



VERMONT

**CANNABIS CONTROL BOARD**

89 Main Street Montpelier, VT 05602 | [ccb.vermont.gov](http://ccb.vermont.gov)

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# **GUIDANCE FOR MUNICIPALITIES**

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## I. Introduction

This guidance is provided to assist municipalities working with individuals and businesses seeking to establish a cannabis business pursuant to 7 V.S.A. chapter 33.

This guidance is not legal advice. If municipalities have questions regarding their legal responsibilities, they are encouraged to consult municipal counsel.

## II. The Cannabis Control Board

This section provides a brief overview of the Cannabis Control Board (“CCB” or “the Board”) and the types of cannabis businesses that state law allows the Board to license.

### A. The Cannabis Control Board

The Cannabis Control Board was created by Act 164 in 2020. In 2021, the legislature clarified and expanded the CCB’s responsibilities in Act 62. As outlined in 7 V.S.A. § 843, the mission of the CCB is *"to safely, equitably, and effectively implement and administer the laws enabling adult use and medical use of cannabis in Vermont."*

There are three full-time members of the Board. The inaugural members are James Pepper, who serves as Chair, Kyle Harris, and Julie Hulburd. You can learn more about the Board and its staff at: <https://ccb.vermont.gov/>.

### B. Cannabis Control Board Authority

The Legislature has tasked the Board with *"safely, equitably, and effectively implementing and administering the laws enabling adult use and medical use cannabis in Vermont"* 7 V.S.A. § 843.

The role of the Board includes implementing the laws governing the adult-use cannabis program, crafting all rules pertaining to the licensing and oversight of cannabis businesses, and overseeing compliance and enforcement of the program.

The proposed CCB rules are in the process of becoming final rules with legal force and effect. These rules can be found on the CCB website: <https://ccb.vermont.gov/>. The proposed rules will be updated on the website as they are amended during the rulemaking process. Final rules will be prominently displayed.

The CCB has also assumed responsibility for administering the medical cannabis program, formerly housed within the Department of Public Safety. This program oversees and administers Vermont’s therapeutic cannabis program, including dispensaries and the patient and caregiver registry.



### **III. Cannabis Establishments**

#### **A. Types of Cannabis Establishments**

7 V.S.A. chapter 33 creates different types of adult-use cannabis businesses, which the law calls “cannabis establishments.” People or entities that hold a cannabis establishment license may engage in the commercial cannabis activity (such as cultivating cannabis) that is allowed by the type of license. The Board has sole authority to issue these licenses.

The different types of licenses, and the activities the licensees are allowed to engage in, are as follows:

##### **1. Cultivator License**

Cultivator licensees may grow cannabis plants, either outdoors or indoors. 7 V.S.A. § 904.

##### **2. Manufacturer License**

Manufacturer licensees may produce cannabis products from cannabis plants, including edibles, oils, and other such products. 7 V.S.A. § 906.

##### **3. Wholesaler License**

Wholesaler licensees may purchase cannabis and cannabis products from other licensees and sell them to licensees. 7 V.S.A. § 905.

##### **4. Testing Laboratory License**

Testing Laboratory licensees may test cannabis and cannabis products obtained from a licensed cannabis establishment, dispensary, or a member of the public. 7 V.S.A. § 908.

##### **5. Retailer License**

Retailer licensees may sell cannabis and cannabis products to the general public. 7 V.S.A. § 907. No other license type may sell to the general public.

##### **6. Integrated License**

Integrated Licensees may engage in the activities of each of the license types listed above, but these licenses are only available to "an applicant and its affiliates that hold a dispensary registration on April 1, 2022." 7 V.S.A. § 909.

#### **B. Tiered License Types**

Cultivator, Manufacturer, and Retailer license types each have tiers relating to the size or the kind of operation. More information about these tiers can be found in Board Rule 1, which is available on the CCB’s website: <https://ccb.vermont.gov/>.

#### **C. Key Parameters of Cannabis Establishment Licenses**

1. A licensee may hold multiple licenses, but they may hold only one of each type of license. 7 V.S.A. § 901.



2. Each license allows for only one location of the cannabis establishment. 7 V.S.A. § 901.
3. Multiple licensees may operate at the same location, subject to limitations established by the Board, except that multiple retail operations may not operate at the same location.
4. All cannabis establishments are subject to comprehensive state regulations and inspections by CCB staff.

#### **IV. Municipal Authority and Cannabis Establishments**

This section provides an overview of municipal authority to regulate cannabis establishments.

##### **A. Opt-in Provision**

A municipality must opt in to host a retail cannabis establishment by majority vote. But the opt-in vote requirement applies only to retailer licenses and the retail portion of integrated licenses. It has no impact on the ability of other license types to operate in a particular municipality. These other license types include cultivators, wholesalers, manufacturers, and testing laboratories, none of which require an opt-in vote to operate in a municipality. 7 V.S.A. § 863(a)(1).

A municipality can opt in at any time.

A municipality may vote to opt out from allowing retail cannabis establishments, but such a vote will not apply to any retail establishment operating in the municipality at the time of the opt-out vote. 7 V.S.A. § 863(a)(2).

##### **B. Municipal Regulatory Authority**

###### **General rule:**

- Cannabis establishments are subject to the same zoning rules and municipal ordinances that apply to any business. Beyond municipalities' general authority to create and enforce zoning rules or ordinances that apply to all businesses, they do not have the power to create special rules for cannabis establishments.

###### **A municipality may:**

- Regulate cannabis establishments to the same extent they may regulate any other business under their authority to create zoning bylaws in 24 V.S.A. § 4414 and their authority to regulate signs or public nuisances in 24 V.S.A. § 2291. Municipalities may regulate any cannabis establishment license type in this manner. 7 V.S.A. § 863(b).

###### **A municipality may not:**

- Regulate cannabis establishments to any greater extent than they could any other business. 7 V.S.A. § 863(d).



- Place conditions on the operation of cannabis establishments, or create special rules for them, that is not within their zoning authority under 24 V.S.A. § 4414 or their authority to regulate signs or public nuisances under 24 V.S.A. § 2291. 7 V.S.A. § 863(d)(2).
- Use their zoning power under 24 V.S.A. § 4414 or their ordinance power under 24 V.S.A. § 2291 in a way that will have the effect of prohibiting the operation of cannabis establishments. 7 V.S.A. § 863(d)(1).

### **C. Local Cannabis Control Commissions**

Municipalities may create a local cannabis control commission, but they are not required to. Municipalities must give notice to the Cannabis Control Board if they have formed a local cannabis control commission.

The local commission may issue and administer local control licenses and may condition licenses on compliance with zoning bylaws under 24 V.S.A. § 4414 and ordinances regulating signs or public nuisances under 24 V.S.A. § 2291. The local commission may also deny, suspend, or revoke a local control license if it violates conditions placed on the license. Local commissions must inform the Board of such actions.

If a local control commission requires a license, a cannabis establishment must obtain one before being licensed by the Cannabis Control Board. A local control commission must promptly consider license applications and may not indefinitely delay consideration.

The conditions that local control commissions can place on a license are limited to compliance with zoning bylaws under 24 V.S.A. § 4414 and compliance with ordinances regulating signs or public nuisances under 24 V.S.A. § 2291. As explained further in subsection B of this section IV, placing additional conditions on a local license, or suspending or revoking licenses for any reason other than the allowable conditions, is a violation of state law.

The local commissioners may be members of the municipality's legislative body.

If a municipality has not formed a local control commission, no local licensing approval will be required before the Board approves a license to operate.

Even without a local cannabis control commission a municipality may still regulate cannabis establishments in accordance with their general authority to regulate businesses. For more information on a municipality's regulatory power with respect to cannabis businesses please see subsection B of this section IV.

### **D. No State-Mandated Zoning Designations for Cannabis Businesses**

There is no provision in state law or the Board's rules that requires a particular zoning designation for any cannabis establishment.

A municipality's zoning rules may require a certain type of cannabis establishment to operate within a particular zoning designation, but that will be determined on a town-by-town and business-by-business basis.



For example, there is nothing in state law requiring cannabis establishments to operate within a commercial zoning designation. A town's zoning bylaws may require a particular cannabis establishment to be within a commercially zoned district, but that will result solely from the application of the town's bylaws and not from any requirement in state law.

Nowhere does Vermont law state that cannabis is a "commercial product," and nowhere does the law require that cannabis businesses operate within designated commercial zones.

#### **E. Agricultural Product Provisions Do Not Effect Zoning**

State law provides that cannabis cultivators will not be regulated as farming and cannabis will not be considered an agricultural product or crop. 7 V.S.A. § 869. As a result, cannabis and cannabis cultivators will not receive certain tax and regulatory benefits that farms and agricultural products are eligible to receive.

These provisions are not relevant to zoning laws and have no effect on zoning. A municipality's zoning rules may require a certain type of cannabis establishment to operate within a particular zoning designation, but that will be determined on a town-by-town and business-by-business basis. State cannabis law does not determine any zoning designation.

#### **F. Buffer Zones**

Under Board rules, a retail cannabis establishment cannot operate in any location where it would be a violation of the drug-free school zone law to sell a regulated drug. This means cannabis retailers cannot operate if the store would be on a property that abuts a school property and if the retail operations would occur within 500 feet of the school property.

The Board's buffer zone requirement applies only to retail cannabis establishments and not to any other type of cannabis establishment license.

A municipality may regulate the location of cannabis establishments to the same extent it may regulate the placement of any other business under its zoning powers, but a municipality does not have authority to go beyond its general zoning power under 24 V.S.A. § 4414 in creating buffer zones that could apply to cannabis establishments.

For more information on a municipality's regulatory power with respect to cannabis businesses please see subsection B of this section IV.

#### **G. Social Equity Criteria**

The Board has prioritized the processing of social equity applications at the state level and is working with partners and affected communities to establish programs that will provide additional support for social equity applicants.

Municipalities may not condition local license decisions upon social equity criteria, though towns are encouraged to support social equity applicants. For example, they may choose to hold local workshops or informational sessions to assist local applicants in moving through the local permitting and license process.





For more information on a municipality's regulatory power with respect to cannabis businesses please see subsection B of this section IV.

#### H. Provisional Licenses

If an applicant has received a provisional license from the Board, it means the applicant has submitted an initial application and is provisionally approved for a license. A provisional license does not allow an applicant to begin operations, nor does it guarantee that an applicant will receive a final license to operate a cannabis establishment. Not all provisional licenses will result in a final license.

The Board will not require local control commission approval to grant a provisional license.

#### I. Environmental Regulations

Cannabis establishments must abide by all generally applicable environmental regulations, whether state or municipal.

The Board will require some additional environmental standards, as provided in Board Rule 2, available at the [CCB's website](#). For example, larger cultivators who operate on municipal water will be required to obtain a notice that the municipal water authority has capacity to serve the cultivation operation.

Municipalities do not have authority to implement special environmental rules for cannabis establishments, beyond their authority to create zoning bylaws with general effect. For more information on a municipality's regulatory power with respect to cannabis businesses please see subsection B of this section IV.

### V. Taxes and Fees

The legislature has the power to set taxes and fees and is considering relevant rates during the 2022 legislative session. This section will be updated after the legislature has made additional decisions on these matters.

#### A. Excise Taxes

The excise tax on cannabis products will be 14%. Under current law, municipalities do not receive a portion of the cannabis excise tax. In its October 15, 2021 report to the legislature the Board recommended that municipalities get a portion of the excise tax.

#### B. Local Fees

The legislature has not approved specific local cannabis fee rates. The CCB has recommended that the legislature approve a local fee of up to \$500 or, alternatively, allow municipalities to use the Uniform Fee Schedule set forth in 1 VSA 316(d) to charge applicants a variable fee based on the actual amount of time spent processing an application.



The process for collecting local fees is under consideration during the 2022 legislative session. Under Act 162 of 2020, the CCB would collect local license fees at the time an applicant applies or renews their application with the CCB and would pay them on a quarterly basis to the municipality in which the fees were collected. 7 V.S.A. § 846. This guidance will be updated with any process changes that may be legislated in 2022.

### **C. Local Option Taxes**

The Vermont Sales and Use Tax will apply to the retail sale of cannabis products in Vermont. Municipalities that have such a tax will receive local option tax revenue on retail sales of cannabis. The sales and use tax applies to all cannabis products.

Municipalities cannot add a local option sales tax solely for cannabis products. Municipalities that have a local option sales tax cannot exempt cannabis products from that tax. Municipalities must tax cannabis products as they would as any other good.

### **D. Meals and Rooms Taxes**

Meals and Rooms taxes do not apply to cannabis products, nor do they apply to edible cannabis products. Therefore, a local option tax on meals would not apply to the retail sale of any cannabis products.

## **VI. Public Health, Education, and Advertising**

### **A. Public Health and Education**

The CCB has developed detailed regulations to ensure that cannabis and cannabis products that are being sold at retail establishments are tested and free from harmful adulterants. The CCB has broad authority to stop sales and recall harmful products if identified.

All cannabis and cannabis products will be sold in opaque, child-resistant packaging that will be labeled with standard health warnings and symbols approved by the Vermont Department of Health.

The CCB will require retailers to provide customers an educational flyer at the point of sale that includes health and safety information. This flyer will be developed by the Department of Health and contain current, evidence-based information on the health effects of cannabis. Additionally, the Department of Health will have access to 30% of the cannabis excise tax (capped at \$10,000,000 annually) to fund substance misuse prevention programming throughout the state.

While the CCB does not have the authority to require additional trainings related to cannabis consumption for local police, fire, and rescue forces, the CCB will require training for employees for cannabis establishments that includes identifying signs of overconsumption.

### **B. Advertising**

Vermont's cannabis advertising laws are among the most restrictive in the country, and all advertisements will require CCB approval prior to publication.



Cannabis establishments may not advertise their products via any medium where more than 15 percent of the audience will be under 21 years of age. 7 V.S.A. § 864. More information about advertising regulations is available in Board Rule 2, available at the Board's website.

## **VII. Public Safety, Compliance, and Enforcement**

### **A. Cannabis Establishment Security**

The Board has security requirements for all cannabis businesses, though the requirements vary depending on license type. License holders are required to report to the Board any issues of theft, property damage or loss. The Board will notify appropriate law enforcement and local officials as appropriate.

More information about the Board's security requirements can be found in Board Rule 2, available at the Board's website.

The CCB does not intend to regulate maximum occupancy at cannabis establishments, however all establishments will be subject to all relevant fire and building safety codes.

### **B. Cannabis Age and Possession Limits and Retail Establishments**

A person 21 years of age or older may purchase up to one ounce of cannabis per transaction at a cannabis retail establishment and possess up to one ounce of cannabis on their person. 18 V.S.A. § 4230a. It is a civil violation for a person under 21 years of age to possess any amount of cannabis. 18 V.S.A. § 4230b.

No person under 21 will be permitted in a cannabis establishment. The Board has the power to enforce this rule with severe sanctions and civil penalties, up to and including revocation of an operating license.

### **C. Transportation of Cannabis Between Licensees**

If cannabis is being transported by vehicle between licensees, it needs to be done in an unmarked car to avoid unnecessary attention and threats of theft or diversion. Cannabis must be entered and tracked in inventory tracking software that indicates a transfer between license holders. Every time cannabis is transported, a manifest must be generated containing detailed information such as approximate time of departure, destination, estimated time of arrival, the transportation vehicle's make, model, and license plate number, and signature of an employee of the cannabis establishment receiving the product. Information about transports will not be shared with law enforcement each time a transfer happens. If there is an issue in transport, the Board must be notified within 24 hours, and the Board will contact officials as appropriate.

State and local police will not have authority to stop a driver who is lawfully transporting cannabis or cannabis products pursuant to the laws and rules of the regulated market unless the driver has committed a moving violation or some other offense. Cannabis establishment employees who are transporting cannabis must always have documentation on them demonstrating their lawful employment with a cannabis establishment.



#### **D. Tracking Cannabis Products**

The CCB will require each license holder to maintain tracking software that will track each cannabis plant from seed to sale. The Board will be able to remotely access all tracking data in real time. This will be a check on illegal diversion and inversion, and if there are inconsistencies in a license holder's operation the Board will investigate and take action as appropriate.

#### **E. Complaints About Cannabis Establishments**

The Board will have a system in place to receive reports from anyone, including municipal officials, regarding suspected issues and violations of a license holder. The Board will investigate and inform local officials as necessary of any violations and enforcement actions.

Municipalities retain authority to enforce ordinances regarding "public nuisances" under 24 V.S.A. § 2291. For more information on a municipality's regulatory power with respect to cannabis businesses please see subsection B of section IV.

#### **F. Investigations of Cannabis Establishments**

The Board will have enforcement personnel who can investigate complaints about the operations of any cannabis establishment and recommend sanctions to the Board, if appropriate.

#### **G. Sanctioning Cannabis Establishments**

The Board has authority to prescribe administrative and civil penalties to a license holder or other person who violates the rules or laws regulating the legal cannabis market. These penalties could range from a fine to a suspension or revocation of a license, depending on the type and severity of violation. The Board will inform a municipality of a suspension or revocation of a license after it has reached a final judgment.

More information about the Board's enforcement processes can be found in Board Rule 4, available at the Board's website.

#### **H. Lawful Locations for Cannabis Consumption**

Under state law, cannabis consumption is prohibited in any public place, meaning any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation, and any place where the use or possession of a lighted tobacco product, tobacco product, or tobacco substitute is prohibited by law. Places of public accommodation can include restaurants, stores, or other facilities at which services, facilities, goods, privileges, advantages, benefits, or accommodations are offered to the general public. 18 V.S.A. § 4230a.

Public consumption of cannabis in any form is prohibited and is subject to civil penalties capped at \$100 for a first offense, \$200 for a second offense, and \$500 for a third or subsequent offense. 18 V.S.A. § 4230a.

Cannabis consumption on private property that is not a place of public accommodation is not prohibited by state law.



## **I. Commercial Driver's Licenses**

The requirements for getting and keeping a Commercial Driver's License are not impacted by the legalization of cannabis in Vermont. Any substance that was prohibited for use by CDL holders prior to cannabis legalization in Vermont is still prohibited.

## **J. Online Sales and Delivery to Consumers**

Online ordering is currently prohibited. The legislature may consider it in the future.

Delivery to consumers is currently prohibited. The legislature may consider it in the future.

## **K. Cannabis Product Manufacturing**

The Vermont Fire and Building Safety Code, as promulgated by the Department of Public Safety, will apply to all cannabis manufacturing operations. Towns may regulate cannabis manufacturing operations to the same extent they may regulate any business pursuant to their zoning authority, but may not place special conditions upon manufacturing operations beyond their general zoning authority.

For more information on a municipality's regulatory power with respect to cannabis businesses please see subsection B of section IV.

## **L. Changes of Ownership and Control of Cannabis Establishments**

Cannabis establishments are required to notify the Board of changes of ownership and control. Information about ownership will be public.

## **M. Highway Safety**

The Vermont Criminal Justice Council added Advanced Roadside Impaired Driving Enforcement (ARIDE) to the mandatory curriculum at the Vermont Police Academy in 2015, meaning all law enforcement officers who have graduated since 2015 are trained to detect drivers impaired by any substance, including cannabis. The Vermont Criminal Justice Training Council is currently working to train all remaining law enforcement officers that are involved in highway safety on ARIDE standards.

In addition to ARIDE-trained officers, Vermont utilizes approximately 45-55 trained Drug Recognition Experts (DRE) that are geographically dispersed around the state. DREs are specialized law enforcement officers that have completed a 40-hour course and field certification designed to detect not only impairment but also the impairing substance(s) a driver has consumed.

## **N. Novel Cannabinoids**

Currently, many intoxicating cannabinoids, including Delta-8 and synthetic Delta-9, exist in a regulatory grey area. The CCB has asked the legislature to grant it the authority to regulate all intoxicating cannabinoids to ensure that they are only sold to those authorized to purchase them, and that they are safe for consumers and patients. If granted the authority, the CCB intends to create a product registration process so that any new product containing a novel intoxicating



cannabinoid will be reviewed, including its packaging, labeling, ingredients, and health effects, before being released to the public.

