

1 **Regulation of Cannabis Cultivation as Farming**

2 **1. 2020 Acts and Resolves No. 164, Sec. 7, 7 V.S.A. § 869**

3 § 869. CULTIVATION OF CANNABIS; ENVIRONMENTAL AND LAND USE
4 STANDARDS

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

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

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

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

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

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

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

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

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

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

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

8 (C) section 12, regarding subsurface tile drainage.

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

13 (e) Persons cultivating cannabis or handling pesticides for the purposes of the
14 manufacture of cannabis products shall comply with the worker protection standard of 40
15 C.F.R. part 170.

16

1 **2. 2022 Acts and Resolves No. 158, Sec. 2**

2 § 869. CULTIVATION OF CANNABIS; ENVIRONMENTAL AND LAND
3 USE STANDARDS; REGULATION OF SMALL CULTIVATORS

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

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

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

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

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

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

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

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

1 (d)(1) The cultivation, processing, and manufacturing of cannabis by all cultivators
2 regulated under this chapter shall comply with the following sections of the Required
3 Agricultural Practices as administered and enforced by the Board:

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

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

7 (C) section 12, regarding subsurface tile drainage.

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

12 (e) Persons cultivating cannabis or handling pesticides for the purposes of the
13 manufacture of cannabis products shall comply with the worker protection standard of 40
14 C.F.R. ~~part~~ Part 170.

15 (f) Notwithstanding subsection (a) of this section, a small cultivator licensed under this
16 chapter who initiates cultivation of cannabis outdoors on a parcel of land that was subject to
17 the Required Agricultural Practices prior to licensed cultivation of cannabis shall:

18 (1) be regulated in the same manner as “farming” and not as “development” on the
19 tract of land where cultivation occurs for the purposes of permitting under 10 V.S.A. chapter
20 151;

1 (2) not be regulated by a municipal bylaw adopted under 24 V.S.A. chapter 117 in the
2 same manner that Required Agricultural Practices are not regulated by a municipal bylaw
3 under 24 V.S.A. § 4413(d)(1)(A);

4 (3) be eligible to enroll in the Use Value Appraisal Program under 32 V.S.A. chapter
5 124 for the cultivation of cannabis, provided that the agricultural land or farm building on
6 the parcel where cannabis cultivation occurs was enrolled in the Use Value Appraisal
7 Program prior to commencement of licensed cannabis cultivation and the parcel continues to
8 qualify for enrollment; and

9 (4) be exempt under 32 V.S.A. § 9741(3), (25), and (50) from the tax on retail sales
10 imposed under 32 V.S.A. § 9771.

11

1 **3. H.270. Senate Committee on Agriculture Proposed Amendment**

2 Sec. 3a. 7 V.S.A. § 869 is amended to read:

3 § 869. CULTIVATION OF CANNABIS; ENVIRONMENTAL AND LAND
4 USE STANDARDS; REGULATION OF ~~SMALL CULTIVATORS~~
5 CULTIVATION

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

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

13 (c) A cannabis establishment regulated under this chapter shall be subject to regulation
14 under 24 V.S.A. chapter 117 as authorized by this chapter, unless otherwise provided under
15 this chapter.

16 (d)(1) The cultivation, processing, and manufacturing of cannabis by all cultivators
17 regulated under this chapter shall comply with the following sections of the Required
18 Agricultural Practices as administered and enforced by the Board:

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

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

22 (C) section 12, regarding subsurface tile drainage.

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

5 (e) Persons cultivating cannabis or handling pesticides for the purposes of the
6 manufacture of cannabis products shall comply with the worker protection standard of 40
7 C.F.R. Part 170.

8 (f) Notwithstanding subsection (a) of this section, a ~~small~~ cultivator licensed under this
9 chapter who initiates cultivation of cannabis outdoors on a parcel of land ~~that was subject to~~
10 ~~the Required Agricultural Practices prior to licensed cultivation of cannabis~~ shall:

11 (1) be regulated in the same manner as “farming” and not as “development” on the
12 tract of land where cultivation occurs for the purposes of permitting under 10 V.S.A. chapter
13 151;

14 (2) not be regulated by a municipal bylaw adopted under 24 V.S.A. chapter 117 in the
15 same manner that Required Agricultural Practices are not regulated by a municipal bylaw
16 under 24 V.S.A. § 4413(d)(1)(A);

17 (3) be eligible to enroll in the Use Value Appraisal Program under 32 V.S.A. chapter
18 124 for the cultivation of cannabis, ~~provided that the agricultural land or farm building on~~
19 ~~the parcel where cannabis cultivation occurs was enrolled in the Use Value Appraisal~~
20 ~~Program prior to commencement of licensed cannabis cultivation and the parcel continues to~~
21 ~~qualify for enrollment; and~~

1 (4) be exempt under 32 V.S.A. § 9741(3), (25), and (50) from the tax on retail sales
2 imposed under 32 V.S.A. § 9771; and
3 (5) be entitled to the rebuttable presumption that cultivation does not constitute a
4 nuisance under 12 V.S.A. chapter 195 in the same manner as “agricultural activities” are
5 entitled to the rebuttable presumption under 12 V.S.A. § 5753.