

# **Additional Information Related to Articles # 4 & #5 The Establishment and Regulation of Retail Cannabis**

*Articles #4 & #5 were placed on the Warning as the State of Vermont Act 164 goes in effect this year. Residents need the opportunity to decide if they would like to vote for the Opt-In-Provision.*

## **Municipal 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).

## **Vermont Cannabis Regulations**

Vermont legalized the possession of cannabis in 2018 with Act 86, allowing adults 21 and older to possess up to one ounce of flower, five grams of concentrates, and grow two mature and four immature plants per household, all without establishing a marketplace.

- Consumption and smoking of cannabis must be done within a private space.
- Smoke-free policies are recommended to extend to cannabis.

Vermont Act 164, regulating the sales and taxation of adult recreational cannabis, was enacted on October 7, 2020. With this, Vermont became the 11th state to tax and regulate cannabis. The Act creates an adult-use marketplace in Vermont with retail shops, cultivation licenses, and much more.

- Cities, towns, and villages must vote by Australian Ballot to ‘opt-in’ to allow cannabis retail operations.
- The five existing medical cannabis establishments will be allowed to sell recreational use cannabis as early as May 2022.
- The Cannabis Control Board will begin issuing licenses for new retail cannabis establishments as early as October 2022.
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## **Local Regulation Rules**

- 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.
- Cannabis retail cannot be located within 500 feet of a school or on an abutting property to a school.
- Retail cannabis operations must first obtain a local operating license before obtaining a state operating license (if that community has a local Cannabis Control Board).
- The town and/or village may establish a local Cannabis Control Board. This can be the Selectboard, village trustees, or a designated group. If one is not created, then there is no local licensing approval necessary.
- Cannabis growers are not considered farmers, and cannabis is not an agricultural product.

The Vermont State Legislature defined cannabis specifically in state statute: <https://legislature.vermont.gov/statutes/section/07/031/00831>

## **The Vermont Cannabis Control Board**

The Cannabis Control Board (CCB) was created by Act 164 and amended by Act 62 as “an independent Commission created within the Executive Branch to safely, equitably, and effectively implement and administer the laws enabling adult use and medical use on cannabis in Vermont.

It is a 3-member body with a 14-member Advisory Committee, including experts in public health, substance misuse, and municipal issues.

The Cannabis Control Board has seven priorities in the development of a regulatory program for adult-use and medical use cannabis:

- social equity,
- legacy market and small market cultivators,
- land use and the environment,
- youth prevention and education,
- consumer protection,
- medical program services and
- public safety.

Since October 2021, the Cannabis Control Board has sent the legislature reports and recommendations regarding the regulations of adult use cannabis. The Control Board is still finalizing their rules for retail cannabis.

For additional information please go to: <https://ccb.vermont.gov/>

Local Cannabis Control Commissions

## **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.

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/>.

### ***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.