

**STATE OF VERMONT  
CANNABIS CONTROL BOARD**

**RULE 1: LICENSING OF CANNABIS ESTABLISHMENTS**

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# **1. Rule 1: Licensing of Cannabis Establishments**

Not every applicable prohibition, restriction, and requirement is contained in this rule. All Cannabis Establishments must abide by the prohibitions, restrictions, and requirements of Chapter 33, Title 7 of the Vermont Statutes. Cannabis Establishments must also abide by all other applicable laws, including but not limited to worker's compensation laws and tax laws.

## **1.1 General Provisions**

### **1.1.1 Authority**

The Cannabis Control Board adopts this rule pursuant to 7 V.S.A. §§ 881, 883, 884, 901, 902, 903, Section 8 of Act 164 (2020), and other applicable law.

### **1.1.2 Scope and Purpose**

The Board is charged with implementing and regulating a legal market for Cannabis in Vermont. This rule regulates the licensing of Cannabis Establishments.

### **1.1.3 Definitions**

All definitions in 7 V.S.A. § 861 shall apply to this rule. The following definitions shall also apply:

- (a) "Commercial bank" has the same meaning as defined in 8 V.S.A. § 11101(15).
- (b) "Entity" means any person, as defined in 7 V.S.A. § 861(23), that is not a natural person.
- (c) "Flammable Solvent" means a liquid that has a flash point below 100 degrees Fahrenheit.
- (d) "Greenhouse" means a structure or a thermally isolated area of a building that maintains a specialized sunlit environment exclusively for, and essential to, the cultivation or maintenance of Cannabis plants and that is in use for a period of 180 days or more each calendar year.
- (e) "Home occupancy business" means a business operated on the premises of an individual's home or property where the individual is domiciled.
- (f) "Indoor cultivation" means growing Cannabis using artificial lighting.
- (g) "Interest holder" has the same meaning as defined in 11A V.S.A. § 11.01(11).
- (h) "Inventory Tracking System" means a method implemented by the Board for tracing all Cannabis and Cannabis Products grown, manufactured, and sold in Vermont.
- (i) "Licensee" means a person who has been issued a license pursuant to this rule.
- (j) "Outdoor cultivation" means growing Cannabis in a manner that does not use artificial lighting, provided that outdoor cultivators may use the minimum amount of artificial lighting necessary to keep photoperiod plants in a vegetative state. Artificial lighting for outdoor cultivation must not extend beyond May 1<sup>st</sup> in a calendar year or past when the specific cultivar can sustain vegetative growth under natural sunlight, whichever comes first.
- (k) "Patient" shall have the same meaning as in Board Rule 3.
- (l) "Governing documents" means the plans, statements, documents, and declarations filed

by a Cannabis Establishment with the Board explaining a Cannabis Establishment's ownership, financing, managerial structure, internal procedures, training plans, site layout, security measures, banking and insurance partners, and contingency plans, including all documents required by Rule 1.4. and its subdivisions, as well as type- and tier-specific declarations filed with initial and renewal applications. Governing documents shall at all times reflect the true and accurate operating status of a cannabis establishment. In the event of a material change, a licensee shall promptly file amended documents. A specific list of essential governing documents and their essential content may be further outlined in guidance.

(m) "Physical site of operations" means:

- i. A cultivator's grow site,
- ii. A wholesaler's product storage facility,
- iii. A manufacturer's site of manufacture,
- iv. A retailer's store location, or
- v. A testing laboratory's testing facility.

(m) "Social equity applicant" means either a "social equity individual applicant" or a "social equity business applicant" as those terms are defined in this rule.

(n) "Social equity individual applicant" means an individual who is a resident of Vermont and who meets one or more of the following criteria:

- i they are a socially disadvantaged individual, as defined below,
- ii they have been incarcerated in a jail or prison facility subsequent to sentencing for a cannabis-related offense, or
- iii they have a family member who has been incarcerated in a jail or prison facility subsequent to sentencing for a cannabis-related offense.

1 For the purposes of this definition, "family member" shall mean the following: a spouse, domestic partner (as defined in 17 V.S.A. §2414(e)(1)), child, step-child who resided with the family member when the child was a minor, minor in their guardianship, legal guardian, parent, sibling, grandparent, or grandchild.

(o) "Social equity business applicant" means:

- i A corporation, partnership, or other business entity that meets the federal standards for Disadvantaged Business Enterprises (DBEs) as set forth in 49 C.F.R. §§ [26.69](#) and [26.71](#), except as provided in subdivision (1) of this subsection 1.1.3(o)(i), even if the entity has not applied for any federal DBE programs. In determining whether a business applicant meets the federal standards for DBEs, the Board will consider only participants in the business who meet the definition of socially disadvantaged individual as defined by section 1.1.3(p)(i) of this rule and who are residents of Vermont.

1 The requirements of subparts 49 C.F.R. § 26.69(b)(1), (2), and (3) shall not apply to this subsection (o). The majority-interest requirement of 49 C.F.R. § 26.69(b) itself shall apply.

- ii A corporation, partnership, or other business entity that is at least 51% owned by a social equity individual applicant as defined in subsection 1.1.3(n)(ii) and (iii) of this rule.

(p) "Socially disadvantaged individual" is an individual who meets at least one of the following criteria:

- i They meet the criteria for social disadvantage as set forth in the following federal regulations regarding DBEs: [49 C.F.R. § 26.67\(a\)\(1\) and \(b\)\(2\)-\(3\)](#) to the extent permitted in subdivision 1.1.3(p)(i)(1) of this section, whether or not they have applied for any DBE programs, provided that no person shall be excluded from this definition because of their citizenship or immigration status.
  - 1 For the purposes of this rule, the rebuttable presumption in [49 C.F.R. § 26.67\(a\)\(1\)](#) shall be applied only to Black Americans and Hispanic Americans.
- ii They are (1) from a community that has historically been disproportionately impacted by cannabis prohibition and (2) able to demonstrate to the Board that they were personally harmed by the disproportionate impact. In assessing this personal harm, the Board may consider factors indicative of long-term consequences such as lost educational or employment opportunities, or housing insecurity.
  - 1 For the purposes of this subsection, “community” includes, but is not limited to, a person who resided for the majority of their youth prior to turning 18 in a household that was eligible for Federal Distribution Program on Indian Reservations (FDPIR) benefits or that received Supplemental Nutrition Assistance Program (SNAP) benefits, or currently resides in a household that is eligible for FDPIR or that receives SNAP benefits. For the purposes of this subsection, community does not mean professional or civic associations, social organizations, clubs, advocacy organizations, or hobbyist groups. A prior association with cannabis is not, by itself, sufficient to constitute a community.

#### 1.1.4 Applicability

This rule applies to:

- (a) Persons who engage or seek licensure to engage in the transfer or sale of Cannabis or Cannabis Products, including transfers or sales related to cultivating, manufacturing, wholesaling, or retailing Cannabis or Cannabis Products, except that this rule does not apply to activities regulated by Chapters 35 and 37 of Title 7 of the Vermont statutes and by Rule 3 of the Board’s rules. This rule also applies to those who provide laboratory testing services to persons who engage in the transfer or sale of Cannabis or Cannabis Products.
- (b) Persons who engage in the transfer or sale of synthetic cannabinoids and potentially intoxicating hemp-derived cannabinoids, including delta-8 and delta-10 tetrahydrocannabinol.

#### 1.1.5 Time

- (a) In computing any time period, measured in days, that is established or allowed by this rule or by order of the Board or Chair:
  - (1) the day of the act or event that triggers the period shall be excluded;
  - (2) every day, including intermediate Saturdays, Sundays, and legal holidays shall be counted;

- (3) the last day of the period shall be counted, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(b) A “legal holiday” means:

- (1) any day declared a holiday by the President or Congress of the United States; and
- (2) any day declared a holiday by the State of Vermont.

1.1.6 Severability

If any portion of this rule is found to be invalid, the remaining portion of the rule shall remain in force and effect.

**1.2 License Application Format and Fees**

1.2.1 Form

Applicants are required to submit an application in a format determined by the Board. The Board will make the application form readily accessible to the public.

1.2.2 Fees

Applicants will be required to pay fees, or demonstrate that they qualify for a fee waiver or reduction, in accordance with a fee schedule and waiver or reduction policy that the Board will make readily accessible to the public. The fee waiver or reduction policy will include a schedule of waivers and reductions for social equity applicants.

1.2.3 Progress

A license application that is dormant for 90 days may be dismissed.

**1.3 License Tiers**

The Board establishes the following tiers for cultivation, retail, and manufacturing licenses, provided that if statute is not in agreement with this section, statute will dictate the tiers and supersede this section. If statute supersedes this section, the Board will construct its application process according to statute and will provide guidance readily available to the general public plainly describing the statutorily mandated tiers.

1.3.1 Cultivation License Tiers

(a) Outdoor Cultivation:

i.

<b>Tier</b>	<b>Max Sq Ft of Total Plant Canopy</b>
1	1,000

2	2,500
3	5,000
4	10,000
5	20,000
6	37,500

- ii. For purposes of this rule 1.3.1, canopy will be calculated as the greater of cultivation-table area or actual area occupied by plant mass; plant counts shall include distinct organisms regardless of developmental stage or purpose; and plant counts must be established prior to flowering, or August 15 of each year.
- iii. For tiers 1-6 of the outdoor cultivation tiers in this subsection (a), the Board will presume that each plant occupies no more than 8 square feet of space. For this reason, cultivators will be presumed to be compliant with the plant canopy limits if they comply with the following plant count limits:
  - 1. Tier 1: 125
  - 2. Tier 2: 312
  - 3. Tier 3: 625
  - 4. Tier 4: 1250
  - 5. Tier 5: 2,500
  - 6. Tier 6: 4,687

Growing more than the maximum plant count for the cultivator’s tier will not be a violation of the plant canopy limit if the cultivator can show the plants occupy no more than the maximum square footage permitted for their tier.
- iv. Applicants will be required to state on their application if they will measure their plant canopy by square footage or by plant count equivalent.
- v. Plants do not need to be contiguous, but they must be planted within the same school property account number (SPAN) or within two abutting SPANs. A SPAN will be considered abutting if it shares a boundary with a SPAN, or if it is adjacent to a SPAN and is separated only by a river, stream, or public highway.

(b) Indoor Cultivation:

Tier	Max Sq Ft of Total Plant Canopy
1	1,000
2	2,500
3	5,000
4	10,000
5	15,000
6	25,000

- (c)  
i. Mixed Cultivation:

Tier	Nature of Business
1	May cultivate up to 1,000 sq ft of plant canopy indoors and up to 125 plants outdoors at the same premises
2	May cultivate up to 2,500 sq ft of plant canopy indoors and up to 312 plants outdoors at the same premises
3	May cultivate up to 1,000 sq ft of plant canopy indoors and up to 625 plants outdoors at the same premises
4	May cultivate up to 1,000 sq ft of plant canopy indoors and up to 1250 plants outdoors at the same premises
5	May cultivate up to 1,000 sq ft of plant canopy indoors and up to 2,500 plants outdoors at the same premises

- ii. Plants in a mixed cultivator’s crop do not need to be contiguous, but they must be planted within the same school property account number (SPAN) or within two abutting SPANs. A SPAN will be considered abutting if it shares a boundary with a SPAN, or if it is adjacent to a SPAN and is separated only by a river, stream, or public highway.

### 1.3.2 Retail License Tiers

Retail – Storefront: This tier is a stand-alone retail location that sells Cannabis and Cannabis Products to consumers.

### 1.3.3 Manufacturing License Tiers

No manufacturer may violate a prohibition on manufacturing processes contained in 18 V.S.A. § 4230h.

- (a) Tier 3 Manufacturer: A tier 3 manufacturer may purchase, process, manufacture, transfer, and sell Cannabis as well as finished and in-process Cannabis Products to other Licensees but not directly to consumers. A tier 3 manufacturer may produce Cannabis Products using all lawful methods of extraction; provided, however, that any extraction method reserved for Tier 3 manufacturers must occur in a building under the jurisdiction of the Division of Fire Safety.



- (b) Tier 2 Manufacturer: A tier 2 manufacturer may purchase, process, manufacture, transfer, and sell Cannabis as well as finished and in-process Cannabis Products to other Licensees but not directly to consumers. A tier 2 manufacturer may produce Cannabis Products using the following methods but may not utilize flammable solvent chemical extraction, flammable solvent chemical synthesis, or supercritical CO<sub>2</sub> extraction:
- i. Water-Based Extraction: extraction using only water, ice, or other freezing substrate or process as approved by the Board.
  - ii. Food-Based Extraction: extraction using propylene glycol, glycerin, butter, coconut or olive oil, other typical cooking fats, or alcohol as approved by the Board.
  - iii. Heat/Pressure-Based Extraction: extraction using heat and/or pressure as approved by the Board.
- (c) Tier 1 Manufacturer: A tier 1 manufacturer may purchase, process, manufacture, transfer, and sell Cannabis as well as finished and in-process Cannabis Products to other Licensees but not directly to consumers. A tier 1 manufacturer may produce Cannabis Products using the same methods as a tier 2 manufacturer, but not a tier 3 manufacturer. A tier 1 manufacturer must be a home occupancy business with no more than one employee, and under \$50,000 in gross revenue each year. See Rule 2.6.1 for limitations concerning home kitchens.

#### 1.3.4 Tier Change Initiated by Licensee

- (a) A licensee may seek licensure in a new tier by applying in like manner to a new applicant. If granted, a license in a new tier will cancel and replace the prior license. Prorated fees are due and payable prior to issuance of the new license.
- (b) When its renewal application acceptance period opens, a licensed cultivator may apply to graduate into a higher tier for which the application acceptance period established under Rule 1.10 is not open to new applicants, only if the following conditions are met:
- a. The licensee has made optimal use of the outdoor portion of cultivation capacity authorized by its license in the prior licensing period;
  - b. The licensee has sold out, through final sale to others, process lots in the prior licensing period; and
  - c. The Board finds that market demand is consistent with the expansion sought.

#### 1.3.5 Tier Reassignment Initiated by Board

A cultivator applying to obtain or renew a license in a particular tier should intend to make beneficial use of the full canopy authorized for that tier. If, based on inspection, production data, or both, the Board finds that a cultivator applying to renew its license has, without good cause, made beneficial use of less than 65% of the outdoor cultivation capacity authorized by its license in the preceding year, the Board may grant the renewal application in a tier matched to actual use and publish an order specifying the factual basis for relegation. A licensee so relegated shall have no special right to return to the tier from which it was relegated.

## 1.4 License Application and Records Requirements for All License Types

The requirements in this section apply to all license types authorized under 7 V.S.A. § 901. Each document or record required by this section 1.4 is a governing document. A Cannabis Establishment has an ongoing duty to ensure that the governing documents on file with the Board reflect the true and accurate state of its ownership, financing, management, physical premises, and operating procedures. A Cannabis Establishment shall give prompt written notice to the Board of any material change in its governing documents. Governing documents shall be maintained in conformity with Board guidance, which may prescribe standard forms, formats, and mandatory data fields.

### 1.4.1 Operating plans

Applicants must present an operating plan, which shall include all requirements of 7 V.S.A. § 881(a)(1)(B)(i) and, to the extent they are not required by that provision, the following elements:

- (a) The proposed Cannabis Establishment's legal name and any registered alternate name under which it may conduct business.
- (b) The name of the individual who will serve as primary point of contact with the Board and an email address where the individual can be contacted.
- (c) The type of license sought and, if relevant, the license tier.
- (d) Documentation that the applicant is an entity registered to do business in Vermont;
- (e) A federal tax identification number and social security numbers for each principal of the proposed Cannabis Establishment and each natural person who controls the proposed Cannabis Establishment.
- (f) A list of the principals of the proposed Cannabis Establishment.
- (g) A list of all persons having control of the proposed Cannabis Establishment.
- (h) Whenever a person having control of a Cannabis Establishment is an entity, the applicant must provide:
  - i. a list of the principals of any entities having control of the Cannabis Establishment; and
  - ii. a list of natural persons who control any entities having control of the Cannabis Establishment.

Lists provided pursuant to this subsection 1.4.1(h) shall include without limitation natural persons who have control by way of beneficial ownership or record ownership.

Intervening entities do not relieve an applicant of the obligation of disclosure under this provision.

- (i) Documentation and description, including the persons involved, of any contractual, management, or other agreement that explicitly or implicitly conveys control over the Cannabis Establishment.
- (j) For each person identified in (f) through (i) of this subsection, disclose whether that person would be required to be identified pursuant to (f) through (i) of any other license application.
- (k) Documentation disclosing whether any person named in sections (f) through (i) of this subsection is a controlling interest holder in a past or present Cannabis-related business in

another jurisdiction.

#### 1.4.2 Record Checks

An applicant, principal of an applicant, and person who controls an applicant, who is a natural person, shall be 21 years of age or older and shall consent to the release of his or her criminal and administrative records.

Each applicant, principal of an applicant, and person who controls an applicant, who is a natural person, shall submit the following:

- (a) the individual's full legal name and any aliases;
- (b) the individual's address;
- (c) the individual's date of birth;
- (d) a photocopy of the individual's driver's license or other government-issued identification card;
- (e) a full set of fingerprints in a form and manner as determined by the Board;
- (f) any other authorization or disclosure deemed necessary by the Board for the purpose of conducting a background check;
- (g) a description of any criminal action against an applicant, principal, or person who controls an applicant in any jurisdiction that resulted in a conviction, guilty plea, plea of nolo contendere or admission to sufficient facts;
- (h) a description of any civil action that was commenced or resolved in the preceding 10 years in any jurisdiction in which the applicant, principal, or person who controls an applicant is or was a named party;
- (i) a description of any administrative action taken against the applicant, principal, or person who controls an applicant in any jurisdiction;
- (j) a description of any disciplinary action against a license, registration, or certification held by the applicant, principal, or person having control of an applicant, such as a suspension or revocation, including, but not limited to, a license to prescribe or distribute controlled substances; and
- (k) a description of any license denial, and the reasons for denial, in any jurisdiction.

The Board at its discretion may request any of the information described in subsections (g) through (k) of this section 1.4.2 for any natural person an applicant discloses pursuant to section 1.4.1(h) of this rule.

#### 1.4.3 Financiers

- (a) Applicants must disclose documentation detailing the sources and amounts of capital resources available to the applicant from any person that will be contributing capital resources to the applicant for the purposes of establishing or operating the proposed Cannabis Establishment.
- (b) In addition to the disclosure requirements for applicants, principals, and persons who control an applicant in section 1.4.1 of this rule, financiers of applicants who do not fall into one of those categories must be 21 years of age and may be subject to the following

requirements at the Board's discretion, provided that this subsection shall not apply to commercial banks:

- i. A requirement to disclose information to the Board or the Department of Financial Regulation;
- ii. a requirement to conduct a background check for natural persons who are financiers or who control financiers;
- iii. a requirement to disclose principals and natural persons who control a financier to the same extent required by section 1.4.1(h) of this rule; and
- iv. requirements to ensure that a financier complies with any applicable State and federal laws governing financial institutions, licensed lenders, and other financial service providers.

#### 1.4.4 Compliance and Management Plans

All applicants must:

- (a) submit a contingency and continuity plan that addresses the dispersal or disposal of inventory in the event of an abrupt closure;
- (b) submit a timeline for beginning operations of the Cannabis Establishment;
- (c) attest that they will comply with applicable municipal ordinances; and
- (d) attest that they will comply with required inspections or permits from other state and local agencies (for example, certificates of occupancy).

Applicants who intend to hire, or who have hired, employees must provide:

- (e) an overview of positions and staffing levels;
- (f) an overview of general roles and responsibilities of staff;
- (g) an overview of the management structure; and
- (h) employee hiring and training plan, including safety training.

#### 1.4.5 Insurance, Taxation, and Banking Requirements

Each applicant shall submit the following:

- (a) documentation of insurance coverage as required by Board Rule 2.2.2;
- (b) documentation of compliance with, or plan to comply with, worker's compensation requirements, if applicable;
- (c) confirmation that the applicant, its principals, and its controllers, are in good standing with the Commissioner of Taxes pursuant to 32 V.S.A. § 3113(b);
- (d) school property account number at the physical site of operations;
- (e) authorization to release information to other state agencies, as well as to financial institutions and insurers with which the applicant does cannabis-related business; and
- (f) documentation of a deposit account at a financial institution that has authorized the use of such account to receive the proceeds of cannabis sales, which shall be the exclusive account to which the Cannabis Establishment deposits cannabis revenues.

#### 1.4.6 Location Information

Applicants must provide both:

- (a) A business address as well as precise location information for the physical site of operations for the proposed Cannabis Establishment. A business address does not have to correspond with the physical site of operations. The location information for the physical site of operations must be in the form of GPS coordinates. GPS coordinates must be provided in Decimal Degrees (DD) format.
- (b) Proof that the applicant has a right to occupy the physical site of operations, through proof of ownership, a lease, or other document demonstrating a right to occupy and use the property for the substantial duration of the license applied-for, or proof that such a right will exist prior to the start of Cannabis Establishment operations.

#### 1.4.7 Security

All applicants must submit a plan to comply with security requirements relevant to any license or licenses they seek to obtain, as required by Board Rule 2.

#### 1.4.8 Information Sharing with State Agencies

By applying, an applicant consents to the Board sharing applicant information with other Vermont state agencies, including, but not limited to, the Department of Financial Regulation, the Department of Labor, and the Department of Taxes. Information deemed confidential by 7 V.S.A. § 901a will remain confidential even if it is in the possession of another state agency.

#### 1.4.9 [Reserved]

#### 1.4.10 Statement of Truthfulness and Accuracy

All applicants shall attest to the truthfulness and accuracy of the information contained in their application.

### **1.5 License Application Requirements for Cultivators and Propagation Cultivators**

The requirements in this section apply to applications for a cultivator license and applications for a propagation cultivator license.

#### 1.5.1 Location Information

In addition to the information required in subsection 1.4.5 of this rule, an applicant must provide:

- (a) A diagram or a site plan of the physical site of operation that is clearly legible and includes:
  - i. north arrow;
  - ii. standard scale;
  - iii. size of property in acres (for outdoor cultivator) or total square feet (for indoor cultivator);
  - iv. total plant canopy dimensions;
  - v. for outdoor cultivators, use of land and structures that share the property;

- vi. for indoor cultivators, a diagram of how non-cultivation parts of the facility will be utilized.
- (b) A map showing the boundaries of the planned growing area, provided that this requirement applies only to outdoor cultivator Tiers 2-6.
- (c) The location for outdoor cultivators must comply with Board Rule 2.4.4 regarding visibility from a public road.

#### 1.5.2 Water and Wastewater Requirements

General water supply and municipal wastewater requirements:

- (a) Cultivators on a municipal water supply must submit a letter from the water utility certifying the utility's capacity to provide a sufficient quantity of water to the applicant at the physical site of operation.
- (b) Cultivators using municipal wastewater, or other offsite wastewater system, must submit a letter certifying the wastewater system's capacity to accept the quantity and anticipated strength of wastewater from the physical site of operation.

Tier 5 and 6 Cultivator applicants must:

- (c) state the following if their water use and wastewater generation are covered by the Wastewater System and Potable Water Supply Rule, as adopted by the Department of Environmental Conservation:
  - i. where they are planning on withdrawing water;
  - ii. by what means will they withdraw and, if necessary, store the water prior to use;
  - iii. when on-site water is also used for potable/sanitary purposes for workers;
  - iv. how many people may be on-site in a given day;
- (d) specify the volume and strength of the wastewater that the facility anticipates generating, using design flows from the Wastewater System and Water Supply Rule where appropriate and specify how it will be treated and disposed;
- (e) state whether the Cannabis Establishment needs to comply with the Indirect Discharge Rules and Underground Injection Control Rules as adopted by the Department of Environmental Conservation; and
- (f) describe the anticipated means of collecting, storing, treating, and discharging wastewater.

#### 1.5.3 Indoor Cultivators and Propagation Cultivators

Indoor cultivation Cannabis Establishments must identify whether their water supply and wastewater systems must comply with any applicable portion of the Department of Environmental Conservation's Drinking Water and Groundwater Protection Division rules.

### **1.6 License Application Requirements for Manufacturers**

The requirements in this section apply to applications for a manufacturing license.

Manufacturers must indicate whether they are planning to utilize solvent-based extraction.

## 1.7 License Application Requirements for Retailers

The requirements in this section apply to applications for a retail license.

Retailers must comply with all relevant statutes and Board rules related to CBD, hemp, and hemp-derived compounds.

### 1.7.1 Medical Use Endorsement

A retailer applying for a medical use endorsement must develop and include with its application governing documents that meet minimum standards specified in guidance available from the Board's website for:

- (a) Procedures to afford enhanced privacy to Patients upon request, including by allowing Patients to purchase Cannabis or Cannabis Products inside the retail establishment without compromising Patient privacy;
- (b) Procedures for protecting confidential Patient information from inappropriate disclosure;
- (c) Procedures to ensure products prohibited for sale to nonmedical customers pursuant to subdivisions 7 V.S.A. §§ 868(a)(1) and (b)(1) are physically segregated and visually distinguishable from adult-use products and sold only to verified Patients and Caregivers;
- (d) Procedures for retaining accurate and readily auditable information regarding each consumer transaction of cannabis or cannabis products that is exempt from general sales and use tax imposed by chapter 233 of Title 32 or the cannabis excise tax imposed by chapter 207 of Title 32.
- (e) Procedures to ensure orderly curbside service is available to disabled Patients and Patients under 21 years of age.

### 1.7.2 Geographic Distribution

A retail Cannabis Establishment application shall include a credible analysis of the geographic distribution of retail establishments within a twenty-five-mile radius of its proposed site, the location's consumer catchment area, and resident and visitor traffic in the vicinity.

- (a) The Board will presume that a retail cannabis establishment is unsuitably located, and may deny an application to operate at the location, if the site
  - i. Would represent a third or greater retail location in a municipality with fewer than 4,000 inhabitants;
  - ii. Would represent a fourth or greater retail location in a municipality with fewer than 8,000 inhabitants;
  - iii. Would represent a fifth or greater retail location in a municipality with fewer than 12,000 inhabitants;
  - iv. Would represent a sixth or greater retail location in any one municipality or two adjoining municipalities;
  - v. Would aggravate artificial retail concentration in a municipality that has opted-in to retail cannabis sales while surrounding municipalities have not; or
  - vi. Would not materially improve geographic distribution of cannabis establishments for consumers with limited access to transportation or consumers in rural areas.

- (b) A presumption of unsuitability based on the triggering criteria in subdivision (a) above may be overcome if, in the Board's judgment,
  - i. an applicant has shown that the benefits to the regional marketplace would outweigh the detriments of undue concentration, or
  - ii. the application is supported by voted act or resolution of the municipal legislative body or local cannabis control commission.

### **1.8 License Application Requirements for Testing Laboratories**

The requirements in this section apply to applications for a testing laboratory license.

Applications for testing laboratories may be reviewed for qualification by the Board or a Board designee.

At its discretion, the Board may waive or reduce licensing requirements, including fees, for a laboratory that has a current certification under the Cannabis Quality Control Program established by the Vermont Agency of Agriculture, Food and Markets under 6 V.S.A. § 567.

A testing laboratory applicant must submit:

- (a) current laboratory accreditation certificates, or proof of certification under the Cannabis Quality Control Program established by the Vermont Agency of Agriculture, Food and Markets under 6 V.S.A. § 567;
- (b) laboratory quality assurance manual or procedures which document the lab quality control system, and an outline of the quality management system;
- (c) the laboratory standard operating procedures for analysis of Cannabis and Cannabis Products;
- (d) a master list of all analytical and non-analytical (i.e., safety and training) standard operating procedures indicating the latest revision and review dates and current effective dates;
- (e) documentation of educational and technical credentials for all key technical and management personnel;
- (f) current organization chart, including reporting relationships;
- (g) example Certificates of Analysis (CoA) to be issued by the laboratory for each test area, containing all information required in a CoA;
- (h) the latest proficiency results for Cannabis testing or similar matrix (i.e., food, solids,) for all test areas in which it states it is certified, if available;
- (i) proof of analytical proficiency.

### **1.9 License Application Requirements for Integrated Licensees**

The requirements in this section apply to applications for an integrated license.

An integrated license applicant must meet all requirements in sections 1.4-1.8 of this rule, and must also submit:

- (a) A plan to provide reduced cost or free Cannabis to patients with documented, verified financial hardship who are utilizing the dispensary operation;



- (b) a list of products purchased by registered patients in the preceding 12 months;
- (c) plan to ensure continuity of products for patients accessing the dispensary operation; and
- (d) attestation of good standing with respect to their medical Cannabis dispensary license in accordance with 7 V.S.A. § 903(a)(1). For the purposes of this subsection (f), good standing shall mean the dispensary is in compliance with Chapter 86 of Title 18 of the Vermont Statutes, and with all associated rules.

### **1.10 License Application Acceptance Periods**

- (a) The Board will accept license applications in accordance with legislatively mandated time periods.
- (b) Other than legislatively mandated time periods, the Board may open or close acceptance periods for applications at its discretion, provided that the Board will give public notice no less than 30 days prior to opening and 30 days prior to closing an application acceptance period.
- (c) The Board may set separate application acceptance periods for each of the license types and may set separate application acceptance periods for each tier within tiered license types.
- (d) Other than legislatively mandated application acceptance periods, the Board may open application periods at its discretion.
- (e) Nothing in this section 1.10 shall be interpreted to impact the license renewal process governed by section 1.15 of this rule.

### **1.11 Criminal Records, Background Events, and License Qualification Determinations**

#### **1.11.1 Effect of Background Events on Eligibility**

Status offenses, such as possession of regulated drugs unaccompanied by a wrongful act, shall not weigh against a person's eligibility for licensure. However, the Board may find that an applicant, the principal of an applicant, or a person who controls an applicant is ineligible to obtain or continue to hold a license or identification card if the person's criminal, civil, or administrative history includes:

- (a) Conviction of a crime of violence, deceit, exploitation, or fraud, or conviction of a presumptively disqualifying offense pursuant to section 1.11.2;
- (b) Revocation, suspension, or surrender of a professional license or license to do business under conditions suggestive of deceit, exploitation, or fraud;
- (c) Repeated failure to satisfy civil judgments, pay creditors as agreed, or meet tax obligations;
- (d) Gross Failure to operate a Cannabis Establishment, in this or another jurisdiction, in a compliant manner, or failure to cease operations of a Cannabis Establishment, in this or another jurisdiction, in an orderly and compliant manner; or
- (e) Formal charges, actively pending adjudication, of such gravity or notoriety as to warrant disqualification until resolved.

#### **1.11.2 Presumptive Disqualification**

Convictions for offenses in the following categories presumptively disqualify an applicant, the principal of an applicant, or a person who controls an applicant from gaining a license to operate a Cannabis Establishment, provided that a person may overcome the presumption as specified in section 1.11.3:

- (a) A listed crime as defined in subsection 13 V.S.A. § 5301(7) or the equivalent in another jurisdiction;
- (b) A conviction for an offense in 13 V.S.A. chapter 64 or the equivalent in another jurisdiction;
- (c) a state or federal felony offense involving fraud, deceit, or embezzlement;
- (d) convictions that demonstrate an ongoing involvement with organized criminal enterprises, including violent gangs and drug cartels;
- (e) trafficking of a regulated substance other than Cannabis. For the purposes of this subsection (c), trafficking will mean a violation of 18 V.S.A. §§ 4231(c), 4233(c), 4233a(b), 4234a(c), or a non-violent drug distribution offense in another jurisdiction that carries a maximum penalty of 30 years of incarceration or greater;
- (f) dispensing cannabis to a person under 21 years of age in violation of 18 V.S.A. § 4230f, or the equivalent offense in another jurisdiction;
- (g) misdemeanor convictions that occurred within the 2 years preceding the application; except for non-violent offenses; or
- (h) felony convictions that occurred within the 5 years preceding the application, except for non-violent offenses.

### 1.11.3 Overcoming Presumptive Disqualification

The Board may deem an individual qualified to obtain a license even if they were convicted of an offense enumerated in section 1.11.2. A person may be deemed qualified if the Board finds that licensure will not jeopardize the public health and safety or undermine the integrity of the legal cannabis market. In making this decision, the Board shall consider the following factors:

- (a) The nature and seriousness of the crime or offense;
- (b) The circumstances under which the crime or offense occurred;
- (c) The date of the crime or offense;
- (d) The age of the person when the crime or offense was committed;
- (e) Whether the individual committed subsequent offenses;
- (f) Any social conditions that may have contributed to the commission of the crime or offense;
- (g) The nature and responsibility of the position that the person with a conviction would hold, has held, or currently holds; and
- (h) Any evidence of rehabilitation.

License applications will allow applicants to provide additional information related to these factors, if relevant.

## 1.12 Issuance of Licenses

- (a) The Board shall issue licenses to applicants who meet all requirements for their licenses contained in this rule and all requirements for their licenses contained in Chapter 33 of Title 7 of the Vermont Statutes.
- (b) Notwithstanding subsection (a) of this section 1.12, the Board retains the right to deny, suspend, or revoke a license or identification card if the Board finds issuance or continuation of the license would threaten public health, the public safety, or the integrity of the regulated cannabis market. Any findings to that effect shall be set out in a written order.
- (c) An Applicant who falsely attests to the truthfulness and accuracy of information in an application will be deemed unqualified for a license.
- (d) The Board may refuse to accept an application from or involving a licensee, the principal of a licensee, or person who controls a licensee, whose license is actively suspended or has been revoked pursuant to Board Rule 4.
- (e) A grant or denial of a license under this section 1.12 shall constitute a final decision of the Board for the purposes of appeals pursuant to 7 V.S.A. § 847.

### **1.13 Pre-application Orientation**

#### **1.13.1 Purpose**

Before any person may submit an initial application for a Cannabis Establishment license, the person shall complete an orientation for the purposes of:

- (a) Orienting the applicant to the essential requirements of licensure and common barriers to licensure;
- (b) Identifying individuals and businesses who may be eligible for social equity designation;
- (c) Identifying affiliations between an applicant and an incumbent licensee of the same type that may tend to place one person in control of multiple licenses of the same type;
- (d) Ensuring general compatibility between an applicant's plans and the requirements of State law and regulation;
- (e) Ensuring the applicant has developed a business plan that is generally consistent with predictable overhead and known market data;
- (f) For retail applicants, reviewing location and siting requirements and related data; and
- (g) Other preparation suited to ensure orderly license application, as directed by the Board.

#### **1.13.2 Process**

There is no fee to complete pre-application orientation. One or more meetings may be convened in-person or by videoconference, as determined by licensing staff based on need. Staff may request specific written plans and documents. An applicant and its principals and controllers shall participate in good faith and shall supply all documentation reasonably requested.

#### **1.13.3 Effect Generally**

The pre-application orientation is educational and preparatory only; it is not a comprehensive assessment of license eligibility, is not dispositive of eligibility, and does not constitute legal advice or a declaratory or advisory opinion.

#### 1.13.4 Social Equity Designation

A person who, following pre-application orientation, determines to apply for designation as a social equity individual applicant, may do so using forms specified by the Board and may be required to supply supporting documentation. Eligibility shall be subject to the following principles:

- (a) If multiple bases of qualification are known, all shall be asserted with the application;
- (b) Following application for social equity designation, a person may be so designated by the Board and afforded associated fee waivers and support, or if denied the designation by the Board, shall be informed of the reasons in writing;
- (c) The Board retains discretion to administer fee waivers and support in conformity with the purpose to facilitate initial market access for persons actually disadvantaged by historically inequitable enforcement of cannabis prohibition;
- (d) Fee waivers and support may be withheld from an applicant who
  - i. received waivers and support in relation to a prior venture;
  - ii. is established in cannabis commerce in this or another jurisdiction; or
  - iii. became eligible consequent to a domestic partnership formed, or sentence imposed, after January 1, 2022.

#### 1.14 Priority of Board Considerations for License Applications

- (a) The Board shall allocate business support resources to new license recipients under a priority system that is laid out in a policy readily available to the public.
- (b) The policy shall give top priority to social equity applicants when considering applications.
- (c) The policy shall also utilize the factors listed in 7 V.S.A. § 903(a).

#### 1.15 License Renewal Procedures

##### 1.15.1 License Renewal Timeframes

- (a) Licenses are valid for the time period provided in 7 V.S.A. § 901.
- (b) The Board will send notice for license renewals no less than 120 days prior to the expiration of a license; however, non-receipt shall not excuse a licensee from the licensee's duty to maintain continuous licensure or the consequences of failing to do so.
- (c) Renewal applications may be submitted up to 90 days prior to license expiration.
- (d) Renewal applications must be submitted and complete at least 30 days prior to a license expiration.
- (e) A submitted application will be regarded as complete if all required questions have been answered, all required attestations made, all required supporting documents supplied, and all required fees paid. An application submitted in an incomplete state, such that the Board cannot render an informed decision on the application at the time of submission, will not satisfy submission deadlines.

##### 1.15.2 Untimely or Incomplete Renewal

- (a) A licensee that does not submit a timely and complete renewal application forfeits the guarantee of license continuity afforded by 3 V.S.A. § 814(b) and may be required to incur substantial expenses implementing the contingency and continuity plan of record pursuant to Rule 1.4.4(a), or if such plan is inadequate to ensure lawful disposition of inventory prior to license expiration, a cessation of operations order imposed by the Board.
- (b) The Board may at its sole discretion accept a late renewal application if the applicant has offered a written statement of good cause and has complied responsibly with its contingency and continuity plan or the instructions of Board designees to manage, transfer, prepare, or secure its inventory.
- (c) Upon interruption in licensure, a licensee is responsible to have arranged and documented the lawful disposition of all Cannabis and Cannabis Products in the licensee's custody. This may include returning to a supplier any product for which the expiring licensee has not fully paid.
- (d) A license that has expired for more than 60 days is presumptively ineligible for renewal without a new application.

#### 1.15.3 Termination of Licensure

- (a) An expired licensee may not receive revenue from cannabis sales. The Board shall not be liable for, and will not compensate, any inventory forfeited, wasted, spoiled, destroyed, or transferred at a loss, secondary to a licensee's failure to maintain continuous licensure.
- (b) Except license periods extended by the Board pursuant to 3 V.S.A. § 814(b), a license that has not been renewed expires, extinguishing all rights in the license and terminating the authority of the corporation, its principals, controllers, employees, and agents to engage in cannabis commerce in any form, to receive the proceeds of cannabis sales, or to possess or transport commercial quantities of Cannabis. The Board retains jurisdiction over former licensees pursuant to 3 V.S.A. 814(d) and may order such persons to arrange the lawful disposition or destruction of cannabis inventory.
- (c) If the Board reasonably suspects that a former licensee has retained custody of commercial quantities of Cannabis or Cannabis Products in violation of law, the Board may give notice to law enforcement agencies of jurisdiction, as appropriate to protect the public and prevent diversion.

#### 1.15.4 License Renewal Form and Fees

- (a) Licensees must apply for renewal in a format determined by the Board. The Board will make the application form readily accessible to the public.
- (b) Applicable license renewal fees and local fees are due and payable at the time of renewal application.

#### 1.15.5 [Reserved]

#### 1.15.6 Conditions for Renewal

The Board shall renew the license of a licensee that meets the following requirements:

- (a) has paid fees required by section 1.15.2;
- (b) demonstrates ongoing use of its cannabis establishment deposit account of record;
- (c) demonstrates ongoing compliance with liability insurance and worker compensation insurance requirements;
- (d) has updated each of its governing documents, or has attested that each accurately represents the Cannabis Establishment's operating condition, structure, and policies in the coming licensing period;
- (e) is in good standing with the Commissioner of Taxes, pursuant to 32 V.S.A. 3113(b), and
- (f) is in good standing with the Board, meaning the license has not been suspended or revoked, any administrative penalties assessed have been paid as scheduled unless under appeal, and the Cannabis Establishment is compliant with any applicable corrective action plan.

## **1.16 Cannabis Establishment Identification Cards**

### **1.16.1 Identification Cards for Owners and Principals**

- (a) For the purposes of this section, an "owner" means a natural person who controls, or shares control of, a Cannabis Establishment.
- (b) All qualified owners and principals will be issued Cannabis Establishment identification cards upon the issuance of a license to operate a Cannabis Establishment.

### **1.16.2 Forms and Fees for Cannabis Establishment Identification Cards**

Those applying for identification cards are required to apply in a format determined by the Board. The Board will make the application form readily accessible to the public.

### **1.16.3 Application Requirements for Cannabis Establishment Identification Cards**

To apply for a Cannabis Establishment identification card the following information must be submitted:

- (a) the individual's full legal name and any aliases;
- (b) the individual's address;
- (c) the individual's date of birth;
- (d) a photocopy of the individual's driver's license or other government-issued identification card;
- (e) a full set of fingerprints in a form and manner as determined by the Board;
- (f) any other authorization or disclosure deemed necessary by the Board for the purpose of conducting a background check;
- (g) a listing of criminal convictions, including any pending offenses;
- (h) information listed in section 1.11.3 of this rule, if applicable;
- (i) if the applicant holds or has held a similar card in another jurisdiction, the name of the issuing authority, and the approximate dates held; and
- (j) if a similar card is or has been held in another jurisdiction, whether that card was revoked and the reason for revocation.

#### 1.16.4 Qualification for Cannabis Establishment Identification Cards

Individuals who submit a complete application for an identification card will be issued a card after a background check is complete, except that:

- (a) No individual under 21 years of age will be issued an identification card; and
- (b) the Board may deny an individual an identification card if an applicant has a record of any of the following:
  - i. a disqualifying history as defined in 1.11, provided that the Board will also consider mitigating factors as defined in 1.11.3;
  - ii. diversion of Cannabis from a past Cannabis Establishment employer in the regulated market in Vermont or another state;
  - iii. failure to disclose required information on their application;
  - iv. revocation of a similar identification card from Vermont or another jurisdiction in the last 2 years, or more than twice;
  - v. fraudulent use of the identification card in Vermont or other jurisdictions including, but not limited to, tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate the card;
  - vi. failure to notify the Board of a lost, stolen, or destroyed card; and
  - vii. failure to notify the Board of convictions pending at the time of application or convictions that occur after the card is issued.
- (c) The Board will retain discretion to issue identification cards to individuals who have a record of behavior as outlined in subsection (b) if they demonstrate evidence of rehabilitation or show mitigating social factors surrounding the behavior. Identification card applications will allow for individuals to provide such evidence or explanation, if relevant.

#### 1.16.5 Temporary Work Permit

- (a) Upon receipt of an application for an identification card and prior to the completion of a background check the Board will issue a temporary work permit allowing the individual to work at a Cannabis Establishment if the applicant is over 21 years old and discloses no record of behavior related to 1.16.4(b) of this rule, except that the Board retains discretion to deny a temporary license to any applicant if the Board has knowledge of such a record.
- (b) The Board may withdraw a temporary permit if it learns of behavior related to 1.16.4(b) after issuing a permit.
- (c) If an application for an identification card discloses behavior related to 1.16.4(b) of this rule, the Board retains discretion to issue a temporary work permit if the Board determines it can do so consistent with public health and safety.
- (d) A temporary permit will expire after 4 months, or upon the issuance or denial of an identification card, whichever comes first.
- (e) A temporary work permit shall not be issued to a person who has previously held a temporary work permit under this rule 1.16.5 or who has held an identification card.

#### 1.16.6 Ongoing Duty to Disclose

The holder of an identification card has an ongoing duty to fully and transparently disclose any information relevant to the criteria in section 1.16.4 of this rule.

#### 1.16.7 Identification Card Renewal

- (a) The Board may require that an identification card holder repeat or refresh some or all of the initial background check as a condition of renewal.
- (b) Requests to renew identification cards will be considered pursuant to the standard in section 1.16.4 of this rule.
- (c) Identification cards will expire in accordance with the timeline provided by 7 V.S.A. § 884. Identification cards will have an expiration date printed on them.
- (d) Applications to renew identification cards must be filed at least 30 days prior to expiration. Late applications may result in interruption of the bearer's ability to work for a cannabis establishment.
- (e) Upon the final expiration of an identification card the holder of the card must return it to the Board or must destroy it.

#### 1.17 License Amendment: Change of Location or Control Requires Approval

- (a) A Cannabis Establishment license confers upon the bearer corporation and its agents authority to operate within the scope of the license, under the management and control approved for the license, in conformity with the governing documents approved for the license, at the location approved for the license.
- (b) If the governing documents associated with a Cannabis Establishment license cease to reflect the licensee's true operating status, the licensee shall promptly file amended operating documents with the licensing division, which upon acceptance shall govern the licensee's operation.
- (c) Express Board approval is required of an application to amend a license when:
  - i. A licensee wishes to change its physical site of operations; or
  - ii. An interest holder who has control of a licensee will be changed, including by adding a person who will be an interest holder and will have control, removing a person who is an interest holder and has control, or transferring control from one person who is an interest holder to another person who is an interest holder; provided, however, that this subdivision 1.17(c)(ii) may be waived by the Board in writing, in the Board's sole discretion, in case of a *de minimis* change in control involving either:
    - 1. the uncomplicated departure of a principal or controller that does not shift majority control of a licensee; or
    - 2. the uncomplicated departure of one of two 50/50 partners.
- (b) A licensee may not consummate a change of control before the Board votes its approval of a conforming license amendment.
- (c) A licensee may not move to a new physical site of operations before the Board votes its approval of a conforming license amendment.



- (d) If the Board does not approve a license amendment requested pursuant to this section, the licensee may not proceed with the proposed change in control or the proposed move. The licensee's existing license will remain in effect until such time as renewal would otherwise have been required by 7 V.S.A. § 901.
- (e) The license of a Cannabis Establishment that consummates an unauthorized change of control or location shall be regarded as having expired, as provided in section 1.15.1(f) of this rule, the moment the unauthorized change of control or location was consummated.
- (f) Before approving an application to amend a license to change control under subdivision 1.17(c)(ii), the Board may require that the parties demonstrate to its satisfaction that the following conditions are met:
  - i. Governing documents are current and reflect the true structure of the establishment as it is proposed to operate;
  - ii. The change would not have the effect of subverting 7 V.S.A. § 901(d)(3)(A) or any other licensure or operating requirements contained in 7 V.S.A. chapter 33 or board rules, and would not place in control over a Cannabis Establishment any person who has not made the disclosures required in Board Rule 1.4;
  - iii. The change would not facilitate evasion of administrative order, civil judgment, injunction, or other order of a regulatory authority or court of competent jurisdiction; or of 32 V.S.A. § 3260
  - iv. All principals, controllers, and corporate interest holders involved are in good standing with the Commissioner of Taxes pursuant to 32. V.S.A. § 3113; and
  - v. Outgoing parties not only are in good standing with the Commissioner, but also have attested that they filed all required returns and owe no unpaid tax liabilities to the Department of Taxes.
- (g) The accepted or authorized amendment of a license does not change the time period for which a license remains valid, as provided by 7 V.S.A. § 901.
- (h) When the Board authorizes a location amendment, the licensee shall not be considered to be in violation of the license location restrictions of 7 V.S.A. § 901 during relocation, provided that:
  - i. Relocation must occur as promptly as practicable and within 60 days of approval; and
  - ii. Sending and receiving sites are not to be used simultaneously for the same business purpose, or in a manner that undermines the purposes of 7 V.S.A. § 901.

### **1.18 Waiver Provisions for Tier 1 Cultivators**

Tier 1 indoor cultivators, tier 1 outdoor cultivators, and tier 1 mixed cultivators are not required to comply with the requirements of the following subsections of this rule:

- (a) 1.4.2(g), provided that licensees must provide such a description upon renewal for any criminal action that may have occurred in the prior year;
- (b) 1.4.2(h), provided that licensees must provide such a description upon renewal for any civil action that may have been commenced or resolved in the prior year;
- (c) 1.4.4(a), provided that licensees must provide the plan upon renewal;
- (d) 1.4.4(b);
- (e) 1.4.4(c);

- (f) 1.4.4(e), provided that licensees must provide the overview upon renewal;
- (g) 1.4.4(f), provided that licensees must provide the overview upon renewal;
- (h) 1.4.4(g), provided that licensees must provide the overview upon renewal;
- (i) 1.4.4(h), provided that licensees must provide the plan upon renewal;
- (j) 1.4.5(b);
- (k) 1.5.2(a), if the cultivation establishment will be a home occupancy business; and
- (l) 1.5.2(b), if the cultivation establishment will be a home occupancy business.

### **1.19 Applicant's Ongoing Duty to Disclose**

An applicant has an ongoing duty to fully and transparently update their application while it is pending if there are changes to any information submitted in their application.

### **1.20 Confidentiality**

Application materials will be kept confidential by the Board to the extent required by 7 V.S.A. § 901a.

PROPOSED