prevent and detect diversion, theft or loss of marijuana utilizing commercial grade equipment meeting at least the minimum requirements of Sec. 21a-408-62 of the State of Connecticut Regulations.
2. The hours of operation for cannabis (retail) or medical marijuana dispensary facilities shall be limited to between 7:00 a.m. and 7:00 p.m., all days of the week.
3. There shall be no limitation on the hours of operation for cannabis or medical marijuana production facilities, all days of the week.

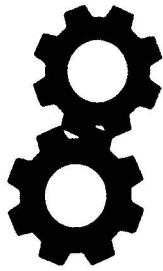
108 H. Conditional Approval:

1. All site plan approvals/zoning permits shall be approved with the condition that the applicant obtains the appropriate license issued by the State of Connecticut Department of Consumer Protection (or other State agency as regulatory changes occur).
2. The conditional approval shall become finalized upon the receipt by the Town Planner and/or Zoning Enforcement Officer (ZEO) of a copy of the Department of Consumer Protection-issued license.
3. The conditional approval shall expire if the applicant fails to provide the Town Planning and/or Zoning Enforcement Officer (ZEO) with a copy of the Department of Consumer Protection-issued license within six months of the date of the Planning and Zoning Commissions conditional approval.
4. A six-month extension of such conditional approval shall be granted to the applicant upon written notification to the Town Planner that an application for a Department of Consumer Protection license has been filed, indicating the expected decision date of the Department of Consumer Protection license.

- a. No entity shall operate without a valid, current license.

109 I Connecticut Department of Consumer Protection Approval.

1. The applicant shall provide the Town Planner and/or Zoning Enforcement Officer (ZEO) with a copy of the appropriate license issued by the State of Connecticut Department of Consumer Protection, and any subsequent renewed license.



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9/18/2023

Town of Sterling
Planning and Zoning Commission
Frank Bood, Chairman
1183 Plainfield Pike
P.O. Box 157, Oneco, CT 06373-0157

RE: Cannabis Regulations Text Amendments Questions for town Attorney.

The Town of Sterling Planning and Zoning Commission are reviewing the Cannabis Regulations. I provided Atty. Ziska with a draft of the modifications to the text and the following questions

1. Is the language under Design Standards 4. regarding cultivation being only allowed indoors strong enough.
2. If the state updates their regulations to allow outdoor cultivation, would it override their current regulation.

Atty. Ziska response: CGS Sec. 21a-422f (b) says, "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 subdivision (1) of subsection (a) of section 30-46."

Given that wording, it seems as though the only real choices a zoning commission has is (a) to prohibit cannabis establishments entirely (option (1) above); or (b) to allow them while retaining the ability to limit them only as to the hours and signage of the operation or the proximity to the facilities described in CGS Sec. 30-46. I doubt that any cannabis establishment would complain too much about the typical site plan concerns addressed in Sterling's regulations, but the indoor-growing-only limitation may be a bridge too far. Consequently, if the state should decide to allow outdoor growing, Sterling might have to accept that.

Having said that, the Commission might consider adding a provision saying that all of the restrictions in its cannabis regulations are deemed essential to the overall zoning policy, so that if any one of the restrictions is held invalid by a court, cannabis establishments are to be deemed to be prohibited.

Follow up question by staff: CGS Sec. 30-46 does not include other Cannabis establishments or residential properties so would that make the current regulation invalid?

Mike Ziska response: Although the question has not been settled by the courts, a reasonable argument can be made that the ability granted by CGS Sec. 21a-422f "to prohibit" cannabis establishments is

broad enough to allow such establishments to be “prohibited” within specified distances of residential uses or from each other despite the specific reference in the statute to the uses listed in CGS Sec. 30-46.

I would also note that, unlike many – perhaps most – zoning regulations, Sterling’s do not have a severability provision. Given that fact, if the distance provisions of the regulations were ever challenged, the Commission could argue that, if the distance provisions are held to be unlawful, the entire set of regulations allowing cannabis establishments should also be voided; i.e., that the distance requirements were integral to allowing any cannabis establishments in Sterling. You might also consider adding an expressly stated “non-severability” provision to the cannabis regulations, such as this:

“Non-Severability. The Commission finds that cannabis-related uses would be acceptable in the Town of Sterling only if all restrictions and limitations set forth in this [Appendix D/Section 605] are maintained. Therefore, if a court should determine that any of the provisions in this [Appendix D/Section 605] are unlawful, the entire [Appendix D/Section 605] shall be deemed invalid and cannabis establishments shall be deemed to be prohibited in the Town of Sterling.”

Sincerely,

Jim Larkin

Jim Larkin, Consulting Planner
Director of Regional Development
Northeastern CT Council of Gov.