



Planning & Zoning Office
Town of Richmond
P.O. Box 285
Richmond, VT 05477
(802) 434-2430

TO: Richmond Selectboard

FROM: Ravi Venkataraman, Town Planner

DATE: December 16, 2022

SUBJECT: Retail Cannabis and Local Cannabis Control Commission Authority

To follow up previous discussions on retail cannabis, the purpose of this memo is to overview the authority of local cannabis control commissions.

In summation:

- The Town may create a local cannabis control commission.
- The local cannabis control commission would issue licenses for retail, cultivation, manufacturing, wholesaling, testing, and processing establishments.
 - Towns cannot prohibit the operation of cannabis establishments through any ordinance.
 - Currently, cultivation, manufacturing, wholesaling, testing and processing establishments could be permitted in town according to the use that best fits the establishment, such as light manufacturing, wholesale trade, and research laboratory uses.
- This local commission may issue and administer local control licenses, as well as place conditions of approval.
- The local cannabis control commission's regulatory authority is limited to the Zoning Regulations and any ordinances related to public nuisances adopted under 24 V.S.A. §2291 (such as the town's public indecency ordinance and animal control ordinance). Any conditions of approval must be based on the Zoning Regulations or any other public nuisance ordinances in effect.
- The local cannabis control commission must issue a decision within 60 days of receiving an application. This 60-day period may be tolled if the commission is communicating with the applicant about the approval conditions.
- Based on State Cannabis Control Board Guidance to local cannabis control commissions, it appears local licenses are valid for one year, commensurate with the one-year term for State licenses issued by the Cannabis Control Board pursuant to 7 V.S.A. § 901(b).
- If the local cannabis control commission finds the applicant to be out of compliance with the Zoning Regulations, the conditions placed on the approval of the license, and/or a state cannabis control commission license, the local cannabis control commission can suspend or revoke the license.
 - The local cannabis control commission can react to violations much quicker than zoning. If the commission discovers a violation, it could theoretically call a special meeting and suspend a license almost immediately and within about a week. In comparison, resolving apparent zoning violations would take months at least, based on the procedures stipulated in statute and delays typically associated with litigation.

- Licensing from the local cannabis control commission does not absolve the applicant from obtaining the required zoning permits. Typical processes require the applicant to obtain all required zoning permits before seeking approval from the local cannabis control commission.
 - The Zoning Permit process and the local cannabis control commission process are separate. Theoretically, the local cannabis control commission could place conditions that are beyond a DRB's conditions of approval, or deny an application that has been permitted by the DRB, depending on the local cannabis control commission's findings and the alignment of the findings with the Zoning Regulations and public nuisance ordinances. This outcome should be viewed as unlikely but in theory possible.
- The local cannabis control commission can revoke licenses or choose not to renew licenses if it finds the applicant to be out of compliance with the Zoning Regulations, public nuisance ordinances, and/or any approval conditions.
- The town cannot assess any fees for local cannabis control commission-issued licenses.
- The Town can establish a cannabis control commission and zoning provisions before it chooses to opt into retail cannabis.

If the local cannabis control commission's authority is limited to zoning and public nuisance ordinances, what is the local cannabis control commission's authority?

Regarding public nuisance ordinances, the local cannabis control commission has the authority to place conditions to maintain standards in any public nuisance ordinances as enacted per [24 V.S.A. §2291](#).

In Richmond's case, many of these powers are written into the Zoning Regulations. The Zoning Regulations stipulate requirements for uses and structures based on location. Such requirements include building form standards, parking, landscaping, screening, access, circulation, lighting, signage, permitting requirements for uses, and performance standards. Performance standards include regulations on:

- Noise (Section 4.9)
- Exterior lighting (Section 4.10)
- Vibrations (Section 4.12)
- Odors (Section 4.12)
- Smoke (Section 4.12)
- Dust (Section 4.12)
- Noxious gases (Section 4.12)
- Storage of hazardous materials (Section 4.12)
- Undue adverse impacts on municipal facilities and services (Section 4.12) – This could entail undue water inflows, undue wastewater outflows, severe impacts on emergency services that impede the town's ability to provide services, or undue severe traffic impacts that affect the highway department and emergency services.
- Heat (Section 4.12)

All of these aspects can be taken into account when a local cannabis control commission reviews applications. The local cannabis control commission can place conditions of approval based on these standards, such as additional landscaping or screening depending on the location and surrounding uses, or pedestrian amenities depending on the location.

Additionally, the local cannabis commission has a greater ability than zoning to monitor and evaluate retail cannabis establishments for compliance with the zoning regulations. As mentioned above, if the local cannabis control commission discovers compliance issues, the commission can react to these issues

much quicker than zoning. The local cannabis control commission also has the ability take into consideration adverse impacts that have occurred or are occurring when it reviews license applications annually.

If the Town chooses to opt in, what would the local approval process for a retail cannabis establishment be?

1. **Permitting.** Per the current Zoning Regulations, an applicant would be able to establish a retail cannabis establishment in any location in town that allows for retail services. The applicant could choose to classify as:
 - Retail sales/business – If the establishment is in particular parts of the village or the Exit 11 area.
 - Pharmacy – If the establishment is in the Bridge Street commercial block or Jolina Court
 - An accessory retail use to a light manufacturing use in the Gateway
 - Adaptive Use – If the establishment is in a building that is at least 50 years old, has a minimum 4,000 square feet, and has architectural or historical significance
 - Cottage Industry – If the establishment is associated with a single-family dwelling and fulfills the requirements under Section 5.6.6
 - Commercial Multi-Use – If the establishment is in a building that has two or more commercial uses, and located in certain parts of the village, the Exit 11 area, or Jonesville

If the proposed cannabis retail use might occupy a space already designated as a retail sales/business, pharmacy, or commercial multi-use, the Zoning Administrator might determine that permits are not required for the change in use.

If the establishment is going to newly establish a particular use, they would require approval from the DRB (providing the right to establish the use) and then a Zoning Permit (to effectively establish the use).

2. **Licensing.** If the town chooses to establish a local cannabis control commission, this commission would review and issue a decision the applicant’s application for a license within 60 days of receiving the application.

Can Retail Cannabis Uses be regulated through the Zoning Regulations?

The Town can establish a “retail cannabis” use that is distinct from other retail uses. The Town can restrict retail cannabis uses to the same extent it restricts other retail uses (in terms of location, size, layout, landscaping/screening, signage, lighting, etc.). If the Town chooses to opt into retail cannabis, the Town must allow cannabis retail uses in at least a location in Town.

From what I’ve found, most towns do not define a retail cannabis use. Although, I have found two examples:

- Manchester: [Manchester Land Use & Development Ordinance - Revisions Adopted May 10, 2022.pdf - Google Drive](#)
- Stowe: [Cannabis Establishments- As Adopted 10-24-2022.pdf \(townofstowevt.org\)](#)

Waitsfield is in the process of developing zoning regulations for cannabis-related uses.

From my cursory understanding, most towns that have opted in choose to create a local Cannabis Control Commission and not change zoning ordinances.

Before the Town decides to regulate retail cannabis uses in any way, the Planning Commission should answer the following questions first and foremost:

1. Does the Town want to allow retail cannabis sales in locations that are different from retail sales uses, adaptive uses, pharmacy uses, or cottage industry uses?
2. Does the Town want to place building design, site plan standards, or signage standards on retail cannabis sales that would be different from the standards already in the zoning regulations or in the proposed zoning regulations?

What happens during the renewal of the local cannabis control commission license? What if the zoning changes and retail cannabis use is not allowed in location that has a retail cannabis establishment?

Zoning permit approvals run with the land, regardless of the user or property owner. If the ownership changes for a retail cannabis establishment, the new owner would not be required to obtain new zoning permits to reestablish the use.

If the local cannabis control commission discovers compliance issues for an establishment and choose to revoke a permit, whoever the applicant may be—a current owner or future owner—would have to obtain the rightful license from the local cannabis control commission.

If the zoning regulations change to not allow a retail cannabis use in a location that already has a retail cannabis establishment but as a different use (retail sales/business, pharmacy, commercial multi-use, adaptive use, cottage industry, or accessory use to a light manufacturing use), the retail cannabis use is essentially “grandfathered” because it was established at a time when retail sales allowed the sale of cannabis products. Furthermore, if a different person were to own the building with this use, they would have the right to continue the sale of cannabis products on the property. If the “grandfathered” nonconforming retail cannabis use ceases on the property for a twelve-month period, then the right to continue the use would be lost under the nonconforming use provisions of the current Zoning Regulations.

Additional Resources

In addition to the guidance from the state Cannabis Control Board ([Guidance for Municipalities \(vermont.gov\)](https://www.vermont.gov)), [Guidance for Local Cannabis Commissions \(vermont.gov\)](https://www.vermont.gov)), Vermont League of Cities and Towns have held webinars on this subject earlier this year:

- [Regulating Cannabis - What Municipal Officials Need to Know | Vermont League of Cities and Towns \(vlct.org\)](https://www.vlct.org)
- [Regulating Cannabis Retail Establishments | Vermont League of Cities and Towns \(vlct.org\)](https://www.vlct.org)