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President, City of Essex Junction
2 Lincoln Street
Essex Junction, VT 05452

Jan. 30, 2024

To: House Committee on Government Operations and Military Affairs

Re: H.549 - An act relating to the siting of outdoor cannabis cultivation

Representatives,

Thank you for inviting me to testify today.

When the state legalized commercial cannabis, municipalities were permitted to use zoning to determine where the business of cultivating cannabis was permitted. In fact, the law stated that each community must include an area for cultivation and may select the zoning district(s) for that use.¹ The City of Essex Junction did just that. We identified a zoning district that includes a farm and larger property lots and assigned cultivation to that area. We also identified areas of the community for retail and processing and so on. With the passage of Act 65 (H.270) last year, communities no longer have that ability.

I am here to ask that you restore a community's ability to use zoning to decide where outdoor commercial cultivation of cannabis makes sense and is permitted. We are specifically asking that municipalities that are served by sewer and water infrastructure be allowed to decide where cannabis cultivation is and isn't appropriate.

Essex Junction is a very dense city, with nearly 11,000 people in an area of 4.6 square miles. We have a school in nearly every neighborhood, and our residential lot sizes tend to be between an eighth to a half-acre. I'll have visual examples in just a moment.

¹ The basis for these Land Development Code amendments lie in this premise: "A town's bylaws may require a particular cannabis establishment be located in a specific district, but the CCB has not designated that, the statute (24 VSA 4414) has designated that," Julie Hubbard of the CCB, VLCT's *Regulating Cannabis What Municipal Officials Need to Know* webinar, and particularly this section of the [CCB's presentation](#) at minute 37:29 to 38:11.

We have embraced the state's goals of the Housing Opportunities Made for Everyone (HOME) Act of 2023 (Act 47) and our land development code was already incorporating many of the measures outlined in the HOME Act before the act's passage. In short, we will continue to increase density as we add more people and see more infill and vertical development.

We find ourselves dealing with the conflicting directives of Act 47 and Act 65. We have a Tier 1 outdoor cannabis cultivation operation in a residential neighborhood, and this has produced significant nuisance issues for neighbors. This operation is also within 500 feet of the high school. We are concerned, for instance, that we will have no recourse should an operation seek a permit for a yard that abuts a school playground. The odor of outdoor cannabis cultivation permeating a school property seems to be misaligned with appropriate public health policy. The prevalence of cannabis cultivation in such a dense environment exposes youth and those in recovery to both potential and real harms.

Our recommendation is to alter the changes made in Act 65 of 2023. The suggested change is to allow municipalities the ability to use zoning regulations or ordinances (as allowed in the original legislation) to set reasonable regulations that would eliminate the impact of outdoor cannabis cultivators on neighboring properties in areas served by water and sewer² (a proxy for urban areas). This is the same geographic area associated with the HOME Act.

Please understand that as proposed, a community may use this ability, but does not have to use their ability to zone specifically for cannabis cultivation.

For your reference, I have submitted a document with some further background that defines the sections of Act 65 that have caused this issue, as well as a review of various metrics used for determining density, with associated pros and cons of each.

² Sewer service areas are quite limited in VT: <https://geodata.vermont.gov/datasets/VCGI::vt-sewer-service-areas/explore?location=44.146806%2C-72.065178%2C8.82>. Water service areas are more extensive, but we are suggesting areas with both. Therefore, this is not a significant area.