



CANNABIS SOCIAL CLUB

A brief overview considering the current cannabis law¹

I. Background

The idea of establishing a Cannabis Social Club (CSC) is based on the need to provide safe and controlled access to cannabis for adults. A CSC is a (but not necessarily) non-commercial association whose members are allowed to grow and consume cannabis communally. These clubs offer an alternative to the illegal drug market and promote the responsible use of cannabis.

II. Framework conditions under the current cannabis law

With the introduction of the new cannabis law in Germany, certain framework conditions and regulations have been created that affect the operation of CSCs. The law allows the cultivation and consumption of cannabis under certain conditions but aims to prevent abuse and ensure public safety.

Important aspects of the law include:

Legal quantity: Adults are allowed to possess a limited amount of cannabis for personal use. The exact quantity is specified in the law.

Cultivation: Private cultivation of cannabis is permitted under certain conditions, including limiting the number of plants and security measures to prevent access by unauthorized persons.

Non-commercial distribution: Distribution of cannabis within a CSC must not be commercial and must not be for profit.

Controls and reports: CSCs must register and submit regular reports on their cultivation and consumption to ensure transparency and compliance with the law.

III. Founding a Cannabis Social Club

1. Founding an association:

What types of associations are there?

The law distinguishes between a commercial business and associations with a non-commercial purpose.

Founding a commercial association:

The commercial association primarily pursues profit-oriented purposes.

A commercial association does not have to belong to the Chamber of Commerce and Industry, be affiliated with a cooperative, nor is it subject to statutory auditing. This makes it particularly attractive for founders.

¹ Law on the controlled use of cannabis and amending other provisions (Cannabis Act — CanL), Federal Law Gazette 2024 I No. 109 of 27 March 2024

2. What legal form should the cannabis club have?

For cannabis cultivation associations, the legal form of a registered cooperative is possible, but for practical reasons a registered non-profit association (e.V.) is recommended. Cooperatives mean higher start-up and administration costs as well as more complex accounting work. The regular advantages of an e.V. are

- tax relief,
- the association's income is subject to the reduced sales tax rate of 7% and is exempt from corporation tax and trade tax,
- the association may (probably also the CSC); legally not yet fully clarified) issue donation receipts that the donor or member can claim as special expenses,
- the non-profit association receives state subsidies,
- bequests and wills are possible without incurring inheritance or gift tax,
- there are generally no court fees for the association register,
- increased image through a focus on the common good.

3. Non-profit status

The question of the non-profit status of cannabis social clubs has not yet been legally finally clarified, in particular whether they are allowed to issue donation receipts. Since cultivation associations are primarily focused on the production and distribution of intoxicating substances and not on non-profit goals such as plant breeding, it is likely that they will not be recognized as non-profit. The registered association receives its legal capacity through entry in the association register at the responsible local court. The establishment of a registered association is subject to certain requirements such as the creation of a statute, entry in the association register and a minimum number of seven founding members.

According to Section 31 of the German Civil Code (BGB), liability is regulated in such a way that only the association as such is liable, not the board of directors or even the members themselves. Another advantage of a registered association is the possibility of building up assets as an association. In comparison to an unregistered association, assets such as funds, buildings or materials belong to the association and not to all members.

IV. Special regulations for the CSC (registered association)

1. Preliminary work

Check: Are additional cannabis clubs even allowed? Municipalities, cities and federal states could limit the number of clubs.

Find a location for the cultivation area. Important conditions:

- Must be within 100 meters of children's and youth facilities. So, the radius no longer counts as originally planned. The distance rule to other cannabis clubs has also been removed.
- Can the cultivation area be secured as required?
- Must not be in a private home, not even partially.
- Must not be on military grounds, not even partially.
- Must not pose any environmental hazards within the meaning of the Federal Immission Control Act.

2. Establishment of the association:

At least seven founding members.

Please note: The founding members must not have been caught for certain crimes in the last 5 years (a police clearance certificate may be required). The list can be found in §12, sentence 2 CanL.

- Call, hold and record the founding meeting. At least seven members must be present.
- Determine the name of the association.
- Determine the board of directors, at least one person, usually five people.
Attention: Only natural persons are allowed.
- Draw up the association's statutes and have them signed by at least seven members. Depending on the federal state, the signatures must be notarized to be able to register the association.

You should also note:

- State the name and registered office of the association.
- Purpose of the association. The only goal may be to grow your own cannabis and distribute it to members.
- Include rules about joining and leaving members.
- The minimum membership period must be 3 months.
- Members must be of legal age and resident in Germany (have lived in Germany for at least six months).
- Rules for forming the board of directors.
- Determine when and how the general meeting will be called.
- Determine how resolutions are documented.
- Membership fees may be staggered according to the amount of cannabis sold.
- Non-profit status is applied for at the responsible tax office.

3. Apply for registration in the association register

For registration, you need the registration form, a copy of the signed founding statutes and the founding minutes. The statutes must contain the founding date of the association, and the founding minutes must record the names and functions of the board members.

4. Obtain notarial certification

If the board has several members, at least as many board members must sign the registration as specified in the statutes for the representation of the association. These signatures must be certified by a notary.

To do this, the board members visit a notary, present their ID card or passport and sign the registration letter on site.

5. Register extract as proof

When registering your association for the first time, all board members authorized to represent the association named in the statutes must appear in person at the registry court. After registration, you will receive a register extract from the court confirming the e.V. status of your association. This extract is required, among other things, for opening a bank account and for registering with the tax office.

Attention: The registration number for the permit is mandatory.

6. Important further steps

- Set up a bank account for the association.
- Appoint a prevention officer with “proven expertise”
- Create a health and youth protection concept

V. Prevention Officer for the Cannabis Club

The Prevention Officer is available to members as a contact person for questions about addiction prevention.

He ensures that the club takes care of comprehensive youth and health protection as well as addiction prevention.

He helps with the health and youth protection concept and ensures its implementation.

The Prevention Officer must prove to the club that he has specific advice and prevention knowledge.

He may have acquired this through addiction prevention training at state or specialist addiction prevention agencies or "at similarly qualified institutions".

VI. Permission

According to Section 11 CanL, a permit for the communal cultivation and distribution of cannabis must be applied for from the responsible authority. Which authority is responsible for this depends on the respective federal state. The Cannabis Act provides for a period of three (3) months for granting the permit.

Conclusion:

The establishment of a Cannabis Social Club under the current legal framework requires careful planning and compliance with the legal provisions.

It seems advisable to first deal with the preparatory work (as mentioned above) in order to be able to enter the founding phase - if all conditions are met (invitation to the founding meeting, drawing up the statutes, registration in the association register, registration of the association with the relevant tax office in order to apply for non-profit status, preparing membership applications, setting up member administration if necessary, applying for official permission, etc.).