



To: Planning & Zoning Commission  
From: Jeremy DeCarli, Planning & Zoning Official  
RE: October 5, 2022 Planning and Zoning Commission Regular Meeting – Staff Notes  
Date: September 30, 2022

The following are staff notes and comments as they relate to agenda items. Additional information and documents are available on the website. The status of applications is subject to change between the date of this memo and the date of the meeting.

## **5. Public Hearings:**

### **A. Amendments to East Hampton Zoning Regulations in Accordance with Public Act 21-29, Articles 1 – 9.**

No changes have been made to the document since the Commission last reviewed it. Changes have been reviewed by the Town Attorney and no further comments or edits were received.

### **B. Amendments to East Hampton Zoning Regulations: Proposed Section 8.4.Q - Adult Use Cannabis and Medical Marijuana.**

As discussed previously, the Town Council has approved an extension of the moratorium on cannabis related activities through the end of December or until the date of adoption of regulations by the Planning and Zoning Commission, whichever comes first. This will allow for the Commission to continue the process of reviewing proposed regulations. Regulations must be approved with an effective date no later than December 31 in order to prevent a situation where an application could be submitted without regulations in place.

The current draft is based on the regulations of nearly a dozen communities, mostly in Connecticut and Massachusetts. After the last meeting, two minor changes were made, the first of which is a statement that all uses must remain in compliance with State law as amended, the second of which fixes a typographical error in the definition of “Product Packager.”

At the September meeting, a question regarding advertising was raised. After researching this, it is my opinion that there is no need to add additional language relating to advertising into the draft regulation. Attached with this report are the approximately five pages of CGS Section 21a-420 relating to the advertising of cannabis retail location. The legislation includes several prohibitions including, but not limited to:

imagery or language which identifies cannabis or paraphernalia, electronic or illuminated advertising during daytime hours, advertising targeted at people under the age of twenty-one (bright colors, celebrities, targeted ads to mobile devices, etc), claims of curative benefits, and visibility within 1,000 feet of certain sensitive uses, among others.

Please refer to Section 8 of the legislation which is attached for your reference.

A second question regarding mitigation of odors was raised at the last meeting. Staff has researched this and found very few specific zoning regulations relating to the amount of trace amounts

chemical in the air from production facilities. Enforcement of such a standard would be next to impossible in East Hampton. Reasonable standards would need to be developed by a professional knowledgeable of the science of odor detection. Specialized equipment would need to be purchased by the Town with someone trained on the proper use and reading of said equipment. Wind direction, air temperature, humidity levels, and other factors would impact the readings from day to day making enforcement challenging.

It continues to be my belief that the requirement of a mitigation and odor management plan, in addition to the requirement of a 1000 foot separation distance is the best approach to this concern. As these uses are permitted by Special Permit only, the Commission always has the discretion to hire its own professional to evaluate the odor mitigation plan.

## **8. Planner's Report**

The Pin Shack at 12 Summit Street will be opening in the very near future. Interior work is complete, the bathroom renovation will begin this month, and the operator of the business is working to remove two inoperable vehicles that are located in the parking area.

The River's Edge Marina at St. Clements Marina continues to operate without incident. Several events have taken place, including weddings, without any complaints of noise. Final landscaping has been completed with the onset of cooler and wetter weather. Management of the facility has been very receptive to comments or questions from my department making for a good working relationship thus far.

It is anticipated that the Commission may see an application for an expansion of the facility located at 201 West High Street before the end of calendar year as all spaces are full and the owner is looking to create additional commercial space.

The Town of East Hampton has received a STEAP grant from the State of Connecticut for the reconstruction of the sidewalks in the Village Center. We are in the process of working with CT DOT on final design with the goal of starting construction in the Spring.

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million dollars [,] established [under] in section 21a-420e minus such paid reduced conversion fee.

(h) No dispensary facility that receives approval to convert the dispensary facility's license to a hybrid-retailer license under section 21a-420t shall create more than two equity joint ventures. No such dispensary facility shall apply for, or create, any additional equity joint venture if, on the effective date of this section, such dispensary facility has created at least two equity joint ventures that have each received a provisional license.

(i) An equity joint venture applicant shall pay fifty per cent of the amount of any applicable fee specified in subsection (c) of section 21a-420e for the first three renewal cycles of the applicable cannabis establishment license applied for, and shall pay the full amount of such fee thereafter.

Sec. 8. Section 21a-421bb of the 2022 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) No person other than the holder of a cannabis establishment license issued by this state shall advertise any cannabis or services related to cannabis in this state.

~~[(a) Cannabis]~~ (b) Except as provided in subsection (d) of this section, cannabis establishments [and any person advertising any cannabis or services related to cannabis] shall not:

(1) Advertise, including, but not limited to, through a business name or logo, cannabis, cannabis paraphernalia or goods or services related to cannabis; [in]

(A) In ways that target or are designed to appeal to individuals under twenty-one years of age, including, but not limited to, spokespersons or

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celebrities who appeal to individuals under the legal age to purchase cannabis or cannabis products, depictions of a person under twenty-five years of age consuming cannabis, or, the inclusion of objects, such as toys, characters or cartoon characters, suggesting the presence of a person under twenty-one years of age, or any other depiction designed in any manner to be appealing to a person under twenty-one years of age; or

(B) By using any image, or any other visual representation, of the cannabis plant or any part of the cannabis plant, including, but not limited to, the leaf of the cannabis plant;

(2) Engage in any advertising by means of an electronic or illuminated billboard between the hours of six o'clock a.m. and eleven o'clock p.m.;

[(2)] (3) Engage in advertising by means of any television, radio, Internet, mobile [applications] application, social media [,] or other electronic communication, billboard or other outdoor signage, or print publication unless the [advertiser] cannabis establishment has reliable evidence that at least ninety per cent of the audience for the advertisement is reasonably expected to be twenty-one years of age or older;

[(3)] (4) Engage in advertising or marketing directed toward location-based devices, including, but not limited to, cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is twenty-one years of age or older and includes a permanent and easy opt-out feature and warnings that the use of cannabis is restricted to persons twenty-one years of age or older;

[(4)] (5) Advertise cannabis or cannabis products in a manner claiming or implying, or permit any employee of the cannabis establishment to claim or imply, that such products have curative or

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therapeutic effects, or that any other medical claim is true, or allow any employee to promote cannabis for a wellness purpose unless such claims are substantiated as set forth in regulations adopted under chapter 420f or verbally conveyed by a licensed pharmacist or other licensed medical practitioner in the course of business in, or while representing, a hybrid retail or dispensary facility;

[(5)] (6) Sponsor charitable, sports, musical, artistic, cultural, social or other similar events or advertising at, or in connection with, such an event unless the [sponsor or advertiser] cannabis establishment has reliable evidence that (A) not more than ten per cent of the in-person audience at the event is reasonably expected to be under the legal age to purchase cannabis or cannabis products, and (B) not more than ten per cent of the audience that will watch, listen or participate in the event is expected to be under the legal age to purchase cannabis products;

[(6)] (7) Advertise cannabis, cannabis products or cannabis paraphernalia in any physical form visible to the public within one thousand five hundred feet of an elementary or secondary school ground or a house of worship, recreation center or facility, child care center, playground, public park or library;

[(7)] (8) Cultivate cannabis or manufacture cannabis products for distribution outside of this state in violation of federal law, advertise in any way that encourages the transportation of cannabis across state lines or otherwise encourages illegal activity;

[(8)] (9) Except for dispensary facilities and hybrid retailers, exhibit within or upon the outside of the facility used in the operation of a cannabis establishment, or include in any advertisement, the word "dispensary" or any variation of such term or any other words, displays or symbols indicating that such store, shop or place of business is a dispensary;

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[(9)] (10) Exhibit within or upon the outside of the premises subject to the cannabis establishment license, or include in any advertisement the words "drug store", "pharmacy", "apothecary", "drug", "drugs" or "medicine shop" or any combination of such terms or any other words, displays or symbols indicating that such store, shop or place of business is a pharmacy;

[(10)] (11) Advertise on or in public or private vehicles or at bus stops, taxi stands, transportation waiting areas, train stations, airports or other similar transportation venues including, but not limited to, vinyl-wrapped vehicles or signs or logos on transportation vehicles not owned by a cannabis establishment;

[(11)] (12) Display cannabis, [or] cannabis products or any image, or any other visual representation, of the cannabis plant or any part of the cannabis plant, including, but not limited to, the leaf of the cannabis plant, so as to be clearly visible to a person from the exterior of the facility used in the operation of a cannabis establishment, or display signs or other printed material advertising any brand or any kind of cannabis or cannabis product, or including any image, or any other visual representation, of the cannabis plant or any part of the cannabis plant, including, but not limited to, the leaf of the cannabis plant, on the exterior of any facility used in the operation of a cannabis establishment;

[(12)] (13) Utilize radio or loudspeaker, in a vehicle or in or outside of a facility used in the operation of a cannabis establishment, for the purposes of advertising the sale of cannabis or cannabis products; or

[(13)] (14) Operate any web site advertising or depicting cannabis, cannabis products or cannabis paraphernalia unless such web site verifies that the entrants or users are twenty-one years of age or older.

[(b) Any] (c) Except as provided in subsection (d) of this section, any advertisements from a cannabis establishment shall contain the

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following warning: "Do not use cannabis if you are under twenty-one years of age. Keep cannabis out of the reach of children." In a print or visual medium, such warning shall be conspicuous, easily legible and shall take up not less than ten per cent of the advertisement space. In an audio medium, such warning shall be at the same speed as the rest of the advertisement and be easily intelligible.

(d) Any outdoor signage, including, but not limited to, any monument sign, pylon sign or wayfinding sign, shall be deemed to satisfy the audience requirement established in subdivision (3) of subsection (b) of this section, and shall not be required to contain the warning required under subsection (c) of this section, if such outdoor signage:

(1) Contains only the name and logo of the cannabis establishment;

(2) Does not include any image, or any other visual representation, of the cannabis plant or any part of the cannabis plant, including, but not limited to, the leaf of the cannabis plant;

(3) Is comprised of not more than three colors; and

(4) Is located:

(A) On the cannabis establishment's premises, regardless of whether such cannabis establishment leases or owns such premises; or

(B) On any commercial property occupied by multiple tenants including such cannabis establishment.

[(c)] (e) The department shall not register, and may require revision of, any submitted or registered cannabis brand name that:

(1) Is identical to, or confusingly similar to, the name of an existing non-cannabis product;

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(2) Is identical to, or confusingly similar to, the name of an unlawful product or substance;

(3) Is confusingly similar to the name of a previously approved cannabis brand name;

(4) Is obscene or indecent; and

(5) Is customarily associated with persons under the age of twenty-one.

[(d)] (f) A violation of the provisions of [subsection (a) or (b)] subsections (a) to (c), inclusive, of this section shall be deemed to be an unfair or deceptive trade practice under subsection (a) of section 42-110b.

Sec. 9. Section 21a-422f of the 2022 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) As used in this section, "municipality" means any town, city or borough, consolidated town and city or consolidated town and borough, and a district establishing a zoning commission under section 7-326.

(b) 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. 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