



Published on *Vermont League of Cities and Towns* (<https://www.vlct.org>)

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Recreational Marijuana Update

With the passage of Act 86 last January, Vermont removed civil and criminal penalties for the possession of small amounts of marijuana. Adults 21 of age and older may now possess one ounce of marijuana, as well as two mature and four immature marijuana plants. There is no limit to the amount of marijuana a person may harvest from those plants, and the amount harvested does not count towards the one-ounce possession limit that may be kept outside of a residence. As was the law prior to Act 86, marijuana still cannot be consumed in a public place or in a vehicle, and the possession of an open container of marijuana in a vehicle is likewise prohibited. The act did not grant municipalities any new authority to regulate marijuana.

Although Vermont now allows for home cultivation and consumption, it has not established a retail market. Over the years, legislative efforts to legalize a retail marijuana marketplace have failed, but that may soon change. The passage of Act 86 together with last year's creation of the Governor's Marijuana Advisory Commission – which is due to submit a report on December 15 recommending how Vermont could implement and operate a regulated and taxed retail marijuana market – indicate there now exists the political will to create such a market for recreational marijuana here.

Even before a retail market becomes a reality, local governments, businesses, and community members across the state will want to educate themselves on what this will mean to them. Marijuana grow operations, whether located in an urban indoor facility or a farm field in rural Vermont, will be located in a town or city. So will retail shops. The impact of a retail market in Vermont will be felt profoundly at the local level. Because no one knows what this regulated marketplace will look like, townspeople and local officials should start discussing the issue now, the better to help shape any associated legislation that is introduced in 2019.

Local officials may want to first ask residents how a legalized marijuana marketplace would affect their community. They need to accept the fact that a retail market will be a reality and then figure out how that aligns with community values, economic development goals, public safety concerns, housing requirements, and even whether it fits in with the town plan. Local officials should ask themselves if they want to host a marijuana establishment in the first place, and, if so, what one should look like. Do zoning bylaws and other ordinances need to change to address a retail marijuana market?

Communities should consider how neighboring towns might address recreational marijuana because they will certainly be affected, directly and indirectly, by any new establishment, whether or not they are hosting it. They will need to analyze how legalization may impact public safety, and determine if they have the resources to address any potential concerns such as illegal grow operations, fire hazards caused by illegal grows, thefts and burglaries from grows or retail shops, odor complaints, and the use of marijuana in public places. Are local rescue squads and local police departments equipped to address these concerns? If not, what must be done to prepare for them? What additional resources will be needed?

If a town is a tourist destination, how will a boom in marijuana tourism affect it? Will parents and school officials feel comfortable if a marijuana retail market is located in their municipality? Early in the process, community members and municipal officials need to apprise their representatives and senators of their concerns so legislators can better advocate for local authority, autonomy, resources, and taxing power to ensure a successful rollout of a retail market in the communities they represent.

Finally, it is crucial for Vermont municipalities to secure the needed regulatory authority and resources to ensure they are not left scrambling to find funding in already overburdened local budgets or having to rewrite existing ordinances and deal with, for now, limited regulatory authority in time to respond to a fast-approaching recreational marijuana marketplace.

Gwynn Zakov
Municipal Policy Advocate