

APPENDIX A

Vermont State Statutes (Online) Referenced
in
Cannabis Control Board: Guidance for Municipalities
January 2022

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Title 7 : Alcoholic Beverages, Cannabis, And Tobacco

Chapter 031 : Cannabis

Subchapter 002 : Cannabis Control Board

(Cite as: 7 V.S.A. § 846)

§ 846. Fees

(a) The Board shall have the authority to charge and collect State and local license fees as provided under this chapter and chapter 33 of this title. State and local license fees shall be due and payable at the time of application or renewal.

(b) The Board shall deposit State fees into the Cannabis Regulation Fund.

(c) After reduction for costs of administration and collection, the Board shall pay local license fees on a quarterly basis to the municipality in which the fees were collected.

(Added 2019, No. 164 (Adj. Sess.), § 2, eff. Oct. 7, 2020.)

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(Cite as: 7 V.S.A. § 861)

§ 861. Definitions

As used in this chapter:

(1) "Advertise" means the publication or dissemination of an advertisement.

(2) "Advertisement" means any written or verbal statement, illustration, or depiction that is calculated to induce sales of cannabis or cannabis products, including any written, printed, graphic, or other material; billboard, sign, or other outdoor display; other periodical literature, publication, or in a radio or television broadcast; the Internet; or in any other media. The term does not include:

(A) any label affixed to any cannabis or cannabis product or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of these standards;

(B) any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any cannabis establishment, and that is not written by or at the direction of the licensee;

(C) any educational, instructional, or otherwise noncommercial material that is not intended to induce sales and that does not propose an economic transaction, but that merely provides information to the public in an unbiased manner; or

(D) a sign attached to the premises of a cannabis establishment that merely identifies the location of the cannabis establishment.

(3) "Affiliate" means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with another person.

(4) "Applicant" means a person that applies for a license to operate a cannabis establishment pursuant to this chapter.

(5) "Board" means the Cannabis Control Board.

(6) "Cannabis" shall have the same meaning as provided in section 831 of this title.

(7) "Cannabis cultivator" or "cultivator" means a person licensed by the Board to engage in the cultivation of cannabis in accordance with this chapter.

(8) "Cannabis establishment" means a cannabis cultivator, wholesaler, product manufacturer, retailer, or testing laboratory licensed by the Board to engage in commercial cannabis activity in accordance with this chapter.

(9) "Cannabis product" shall have the same meaning as provided in section 831 of this title.

(10) "Cannabis product manufacturer" or "product manufacturer" means a person licensed by the Board to manufacture cannabis products in accordance with this chapter.

(11) "Cannabis retailer" or "retailer" means a person licensed by the Board to sell cannabis and cannabis products to adults 21 years of age and older for off-site consumption in accordance with this chapter.

(12) "Cannabis testing laboratory" or "testing laboratory" means a person licensed by the Board to test cannabis and cannabis products in accordance with this chapter.

(13) "Cannabis wholesaler" or "wholesaler" means a person licensed by the Board to purchase, process, transport, and sell cannabis and cannabis products in accordance with this chapter.

(14) "Chair" means the Chair of the Cannabis Control Board.

(15) "Characterizing flavor" means a taste or aroma, other than the taste or aroma of cannabis, imparted either prior to or during consumption of a cannabis product. The term includes tastes or aromas relating to any fruit, chocolate, vanilla, honey, maple, candy, cocoa, dessert, alcoholic beverage, mint, menthol, wintergreen, herb or spice, or other food or drink or to any conceptual flavor that imparts a taste or aroma that is distinguishable from cannabis flavor but may not relate to any particular known flavor.

(16) "Child-resistant packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance in the container within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging that all children under five years of age cannot open or obtain a toxic or harmful amount of the substance in the container within a reasonable time.

(17) "Controls," "is controlled by," and "under common control" mean the power to direct, or cause the direction or management and policies of a person, whether through the direct or beneficial ownership of voting securities, by contract, or otherwise. A person who directly or beneficially owns 10 percent or more equity interest, or the equivalent thereof, of another person shall be deemed to control the person.

(18) "Dispensary" means a business organization licensed pursuant to chapter 37 of this title or 18 V.S.A. chapter 86.

(19) "Enclosed, locked facility" means a building, room, greenhouse, outdoor fenced-in area, or other location that is enclosed on all sides and prevents cannabis from easily being viewed by the public. The facility shall be equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include cannabis cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where cannabis is being grown, processed, packaged, or stored.

(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the cultivator.

(20) "Flavored oil cannabis product" means any oil cannabis product that contains an additive to give it a characterizing flavor.

(21) "Integrated licensee" means a person licensed by the Board to engage in the activities of a cultivator, wholesaler, product manufacturer, retailer, and testing laboratory in accordance with this chapter.

(22) "Municipality" means a town, city, or incorporated village.

(23) "Person" shall include any natural person; corporation; municipality; the State of Vermont or any department, agency, or subdivision of the State; and any partnership, unincorporated association, or other legal entity.

(24) "Plant canopy" means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the storage of fertilizers, pesticides, or other products.

(25) "Principal" means an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; and a partner of a partnership.

(26) "Small cultivator" means a cultivator with a plant canopy or space for cultivating plants for breeding stock of not more than 1,000 square feet. (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020; amended 2021, No. 62, § 5, eff. June 7, 2021.)

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Chapter 033 : Cannabis Establishments

Subchapter 001 : General Provisions

(Cite as: 7 V.S.A. § 862)

§ 862. Not applicable to hemp or therapeutic use of cannabis

This chapter applies to the regulation of cannabis establishments by the Board and shall not apply to activities regulated by 6 V.S.A. chapter 34 (hemp), 18 V.S.A. chapter 86 (therapeutic use of cannabis), or chapters 35 (Medical Cannabis Registry) and 37 (cannabis medical dispensaries) of this title. (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020.)

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(Cite as: 7 V.S.A. § 863)

§ 863. Regulation by local government

(a)(1) Prior to a cannabis retailer or the retail portion of an integrated licensee operating within a municipality, the municipality shall affirmatively permit the operation of such cannabis establishments by majority vote of those present and voting by Australian ballot at an annual or special meeting warned for that purpose. A municipality may place retailers or integrated licensees, or both, on the ballot for approval.

(2) A vote to permit the operation of a licensed cannabis retailer or integrated licensee within the municipality shall remain in effect until rescinded by majority vote of those present and voting by Australian ballot at a subsequent annual or special meeting warned for that purpose. A rescission of the permission to operate a licensed cannabis retailer or integrated licensee within the municipality under this subdivision shall not apply to a licensed cannabis retailer or integrated licensee that is operating within the municipality at the time of the vote.

(b) A municipality that hosts any cannabis establishment may establish a cannabis control commission composed of commissioners who may be members of the municipal legislative body. The local cannabis control commission may issue and administer local control licenses under this subsection for cannabis establishments within the municipality. The commissioners may condition the issuance of a local control license upon compliance with any bylaw adopted pursuant to 24 V.S.A. § 4414 or ordinances regulating signs or public nuisances adopted pursuant to 24 V.S.A. § 2291. The commission may suspend or revoke a local control license for a violation of any condition placed upon the license. The Board shall adopt rules relating to a municipality's issuance of a local control license in accordance with this subsection and the local commissioners shall administer the rules furnished to them by the Board as necessary to carry out the purposes of this section.

(c) Prior to issuing a license to a cannabis establishment under this chapter, the Board shall ensure that the applicant has obtained a local control license from the municipality, if required.

(d) A municipality shall not:

(1) prohibit the operation of a cannabis establishment within the municipality through an ordinance adopted pursuant to 24 V.S.A. § 2291 or a bylaw adopted pursuant to 24 V.S.A. § 4414;

(2) condition the operation of a cannabis establishment, or the issuance or renewal of a municipal permit to operate a cannabis establishment, on any basis other than the conditions in subsection (b) of this section; and

(3) exceed the authority granted to it by law to regulate a cannabis establishment.
(Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020; amended 2021, No. 62, § 1, eff. June 7, 2021.)

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(Cite as: 7 V.S.A. § 864)

§ 864. Advertising

- (a) "Advertise" and "advertisement" have the same meaning as in section 861 of this title.
- (b) A cannabis establishment advertisement shall not contain any statement or illustration that:
- (1) is deceptive, false, or misleading;
 - (2) promotes overconsumption;
 - (3) represents that the use of cannabis has curative effects;
 - (4) offers a prize, award, or inducement for purchasing cannabis or a cannabis product, except that price discounts are allowed;
 - (5) offers free samples of cannabis or cannabis products;
 - (6) depicts a person under 21 years of age consuming cannabis or cannabis products;
- or
- (7) is designed to be or has the effect of being particularly appealing to persons under 21 years of age.
- (c) Cannabis establishments shall not advertise their products via any medium unless the licensee can show that not more than 15 percent of the audience is reasonably expected to be under 21 years of age.
- (d) All advertisements shall contain health warnings adopted by rule by the Board in consultation with the Department of Health.
- (e) All advertisements shall be submitted to the Board on a form or in a format prescribed by the Board, prior to the dissemination of the advertisement. The Board may:
- (1) require a specific disclosure be made in the advertisement in a clear and conspicuous manner if the Board determines that the advertisement would be false or misleading without such a disclosure; or
 - (2) require changes that are necessary to protect the public health, safety, and welfare or consistent with dispensing information for the product under review. (Added 2021, No. 62, § 6, eff. June 7, 2021.)

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(Cite as: 7 V.S.A. § 865)

§ 865. Education

(a) A licensee shall complete an enforcement seminar every three years conducted by the Board. A license shall not be renewed unless the records of the Board show that the licensee has complied with the terms of this subsection.

(b) A licensee shall ensure that each employee involved in the sale of cannabis or cannabis products to the public completes a training program approved by the Board prior to selling cannabis or cannabis products and at least once every 24 months thereafter. The training shall include information about the health effects of the use of cannabis and cannabis products. A licensee shall keep a written record of the type and date of training for each employee, which shall be signed by each employee. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the Board. A licensee who fails to comply with the requirements of this section shall be subject to a suspension of not less than one day of the license issued under this chapter. (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020.)

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(Cite as: 7 V.S.A. § 866)

§ 866. Youth

(a) A cannabis establishment licensed pursuant to this chapter shall not dispense or sell cannabis to a person under 21 years of age or employ a person under 21 years of age. The Board may assess civil penalties against or suspend or revoke the license of a cannabis establishment that dispenses or sells cannabis or cannabis products to a person under 21 years of age.

(b) A cannabis establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where cannabis is located. This subsection shall not apply to a registered patient visiting a dispensary even if that dispensary is located in a building that is located on the same premises of a cannabis establishment.

(c) The Board, in consultation with the Department of Health, shall adopt rules in accordance with section 881 of this title to:

(1) prohibit cannabis products or the packaging of such products that are designed to make the product more appealing to persons under 21 years of age;

(2) prohibit the packaging of cannabis and cannabis products that is designed to make the product more appealing to persons under 21 years of age;

(3) require that cannabis products sold by licensed retailers and integrated licensees are contained in child-resistant packaging; and

(4) require that cannabis and cannabis products sold by licensed retailers and integrated licensees are packaged with labels that clearly indicate that the contents of the package contain cannabis and should be kept away from persons under 21 years of age.

(d) In accordance with section 864 of this title, advertising by a cannabis establishment shall not depict a person under 21 years of age consuming cannabis or cannabis products or be designed to be or have the effect of being particularly appealing to persons under 21 years of age. Cannabis establishments shall not advertise their products via any medium unless the licensee can show that not more than 15 percent of the audience is reasonably expected to be under 21 years of age. (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020; amended 2021, No. 62, § 7, eff. June 7, 2021.)

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(Cite as: 7 V.S.A. § 867)

§ 867. Standard symbol for cannabis

The Board shall create a standard symbol that shall be used on all cannabis and cannabis products sold by a licensed cannabis retailer to indicate that the contents of a package contain cannabis. (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020.)

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(Cite as: 7 V.S.A. § 868)

§ 868. Prohibited products

(a) The following are prohibited products and may not be cultivated, produced or sold pursuant to a license issued under this chapter:

- (1) cannabis flower with greater than 30 percent tetrahydrocannabinol;
- (2) solid concentrate cannabis products with greater than 60 percent tetrahydrocannabinol;
- (3) oil cannabis products except for those that are sold prepackaged for use with battery-powered devices;
- (4) flavored oil cannabis products sold prepackaged for use with battery-powered devices and any cannabis flower that contains characterizing flavor that is not naturally occurring in the cannabis;
- (5) cannabis products that contain delta-9 tetrahydrocannabinol and nicotine or alcoholic beverages; and
- (6) any cannabis, cannabis products, or packaging of such items that are designed to make the product more appealing to persons under 21 years of age. (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020.)

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(Cite as: 7 V.S.A. § 869)

§ 869. Cultivation of cannabis; environmental and land use standards

(a)(1) A cannabis establishment shall not be regulated as "farming" under the Required Agricultural Practices, 6 V.S.A. chapter 215, or other State law, and cannabis produced from cultivation shall not be considered an agricultural product or agricultural crop for the purposes of 32 V.S.A. chapter 124, 32 V.S.A. § 9741, or other relevant State law.

(2) Notwithstanding subdivision (1) of this subsection, the cultivation of cannabis on agricultural land and the use of farm buildings to dry or process that cannabis shall not disqualify the land or buildings from the use value appraisal program or constitute "development" under 32 V.S.A. § 3752(5), provided that:

(A) the agricultural land or farm building is enrolled in the use value appraisal program at the time cannabis cultivation commences;

(B) the agricultural land or farm building is not transferred to another owner;

(C) the cultivation, drying, or processing of cannabis is done by a licensed small cultivator on 1,000 square feet or less of agricultural land; and

(D) all other requirements under 32 V.S.A. chapter 124 continue to be met.

(b) The cultivation, processing, and manufacturing of cannabis regulated under this chapter shall comply with all applicable State, federal, and local environmental, energy, or public health law, unless otherwise provided under this chapter.

(c) A cannabis establishment regulated under this chapter shall be subject to regulation under 24 V.S.A. chapter 117 as authorized by this chapter.

(d)(1) The cultivation, processing, and manufacturing of cannabis regulated under this chapter shall comply with the following sections of the Required Agricultural Practices:

(A) section 6, regarding conditions, restriction, and operating standards;

(B) section 8, regarding groundwater quality and groundwater quality investigations; and

(C) section 12, regarding subsurface tile drainage.

(2) Application of or compliance with the Required Agricultural Practices under subdivision (1) of this subsection shall not be construed to provide a presumption of compliance with or exemption to any applicable State, federal, and local environmental, energy, public health, or land use law required under subsections (b) and (c) of this section.

(e) Persons cultivating cannabis or handling pesticides for the purposes of the manufacture of cannabis products shall comply with the worker protection standard of 40 C.F.R. part 170. (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020.)

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Subchapter 003 : Licenses

(Cite as: 7 V.S.A. § 901)

§ 901. General provisions

(a) Except as otherwise permitted by law, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing, or sale of cannabis or cannabis products without obtaining a license from the Board.

(b) All licenses shall be valid for one year and expire at midnight on the eve of the anniversary of the date the license was issued. A licensee may apply to renew the license annually.

(c) Applications for licenses and renewals shall be submitted on forms provided by the Board and shall be accompanied by the fees provided for in section 909 of this title.

(d)(1) There shall be six types of licenses available:

- (A) a cultivator license;
- (B) a wholesaler license;
- (C) a product manufacturer license;
- (D) a retailer license;
- (E) a testing laboratory license; and
- (F) an integrated license.

(2)(A) The Board shall develop tiers for:

(i) cultivator licenses based on the plant canopy size of the cultivation operation or plant count for breeding stock; and

(ii) retailer licenses.

(B) The Board may develop tiers for other types of licenses.

(3)(A) Except as provided in subdivision (B) of this subdivision (3), an applicant and its affiliates may obtain a maximum of one type of each type of license as provided in subdivisions (1)(A)-(E) of this subsection (d). Each license shall permit only one location of the establishment.

(B) An applicant and its affiliates that are a dispensary registered pursuant to 18 V.S.A. chapter 86 may obtain one integrated license provided in subdivision (1)(F) of this subsection (d) or a maximum of one of each type of license provided in subdivisions (1)(A)-(E) of this subsection (d). An integrated licensee may not hold a separate cultivator, wholesaler, product manufacturer, retailer, or testing laboratory license. An integrated license shall permit only one location for each of the types of activities permitted by the license: cultivation, wholesale operations, product manufacturing, retail sales, and testing.

(e) A dispensary that obtains a retailer license or an integrated license pursuant to this chapter shall maintain the dispensary and retail operations in a manner that protects patient and caregiver privacy in accordance with rules adopted by the Board.

(f) Each licensee shall obtain and maintain commercial general liability insurance in accordance with rules adopted by the Board. Failure to provide proof of insurance to the Board, as required, may result in revocation of the license.

(g) All licenses may be renewed according to procedures adopted through rulemaking by the Board.

(h)(1) The following records shall be exempt from public inspection and copying under the Public Records Act and shall be confidential:

(A) any record in an application for a license relating to security, public safety, transportation, or trade secrets, including information provided in an operating plan pursuant to subdivision 881(a)(1)(B) of this title; and

(B) any licensee record relating to security, public safety, transportation, trade secrets, or employees.

(2) Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption created in this subsection shall continue in effect and shall not be repealed through operation of 1 V.S.A. § 317(e). (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020.)

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(Cite as: 7 V.S.A. § 902)

§ 902. License qualifications and application process

(a) An applicant, principal of an applicant, and person who owns or controls an applicant, who is a natural person:

(1) shall be 21 years of age or older; and

(2) shall consent to the release of his or her criminal and administrative history records.

(b) As part of the application process, each applicant shall submit, in a format prescribed by the Board, an operating plan. The Board shall adopt rules regarding the required components of an application for each type of license.

(c) The Board shall obtain a fingerprint-based Vermont criminal history record, an out-of-state criminal history record, a criminal history record from the Federal Bureau of Investigation, and any regulatory records relating to the operation of a business in this State or any other jurisdiction for each of the following who is a natural person:

(1) the applicant;

(2) each proposed principal; and

(3) each individual who would control the business.

(d) An applicant who is denied a license may appeal the Board's determination in accordance with section 847 of this title. (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020.)

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(Cite as: 7 V.S.A. § 903)

§ 903. Priorities; business and technical assistance

(a) The Board shall issue licenses pursuant to this chapter as determined according to a system of priorities adopted by rule by the Board. The system of priorities shall require consideration of criteria, including:

(1) whether the applicants have an existing medical cannabis dispensary license in good standing;

(2) whether the applicants would foster social justice and equity in the cannabis industry by being a minority or women-owned business;

(3) whether the applicants propose specific plans to recruit, hire, and implement a development ladder for minorities, women, or individuals who have historically been disproportionately impacted by cannabis prohibition;

(4) whether applicants propose specific plans to pay employees a living wage and offer benefits;

(5) whether the project incorporates principles of environmental resiliency or sustainability, including energy efficiency; and

(6) the geographic distribution of cannabis establishments based on population and market needs.

(b) The Agency of Commerce and Community Development, in collaboration with the Agency of Agriculture, Food and Markets, shall provide business and technical assistance to Vermont applicants with priority for services based on criteria adopted by the Board in accordance with subsection (a) of this section.

(c) No later than September 1, 2021, the Board shall begin working with the Department of Labor, Agency of Commerce and Community Development, the Department of Corrections, and the Director of Racial Equity to develop outreach, training, and employment programs focused on providing economic opportunities to individuals who historically have been disproportionately impacted by cannabis prohibition. (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020.)

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(Cite as: 7 V.S.A. § 904)

§ 904. Cultivator license

(a) A cultivator licensed under this chapter may cultivate, process, package, label, transport, test, and sell cannabis to a licensed wholesaler, product manufacturer, retailer, integrated licensee, and dispensary.

(b) Cultivation of cannabis shall occur only in an enclosed, locked facility.

(c) Representative samples of each lot or batch of cannabis intended for human consumption shall be tested for safety and potency in accordance with rules adopted by the Board.

(d) Each cultivator shall create packaging for its cannabis.

(1) Packaging shall include:

(A) The name and registration number of the cultivator.

(B) The strain and variety of cannabis contained.

(C) The potency of the cannabis represented by the amount of tetrahydrocannabinol and cannabidiol in milligrams total and per serving.

(D) A "produced on" date reflecting the date that the cultivator finished producing the cannabis.

(E) Appropriate warnings as prescribed by the Board in rule.

(F) Any additional requirements contained in rules adopted by the Board in accordance with this chapter. Rules shall take into consideration that different labeling requirements may be appropriate depending on whether the cannabis is sold to a wholesaler, product manufacturer, or retailer.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(e)(1) Only unadulterated cannabis shall be offered for sale. If, upon inspection, the Board finds any violative pesticide residue or other contaminants of concern, the Board shall order the cannabis, either individually or in blocks, to be:

(A) put on stop-sale;

(B) treated in a particular manner; or

(C) destroyed according to the Board's instructions.

(2) Cannabis ordered destroyed or placed on stop-sale shall be clearly separable from salable cannabis. Any order shall be confirmed in writing within seven days. The order shall include the reason for action, a description of the cannabis affected, and any recommended treatment.

(3) A person may appeal an order issued pursuant to this section within 15 days after receiving the order. The appeal shall be made in writing and in accordance with section 847 of this title and shall clearly identify the cannabis affected and the basis for the appeal. (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020.)

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(Cite as: 7 V.S.A. § 904a)

§ 904a. Small cultivators

(a) It is the intent of the General Assembly to move as much of the illegal cannabis market as possible into the regulated market for the purposes of consumer protection and public safety. It is also the intent of the General Assembly to encourage participation in the regulated cannabis market by small, local farmers. In furtherance of these goals, the Board shall consider policies to promote small cultivators as defined in section 861 of this title.

(b) The application for small cultivator licenses shall be prioritized over larger cultivation licenses during the initial application period.

(c) In accordance with subdivision 881(a)(2)(B) of this chapter, the Board shall consider the different needs and risks of small cultivators when adopting rules and shall make an exception or accommodation to such rules for cultivators of this size where appropriate, provided that the rules shall not provide for an exception or accommodation to the requirements of section 869 of this title.

(d) Upon licensing, a small cultivator may sell cannabis to a licensed dispensary at any time for sale to patients and caregivers pursuant to the dispensary license or to the public pursuant to an integrated license, including the time period before retail sales are permitted for licensed cannabis retailers. (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020.)

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Subchapter 003 : Licenses

(Cite as: 7 V.S.A. § 905)

§ 905. Wholesaler license

A wholesaler licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator and integrated licensee, and cannabis products from a licensed product manufacturer, integrated licensee, and dispensary; and

(2) transport, process, package, and sell cannabis and cannabis products to a licensed product manufacturer, retailer, integrated licensee, and dispensary. (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020.)

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(Cite as: 7 V.S.A. § 906)

§ 906. Product manufacturer license

A product manufacturer licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator, wholesalers, or integrated licensee, and cannabis products from a licensed wholesaler, product manufacturer, integrated licensee, and dispensary;

(2) use cannabis and cannabis products to produce cannabis products; and

(3) transport, process, package, and sell cannabis products to a licensed wholesaler, product manufacturer, retailer, integrated licensee, and dispensary. (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020.)

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Chapter 033 : Cannabis Establishments

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(Cite as: 7 V.S.A. § 907)

§ 907. Retailer license

(a) A retailer licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator, wholesaler, or integrated licensee, and cannabis products from a licensed wholesaler, product manufacturer, integrated licensee, and dispensary; and

(2) transport, possess, and sell cannabis and cannabis products to the public for consumption off the registered premises.

(b) In a single transaction, a retailer may provide one ounce of cannabis or the equivalent in cannabis products, or a combination thereof, to a person 21 years of age or older upon verification of a valid government-issued photograph identification card.

(c)(1) Packaging shall include:

(A) the strain and variety of cannabis contained;

(B) the potency of the cannabis represented by the amount of tetrahydrocannabinol and cannabidiol in milligrams total and per serving;

(C) a "produced on" date reflecting the date that the cultivator finished producing the cannabis;

(D) appropriate warnings as prescribed by the Board in rule; and

(E) any additional requirements contained in rules adopted by the Board in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(d) A retailer shall display a safety information flyer at the point of purchase and offer a customer a copy of the flyer with each purchase. A retailer shall inform the customer that if the customer elects not to receive the flyer, the information contained in the flyer is available on the website for the Board. The flyer shall be developed by the Board in consultation with the Department of Health, posted on the Board's website, and supplied to the retailer free of charge. At a minimum, the flyer or flyers shall contain information concerning the methods for administering cannabis, the amount of time it may take for

cannabis products to take effect, the risks of driving under the influence of cannabis, the potential health risks of cannabis use, the symptoms of problematic usage, how to receive help for cannabis abuse, and a warning that cannabis possession is illegal under federal law.

(e) Internet ordering and delivery of cannabis to customers are prohibited. (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020.)

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(Cite as: 7 V.S.A. § 908)

§ 908. Testing laboratory license

(a) A testing laboratory licensed under this chapter may acquire, possess, analyze, test, and transport cannabis and cannabis products obtained from a licensed cannabis establishment, dispensary, or a member of the public.

(b) Testing may address the following:

- (1) residual solvents;
- (2) poisons or toxins;
- (3) harmful chemicals;
- (4) dangerous molds, mildew, or filth;
- (5) harmful microbials, such as E. coli or salmonella;
- (6) pesticides; and
- (7) tetrahydrocannabinol and cannabidiol potency.

(c) A testing laboratory shall have a written procedural manual made available to employees to follow meeting the minimum standards set forth in rules detailing the performance of all methods employed by the facility used to test the analytes it reports.

(d) In accordance with rules adopted pursuant to this chapter, a testing laboratory shall establish a protocol for recording the chain of custody of all cannabis samples.

(e) A testing laboratory shall establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory systems when they occur.

(f) A cannabis establishment that is subject to testing requirements under this chapter or rules adopted pursuant to this chapter shall have its cannabis or cannabis products tested by an independent licensed testing laboratory and not a licensed testing laboratory owned or controlled by the license holder of the cannabis establishment. (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020.)

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(Cite as: 7 V.S.A. § 909)

§ 909. Integrated license

(a) An integrated license shall allow the licensee to engage in the activities of a cultivator, wholesaler, product manufacturer, retailer, and testing laboratory as provided in sections 904-908 of this title.

(b) An integrated license is only available to an applicant and its affiliates that hold a dispensary registration on April 1, 2022. There shall be no more than five total integrated licenses, one for each registered dispensary. Upon compliance with all application procedures and requirements, the Board shall issue an integrated license to the applicant. The licensee shall have the right to renew the license in accordance with rules adopted by the Board. (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020.)

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Title 18 : Health

Chapter 084 : Possession And Control Of Regulated Drugs

Subchapter 001 : Regulated Drugs

(Cite as: 18 V.S.A. § 4230a)

§ 4230a. Cannabis possession by a person 21 years of age or older

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of cannabis or five grams or less of hashish and two mature cannabis plants or fewer or four immature cannabis plants or fewer or who possesses paraphernalia for cannabis use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law. The one-ounce limit of cannabis or five grams of hashish that may be possessed by a person 21 years of age or older shall not include cannabis cultivated, harvested, and stored in accordance with section 4230e of this title.

(2)(A) A person shall not consume cannabis in a public place. As used in this section, "public place" has the same meaning as provided by 7 V.S.A. § 831.

(B) A person who violates this subdivision (a)(2) shall be assessed a civil penalty as follows:

- (i) not more than \$100.00 for a first offense;
- (ii) not more than \$200.00 for a second offense; and
- (iii) not more than \$500.00 for a third or subsequent offense.

(b)(1) Cannabis possessed or consumed in violation of State law is contraband pursuant to subsection 4242(d) of this title and subject to seizure and forfeiture.

(2) This section does not:

(A) exempt a person from arrest, citation, or prosecution for being under the influence of cannabis while operating a vehicle of any kind or for consuming cannabis while operating a motor vehicle;

(B) repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of cannabis or for consuming cannabis while operating a motor vehicle;

(C) limit the authority of primary and secondary schools to impose administrative penalties for the possession of cannabis on school property;

(D) prohibit a municipality from adopting a civil ordinance to provide additional penalties for consumption of cannabis in a public place;

(E) prohibit a landlord from banning possession or use of cannabis in a lease agreement; or

(F) allow an inmate of a correctional facility to possess or use cannabis or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on offenders who use cannabis in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

(c)(1) A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated subsection (a) of this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

(d) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation, which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Awareness Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Awareness Safety Program as required by section 4230b of this title.

(e) Nothing in this section shall be construed to do any of the following:

(1) require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of cannabis in the workplace;

(2) prevent an employer from adopting a policy that prohibits the use of cannabis in the workplace;

(3) create a cause of action against an employer that discharges an employee for violating a policy that restricts or prohibits the use of cannabis by employees; or

(4) prevent an employer from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of cannabis on the employer's premises. (Added 2013, No. 76, § 2; amended 2013, No. 95 (Adj. Sess.), § 81, eff. Feb. 25, 2014; 2013, No. 194 (Adj. Sess.), § 13; 2017, No. 86 (Adj. Sess.), § 4; 2019, No. 164 (Adj. Sess.), § 30, eff. Oct. 7, 2020; 2019, No. 167 (Adj. Sess.), § 3, eff. Oct. 7, 2020; 2021, No. 20, § 73.)

The Vermont Statutes Online

Title 18 : Health

Chapter 084 : Possession And Control Of Regulated Drugs

Subchapter 001 : Regulated Drugs

(Cite as: 18 V.S.A. § 4230b)

§ 4230b. Cannabis possession by a person 16 years of age or older and under 21 years of age; civil violation

(a) Offense. A person 16 years of age or older and under 21 years of age who knowingly and unlawfully possesses one ounce or less of cannabis or five grams or less of hashish or two mature cannabis plants or fewer or four immature cannabis plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and

(2) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.

(b) Issuance of notice of violation. A law enforcement officer shall issue a person who violates this section with a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:

(1) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;

(2) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty and a suspension of the person's operator's license and may face substantially increased insurance rates;

(3) no money should be submitted to pay any penalty until after adjudication; and

(4) the person shall notify the Diversion Program if the person's address changes.

(c) Summons and complaint. When a person is issued a notice of violation under this section, the law enforcement officer shall complete a summons and complaint for the offense and send it to the Diversion Program in the county where the offense occurred. The summons and complaint shall not be filed with the Judicial Bureau at that time.

(d) Registration in Youth Substance Awareness Safety Program. Within 15 days after receiving a notice of violation, the person shall contact the Diversion Program in the county where the offense occurred and register for the Youth Substance Awareness Safety Program. If the person fails to do so, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(e) Notice to report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse assessment or substance abuse counseling, or both.

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse assessment or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, the person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially.

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse assessment or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

(f) Diversion Program requirements.

(1) Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Awareness Safety Program. Pursuant to the Youth Substance Awareness Safety Program, the Diversion Program shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a State-certified or State-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

(2) Substance abuse screening required under this subsection shall be completed within 60 days after the Diversion Program receives a summons and complaint. The person shall complete all conditions at his or her own expense.

(3) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense which the Diversion Program has imposed, the Diversion Program shall:

(A) Void the summons and complaint with no penalty due.

(B) Send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau under this subdivision, the Diversion Program shall redact all language containing the person's name, address, Social Security number, and any other information which identifies the person.

(4) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program or if the person fails to pay the Diversion Program any required Program fees, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(5) A person aggrieved by a decision of the Diversion Program or alcohol counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(g) [Repealed.]

(h) Record of adjudications. Upon adjudicating a person in violation of this section, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such adjudications, which shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this section. (Added 2013, No. 76, § 2; amended 2015, No. 147 (Adj. Sess.), § 12, eff. May 31, 2016; 2017, No. 86 (Adj. Sess.), § 5; 2019, No. 167 (Adj. Sess.), § 6, eff. Oct. 7, 2020.)

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Title 24 : Municipal And County Government

Chapter 061 : Regulatory Provisions; Police Power Of Municipalities

Subchapter 011 : Miscellaneous Regulatory Powers

(Cite as: 24 V.S.A. § 2291)

§ 2291. Enumeration of powers

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

(1) To set off portions of public highways of the municipality for sidewalks and bicycle paths and to regulate their use.

(2) To provide for the removal of snow and ice from sidewalks by the owner, occupant, or person having charge of abutting property.

(3) To provide for the location, protection, maintenance, and removal of trees, plants, and shrubs and buildings or other structures on or above public highways, sidewalks, or other property of the municipality.

(4) To regulate the operation and use of vehicles of every kind including the power: to erect traffic signs and signals; to regulate the speed of vehicles subject to 23 V.S.A. chapter 13, subchapter 12; to regulate or exclude the parking of all vehicles; and to provide for waiver of the right of appearance and arraignment in court by persons charged with parking violations by payment of specified fines within a stated period of time.

(5) To establish rules for pedestrian traffic on public highways and to establish crosswalks.

(6) To regulate the location, installation, maintenance, repair, and removal of utility poles, wires and conduits, water pipes or mains, or gas mains and sewers, upon, under, or above public highways or public property of the municipality.

(7) To regulate or prohibit the erection, size, structure, contents, and location of signs, posters, or displays on or above any public highway, sidewalk, lane, or alleyway of the municipality and to regulate the use, size, structure, contents, and location of signs on private buildings or structures.

(8) To regulate or prohibit the use or discharge, but not possession, of firearms within the municipality or specified portions thereof, provided that an ordinance adopted under this subdivision shall be consistent with section 2295 of this title and shall not prohibit, reduce, or limit discharge at any existing sport shooting range, as that term is defined in 10 V.S.A. § 5227.

(9) To license or regulate itinerant vendors, peddlers, door-to-door salesmen, and those selling goods, wares, merchandise, or services who engage in a transient or temporary business, or who sell from an automobile, truck, wagon, or other conveyance, excepting persons selling fruits, vegetables, or other farm produce.

(10) To regulate the keeping of dogs, and to provide for their licensing, leashing, muzzling, restraint, impoundment, and destruction.

(11) To regulate, license, tax, or prohibit circuses, carnivals, and menageries and all plays, concerts, entertainments, or exhibitions of any kind for which money is received.

(12) To regulate or prohibit the storage or dumping of solid waste, as defined in 10 V.S.A. § 6602. These regulations may require the separation of specified components of the waste stream.

(13) To compel the cleaning or repair of any premises that in the judgment of the legislative body is dangerous to the health or safety of the public.

(14) To define what constitutes a public nuisance, and to provide procedures and take action for its abatement or removal as the public health, safety, or welfare may require.

(15) To provide for penalties for violation of any ordinance or rule adopted under the authority of this section.

(16) To name and rename streets and to number and renumber lots pursuant to section 4463 of this title, and to require the owner of a house or other building to which a number has been assigned to affix the number, including the assigned 911 address, to the structure, sign, or number post so that it is clearly visible from the road.

(17) To regulate or prohibit possession of open or unsealed containers of alcoholic beverages in public places.

(18) To regulate or prohibit consumption of alcoholic beverages in public places.

(19) To regulate the construction, alteration, development, and decommissioning or dismantling of wireless telecommunications facilities and ancillary improvements where the city, town, or village has not adopted zoning or where those activities are not regulated pursuant to a duly adopted zoning bylaw. Regulations regarding the decommissioning or dismantling of telecommunications facilities and ancillary structures may include requirements that bond be posted, or other security acceptable to the legislative body, in order to finance facility decommissioning or dismantling activities. These regulations are not intended to prohibit seamless coverage of wireless telecommunications services. With respect to the construction or alteration of wireless telecommunications facilities subject to regulation granted in this section, the town, city, or incorporated village shall vest in its local regulatory authority the power to determine whether the installation of a wireless telecommunications facility, whatever its size, will impose no impact or merely a de minimis impact on the surrounding area and the overall pattern of land development, and if the local regulatory authority, originally or on appeal, determines that the facility will impose no

impact or a de minimis impact, it shall issue a permit. No ordinance authorized by this section, except to the extent structured to protect historic landmarks and structures listed on the State or National Register of Historic Places, may have the purpose or effect of limiting or prohibiting a property owner's ability to place or allow placement of antennae used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the aggregate area of the largest faces of the antennae is not more than eight square feet, and if the antennae and the mast to which they are attached do not extend more than 12 feet above the roof of that portion of the building to which they are attached.

(20) To establish a conflict-of-interest policy to apply to all elected and appointed officials of the town, city, or incorporated village or ethical conduct policies to apply to all elected and appointed officials and employees of the municipality, or both.

(21) To regulate, by means of a civil ordinance adopted pursuant to chapter 59 of this title, subject to the limitations of 13 V.S.A. § 351b and the requirement of 13 V.S.A. § 354(a), and consistent with the rules adopted by the Secretary of Agriculture, Food and Markets, pursuant to 13 V.S.A. § 352b(a), the welfare of animals in the municipality. Such ordinance may be enforced by humane officers as defined in 13 V.S.A. § 351, if authorized to do so by the municipality.

(22) To regulate the sale and conveyance of sewage capacity to users, including phasing provisions and other conditions based on the impact of residential, commercial, or industrial growth within a town, in accord with principles in a duly adopted town plan.

(23) Acting individually or in concert with other towns, cities, or incorporated villages and pursuant to chapter 87, subchapter 2 of this title, to incur indebtedness for or otherwise finance by any means permitted under chapter 53 of this title projects relating to renewable energy, as defined in 30 V.S.A. § 8002(17), or to eligible energy efficiency projects undertaken by owners of real property within the boundaries of the town, city, or incorporated village. Energy efficiency projects shall be those that are eligible under section 3267 of this title.

(24) Upon the determination by a municipal building inspector, health officer, or fire marshal that a building within the boundaries of the town, city, or incorporated village is uninhabitable, to recover all expenses incident to the maintenance of the uninhabitable building with the expenses to constitute a lien on the property in the same manner and to the same extent as taxes assessed on the grand list, and all procedures and remedies for the collection of taxes shall apply to the collection of those expenses; provided, however, that the town, city, or incorporated village has adopted rules to determine the habitability of a building, including provisions for notice in accordance with 32 V.S.A. § 5252(3) to the building's owner prior to incurring expenses and including provisions for an administrative appeals process.

(25) To regulate by means of an ordinance or bylaw development in a flood hazard area, river corridor protection area, or other hazard area consistent with the requirements of section 4424 of this title and the National Flood Insurance Program. Such an ordinance or bylaw may regulate accessory dwelling units in flood hazard and fluvial erosion areas. However, such an ordinance or bylaw shall not require the filing of an application or the issuance of a permit or other approval by the municipality for a planting project considered to have a permit by operation of subsection 4424(c) of this title.

(26) To regulate parking lots and parking meters on public property or public highways of the municipality, including the power to set parking fees and use parking revenues for any municipal purpose. Projects relating to parking lots and parking meters under this subdivision shall constitute an improvement under chapter 53 of this title, and a municipality shall have the right of eminent domain to condemn land necessary for such projects subject to the restrictions set forth in section 2805 of this title and 18 V.S.A. § 5318.

(27) When a disaster or emergency has been declared by the Governor, a municipal building inspector, health officer, fire marshal, or zoning administrator may declare condemned to be destroyed a property that has been damaged in the disaster or emergency and is dangerous to life, health, or safety due to the disaster-related damage. The local legislative body may require that an official receive training on disaster-related condemnation before he or she may condemn property under this subdivision. The owner of property condemned under this subdivision may appeal the condemnation according to the condemnation appeals procedure of chapter 83 of this title, provided that any appeal to the Superior Court shall be to the Civil Division.

(28) Notwithstanding any contrary provision of sections 2291a and 4413 of this title or 30 V.S.A. chapter 5 or 89, a municipality may adopt an ordinance to establish screening requirements that shall apply to a ground-mounted plant that generates electricity from solar energy. In a proceeding under 30 V.S.A. § 248, the municipality may make recommendations to the Public Utility Commission applying the ordinance to such a plant. The ordinance may designate the municipal body to make this recommendation. Screening requirements and recommendations adopted under this subdivision shall be a condition of a certificate of public good issued for the plant under 30 V.S.A. § 248, provided that they do not prohibit or have the effect of prohibiting the installation of such a plant and do not have the effect of interfering with its intended functional use.

(A) Screening requirements under this subdivision shall not be more restrictive than screening requirements applied to commercial development in the municipality under chapter 117 of this title or, if the municipality does not have other bylaws except flood hazard, 10 V.S.A. chapter 151.

(B) In this subdivision (28), "plant" shall have the same meaning as in 30 V.S.A. § 8002 and "screening" means reasonable aesthetic mitigation measures to harmonize a facility with its surroundings and includes landscaping, vegetation, fencing, and topographic features.

(C) This subdivision (28) shall not authorize requiring a municipal permit for a solar electric generation plant. Notwithstanding any contrary provision of this title, enforcement of an ordinance adopted under this subdivision shall be pursuant to the provisions of 30 V.S.A. § 30 applicable to violations of 30 V.S.A. § 248.

(29) To regulate by means of an ordinance or bylaw the operation of short-term rentals within the municipality, provided that the ordinance or bylaw does not adversely impact the availability of long-term rental housing. As used in this subdivision, "short-term rental" means a furnished house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year. (Added 1969, No. 170 (Adj. Sess.), § 9, eff. March 2, 1970; amended 1977, No. 61, § 2; 1987, No. 70, eff. June 2, 1987; 1991, No. 108, § 1; 1993, No. 211 (Adj. Sess.), § 15, eff. June 17, 1994; 1997, No. 94 (Adj. Sess.), § 2, eff. April 15, 1998; 1999, No. 82 (Adj. Sess.), § 1; 2001, No. 82 (Adj. Sess.), § 1; 2003, No. 42, § 2, eff. May 27, 2003; 2003, No. 63, § 51, eff. June 11, 2003; 2005, No. 173 (Adj. Sess.), § 3, eff. May 22, 2006; 2007, No. 79, § 14, eff. June 9, 2007; 2007, No. 121 (Adj. Sess.), § 19; 2009, No. 45, § 15g; 2009, No. 160 (Adj. Sess.), § 9, eff. June 4, 2010; 2011, No. 53, §§ 14a, 14d(2), eff. May 27, 2011; 2011, No. 138 (Adj. Sess.), § 15, eff. May 14, 2012; 2011, No. 155 (Adj. Sess.), § 8; 2013, No. 16, § 6, eff. May 6, 2013; 2013, No. 122 (Adj. Sess.), § 2; 2013, No. 162 (Adj. Sess.), § 11; 2015, No. 56, § 26e, eff. June 11, 2015; 2017, No. 4, § 3, eff. March 6, 2017; 2017, No. 74, § 99; 2017, No. 79, § 15, eff. June 14, 2017; 2019, No. 131 (Adj. Sess.), § 255; 2019, No. 179 (Adj. Sess.), § 3, eff. Oct. 12, 2020.)

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Title 24 : Municipal And County Government

Chapter 117 : Municipal And Regional Planning And Development

Subchapter 007 : Bylaws

(Cite as: 24 V.S.A. § 4414)

§ 4414. Zoning; permissible types of regulations

Any of the following types of regulations may be adopted by a municipality in its bylaws in conformance with the plan and for the purposes established in section 4302 of this title.

(1) Zoning districts. A municipality may define different and separate zoning districts, and identify within these districts which land uses are permitted as of right, and which are conditional uses requiring review and approval, including the districts set forth in this subdivision (1).

(A) Downtown, village center, new town center, and growth center districts. The definition or purpose stated for local downtown, village center, new town center, or growth center zoning districts should conform with the applicable definitions in section 2791 of this title. Municipalities may adopt downtown, village center, new town center, or growth center districts without seeking State designation under chapter 76A of this title. A municipality may adopt a manual of graphic or written design guidelines to assist applicants in the preparation of development applications. The following objectives should guide the establishment of boundaries, requirements, and review standards for these districts:

(i) To create a compact settlement oriented toward pedestrian activity and including an identifiable neighborhood center, with consistently higher densities than those found in surrounding districts.

(ii) To provide for a variety of housing types, jobs, shopping, services, and public facilities with residences, shops, workplaces, and public buildings interwoven within the district, all within close proximity.

(iii) To create a pattern of interconnecting streets and blocks, consistent with historic settlement patterns, that encourages multiple routes from origins to destinations.

(iv) To provide for a coordinated transportation system with a hierarchy of appropriately designed facilities for pedestrians, bicycles, public transit, and automotive vehicles.

(v) To provide for natural features and undisturbed areas that are incorporated into the open space of the neighborhood as well as historically compatible squares, greens, landscaped streets, and parks woven into the pattern of the neighborhood.

(vi) To provide for public buildings, open spaces, and other visual features that act as landmarks, symbols, and focal points for community identity.

(vii) To ensure compatibility of buildings and other improvements as determined by their arrangement, building bulk, form, design, character, and landscaping to establish a livable, harmonious, and diverse environment.

(viii) To provide for public and private buildings that form a consistent, distinct edge, are oriented toward streets, and define the border between the public street space and the private block interior.

(B) Agricultural, rural residential, forest, and recreational districts. Where, for the purposes set forth in section 4302 of this title, it is deemed necessary to safeguard certain areas from urban or suburban development and to encourage that development in other areas of the municipality or region, the following districts may be created:

(i) Agricultural or rural residential districts, permitting all types of agricultural uses and prohibiting all other land development except low density residential development.

(ii) Forest districts, permitting commercial forestry and related uses and prohibiting all other land development.

(iii) Recreational districts, permitting camps, ski areas, and related recreational facilities, including lodging for transients and seasonal residents, and prohibiting all other land development except construction of residences for occupancy by caretakers and their families.

(C) Airport hazard area. In accordance with 5 V.S.A. chapter 17, any municipality may adopt special bylaws governing the use of land, location, and size of buildings and density of population within a distance of two miles from the boundaries of an airport under an approach zone and for a distance of one mile from the boundaries of the airport elsewhere. The designation of that area and the bylaws applying within that area shall be in accord with applicable airport zoning guidelines, if any, adopted by the Vermont Transportation Board.

(D) Shorelands.

(i) A municipality may adopt bylaws to regulate shorelands as defined in 10 V.S.A. § 1422 to prevent and control water pollution; preserve and protect wetlands and other terrestrial and aquatic wildlife habitat; conserve the scenic beauty of shorelands; minimize shoreline erosion; reserve public access to public waters; and achieve other municipal, regional, or State shoreland conservation and development objectives.

(ii) Shoreland bylaws may regulate the design and maintenance of sanitary facilities; regulate filling of and other adverse alterations to wetlands and other wildlife habitat areas; control building location; require the provision and maintenance of vegetation; require provisions for access to public waters for all residents and owners of the development; and impose other requirements authorized by this chapter.

(E) Design review districts. Bylaws may contain provisions for the establishment of design review districts. Prior to the establishment of such a district, the planning commission shall prepare a report describing the particular planning and design problems of the proposed district and setting forth a design plan for the areas which shall include recommended planning and design criteria to guide future development. The planning commission shall hold a public hearing, after public notice, on that report. After this hearing, the planning commission may recommend to the legislative body a design review district as a bylaw amendment. A design review district may be created for any area containing structures of historical, architectural, or cultural merit, and other areas in which there is a concentration of community interest and participation such as a central business district, civic center, or a similar grouping or focus of activities. These areas may include townscape areas that resemble in important aspects the earliest permanent settlements, including a concentrated urban settlement with striking vistas, views extending across open fields and up to the forest edge, a central focal point and town green, and buildings of high architectural quality, including styles of the early 19th century. Within such a designated design review district, no structure may be erected, reconstructed, substantially altered, restored, moved, demolished, or changed in use or type of occupancy without approval of the plans by the appropriate municipal panel. A design review board may be appointed by the legislative body of the municipality, in accordance with section 4433 of this title, to advise any appropriate municipal panel.

(F) Local historic districts and landmarks.

(i) Bylaws may contain provisions for the establishment of historic districts and the designation of historic landmarks. Historic districts shall include structures and areas of historic or architectural significance and may include distinctive design or landscape characteristics, areas, and structures with a particular relationship to the historic and cultural values of the surrounding area, and structures whose exterior architectural features bear a significant relationship to the remainder of the structures or to the surrounding area. Bylaws may reference National and State Registers of Historic Places, properties, and districts. A report prepared under section 4441 of this title with respect to the establishment of a local historic district or designation of an historic landmark shall contain a map that clearly delineates the boundaries of the local historic district or landmark, justification for the boundary, a description of the elements of the resources that are integral to its historical, architectural, and cultural significance, and a statement of the significance of the local historic district or landmark.

(ii) With respect to external appearances and other than normal maintenance, no structure within a designated historic district may be rehabilitated, substantially altered, restored, moved, demolished, or changed, and no new structure within an historic district may be erected without approval of the plans therefor by the appropriate municipal panel. The panel shall consider the following in its review of plans submitted:

(l) The historic or architectural significance of the structure, its distinctive characteristics, and its relationship to the historic significance of the surrounding area.

(II) The relationship of the proposed changes in the exterior architectural features of the structure to the remainder of the structure and to the surrounding area.

(III) The general compatibility of the proposed exterior design, arrangement, texture, and materials proposed to be used.

(IV) Any other factors, including the environmental setting and aesthetic factors that the panel deems to be pertinent.

(iii) When an appropriate municipal panel is reviewing an application relating to an historic district, the panel:

(I) Shall be strict in its judgment of plans for those structures deemed to be valuable under subdivision (1)(F)(i) of this section, but is not required to limit new construction, alteration, or repairs to the architectural style of any one period, but may encourage compatible new design.

(II) If an application is submitted for the alteration of the exterior appearance of a structure or for the moving or demolition of a structure deemed to be significant under subdivision (1)(F)(i) of this section, shall meet with the owner of the structure to devise an economically feasible plan for the preservation of the structure.

(III) Shall approve an application only when the panel is satisfied that the proposed plan will not materially impair the historic or architectural significance of the structure or surrounding area.

(IV) In the case of a structure deemed to be significant under subdivision (1)(F)(i) of this section, may approve the proposed alteration despite subdivision (1)(F)(ii)(III) of this section if the panel finds either or both of the following:

(aa) The structure is a deterrent to a major improvement program that will be of clear and substantial benefit to the municipality.

(bb) Retention of the structure would cause undue financial hardship to the owner.

(iv) This subdivision (1)(F), and bylaws issued pursuant to it, shall apply to designation of individual landmarks as well as to designation of local historic districts. A landmark is any individual building, structure, or site that by itself has a special historic, architectural, or cultural value.

(v) The provisions of this subdivision (1)(F) shall not in any way apply to or affect buildings, structures, or land within the "Capitol complex," as defined in 29 V.S.A. chapter 6.

(G) River corridors and buffers. In accordance with section 4424 of this title, a municipality may adopt bylaws to protect river corridors and buffers, as those terms are defined in 10 V.S.A. §§ 1422 and 1427, in order to protect public safety; prevent and control water pollution; prevent and control stormwater runoff; preserve and protect wetlands and waterways; maintain and protect natural channel, streambank, and floodplain stability; minimize fluvial erosion and damage to property and transportation infrastructure; preserve

and protect the habitat of terrestrial and aquatic wildlife; promote open space and aesthetics; and achieve other municipal, regional, or State conservation and development objectives for river corridors and buffers. River corridor and buffer bylaws may regulate the design and location of development; control the location of buildings; require the provision and maintenance or reestablishment of vegetation, including no net loss of vegetation; require screening of development or use from waters; reserve existing public access to public waters; and impose other requirements authorized by this chapter.

(2) Overlay districts. Special districts may be created to supplement or modify the zoning requirements otherwise applicable in underlying districts in order to provide supplementary provisions for areas such as shorelands and floodplains, aquifer and source protection areas, ridgelines and scenic features, highway intersection, bypass, and interchange areas, or other features described in section 4411 of this title.

(3) Conditional uses.

(A) In any district, certain uses may be allowed only by approval of the appropriate municipal panel, if general and specific standards to which each allowed use must conform are prescribed in the appropriate bylaws and if the appropriate municipal panel, under the procedures in subchapter 10 of this chapter, determines that the proposed use will conform to those standards. These general standards shall require that the proposed conditional use shall not result in an undue adverse effect on any of the following:

(i) The capacity of existing or planned community facilities.

(ii) The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.

(iii) Traffic on roads and highways in the vicinity.

(iv) Bylaws and ordinances then in effect.

(v) Utilization of renewable energy resources.

(B) The general standards set forth in subdivision (3)(A) of this section may be supplemented by more specific criteria, including requirements with respect to any of the following:

(i) Minimum lot size.

(ii) Distance from adjacent or nearby uses.

(iii) Performance standards, as under subdivision (5) of this section.

(iv) Criteria adopted relating to site plan review pursuant to section 4416 of this

title.

(v) Any other standards and factors that the bylaws may include.

(C) One or more of the review criteria found in 10 V.S.A. § 6086 may be adopted as standards for use in conditional use review.

(D) A multiunit dwelling project consisting of four or fewer units located in a district allowing multiunit dwellings may not be denied solely due to an undue adverse effect on the character of the area affected.

(4) Parking and loading facilities. A municipality may adopt provisions setting forth standards for permitted and required facilities for off-street parking and loading which may vary by district and by uses within each district. These bylaws may also include provisions covering the location, size, design, access, landscaping, and screening of those facilities. In determining the number and size of parking spaces required under these regulations, the appropriate municipal panel may take into account the existence or availability of employer "transit pass" and rideshare programs, public transit routes, and public parking spaces in the vicinity of the development.

(5) Performance standards. As an alternative or supplement to the listing of specific uses permitted in districts, including those in manufacturing or industrial districts, bylaws may specify acceptable standards or levels of performance that will be required in connection with any use. These bylaws shall specifically describe the levels of operation that are acceptable and not likely to affect adversely the use of the surrounding area by the emission of such dangerous or objectionable elements as noise, vibration, smoke, dust, odor, or other form of air pollution, heat, cold, dampness, electromagnetic, or other disturbance, glare, liquid, or solid refuse or wastes; or create any dangerous, injurious, noxious, fire, explosive, or other hazard. The land planning policies and development bylaws manual prepared pursuant to section 4304 of this title shall contain recommended forms of alternative performance standards, and the assistance of the Agency of Commerce and Community Development shall be available to any municipality that requests aid in the application or enforcement of these bylaws.

(6) Access to renewable energy resources. Any municipality may adopt zoning and subdivision bylaws to encourage energy conservation and to protect and provide access to, among others, the collection or conversion of direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat, and geothermal sources, including those recommendations contained in the adopted municipal plan, regional plan, or both. The bylaw shall establish a standard of review in conformance with the municipal plan provisions required pursuant to subdivision 4382(a)(9) of this title.

(7) Inclusionary zoning. In order to provide for affordable housing, bylaws may require that a certain percentage of housing units in a proposed subdivision, planned unit development, or multi-unit development meets defined affordability standards, which may include lower income limits than contained in the definition of "affordable housing" in subdivision 4303(1) of this title and may contain different affordability percentages than contained in the definition of "affordable housing development" in subdivision 4303(2) of this title. These provisions, at a minimum, shall comply with all the following:

(A) Be in conformance with specific policies of the housing element of the municipal plan.

(B) Be determined from an analysis of the need for affordable rental and sale housing units in the community.

(C) Include development incentives that contribute to the economic feasibility of providing affordable housing units, such as density bonuses, reductions or waivers of minimum lot, dimensional or parking requirements, reductions or waivers of applicable fees, or reductions or waivers of required public or nonpublic improvements.

(D) Require, through conditions of approval, that once affordable housing is built, its availability will be maintained through measures that establish income qualifications for renters or purchasers, promote affirmative marketing, and regulate the price, rent, and resale price of affordable units for a time period specified in the bylaws.

(8) Waivers.

(A) A bylaw may allow a municipality to grant waivers to reduce dimensional requirements, in accordance with specific standards that shall be in conformance with the plan and the goals set forth in section 4302 of this title. These standards may:

(i) allow mitigation through design, screening, or other remedy;

(ii) allow waivers for structures providing for disability accessibility, fire safety, and other requirements of law; and

(iii) provide for energy conservation and renewable energy structures.

(B) If waivers from dimensional requirements are provided, the bylaws shall specify the process by which these waivers may be granted and appealed.

(9) Stormwater management and control. Any municipality may adopt bylaws to implement stormwater management and control consistent with the program developed by the Secretary of Natural Resources pursuant to 10 V.S.A. § 1264.

(10) Time-share projects. The bylaws may require that time-share projects consisting of five or more time-share estates or licenses be subject to development review.

(11) Archaeological resources. A municipality may adopt bylaws for the purpose of regulating archaeological sites and areas that may contain significant archaeological sites to make progress toward attaining the goals in the municipal plan concerning the protection of archaeological sites.

(12) Wireless telecommunications facilities and ancillary improvements. A municipality may adopt bylaws to regulate wireless telecommunications facilities and ancillary improvements in a manner consistent with State or federal law. These bylaws may include requiring the decommissioning or dismantling of wireless telecommunications facilities and

ancillary improvements, and may establish requirements that a bond be posted, or other security acceptable to the legislative body, in order to finance facility decommissioning or dismantling activities.

(13)(A) Wastewater and potable water supply systems. A municipality may adopt bylaws that:

(i) prohibit the initiation of construction under a zoning permit unless and until a wastewater and potable water supply permit is issued under 10 V.S.A. chapter 64; or

(ii) establish an application process for a zoning or subdivision permit, under which an applicant may submit a permit application for municipal review, and the municipality may condition the issuance of a final permit upon issuance of a wastewater and potable water supply permit under 10 V.S.A. chapter 64.

(B) For purposes of an appeal of a permit issued under a bylaw adopted under this subdivision (13), the appealable decision of the municipality shall be the issuance or denial of a final zoning or subdivision permit and not the requirement to condition issuance of a permit on issuance of a wastewater and potable water supply permit under 10 V.S.A. chapter 64.

(14) Green development incentives. A municipality may encourage the use of low-embodied energy in construction materials, planned neighborhood developments that allow for reduced use of fuel for transportation, and increased use of renewable technology by providing for regulatory incentives, including increased densities and expedited review.

(15) Solar plants; screening. Notwithstanding any contrary provision of sections 2291a and 4413 of this title or 30 V.S.A. chapter 5 or 89, a municipality may adopt a freestanding bylaw to establish screening requirements that shall apply to a ground-mounted plant that generates electricity from solar energy. In a proceeding under 30 V.S.A. § 248, the municipality may make recommendations to the Public Utility Commission applying the bylaw to such a plant. The bylaw may designate the municipal body to make this recommendation. Screening requirements and recommendations adopted under this subdivision shall be a condition of a certificate of public good issued for the plant under 30 V.S.A. § 248, provided that they do not prohibit or have the effect of prohibiting the installation of such a plant and do not have the effect of interfering with its intended functional use.

(A) Screening requirements under this subdivision shall not be more restrictive than screening requirements applied to commercial development in the municipality under this chapter or, if the municipality does not have other bylaws except flood hazard, 10 V.S.A. chapter 151.

(B) In this section, "plant" shall have the same meaning as in 30 V.S.A. § 8002 and "screening" means reasonable aesthetic mitigation measures to harmonize a facility with its surroundings and includes landscaping, vegetation, fencing, and topographic features.

(C) This subdivision (15) shall not authorize requiring a municipal land use permit for a solar electric generation plant, and a municipal action under this subdivision shall not be subject to the provisions of subchapter 11 (appeals) of this chapter. Notwithstanding any contrary provision of this title, enforcement of a bylaw adopted under this subdivision shall be pursuant to the provisions of 30 V.S.A. § 30 applicable to violations of 30 V.S.A. § 248. (Added 2003, No. 115 (Adj. Sess.), § 95; amended 2005, No. 183 (Adj. Sess.), § 5; 2007, No. 32, § 4; 2007, No. 79, § 15; 2007, No. 32, § 4a, eff. May 18, 2007; 2007, No. 79, § 15a, eff. June 9, 2007; 2007, No. 209 (Adj. Sess.), § 11; 2009, No. 110 (Adj. Sess.), § 7; 2009, No. 145 (Adj. Sess.), § 2, eff. June 1, 2010; 2013, No. 147 (Adj. Sess.), § 14, eff. June 1, 2014; 2015, No. 56, § 26d, eff. June 11, 2015; 2019, No. 179 (Adj. Sess.), § 2, eff. Oct. 12, 2020.)