



## CANNABIS BUSINESS APPLICATION FREQUENTLY ASKED QUESTIONS

*Updated 12/13/2021*

### CONDITIONAL

**1. Do you have to apply for a conditional license first in order to seek an annual license?**

No. If an applicant has all the required criteria for an annual license, then they can apply for an annual license.

**2. What documentation is needed for a conditional applicant to identify their site/premises? If a conditional license application is submitted for one location and the applicant later secures a different location, is there a fee to transfer to the second location?**

Site control (demonstrated by having a lease agreement, property ownership, or similar document) is not required for a conditional license applicant. However, applicants must provide a proposed business address. By the nature of the license, conditional license applicants are not required to have control of the site at the time of application but must establish control of a proposed site during the conditional license phase.

Conditional license-holders can provide the Commission with proof of site control for a new proposed location when applying for a conditional conversion to an annual license. However, an impact zone or microbusiness conditional license holder may not provide a new proposed location that would cause it to no longer comply with the impact zone or microbusiness criteria, respectively. In such a situation, the conversion application would be denied, and the license applicant would be required to restart the licensing process from the initial stage with the amended location and the appropriate level of priority.

Fees for changing the location of a business apply only to annual license-holders. Once a business has an annual license, if it moves to a new location it must apply for a change of location (\$1,000 for microbusinesses; \$10,000 for standard businesses).

**3. For conditional license applicants, will the CRC accept a Letter of Intent with proposed terms for either a management services agreement and/or a financial source agreement, rather than a final, executed agreement?**

For conditional license applicants, the CRC will accept a Letter of Intent in lieu of a final, executed agreement. Pursuant to N.J.A.C. 17:30-7.3(c)(4), as part of the conditional license application, the applicant shall disclose and submit a list of any proposed management services contractors, financial sources, or vendor-contractors. Final, executed agreements will be required prior to conversion to an annual license.



## **MICROBUSINESSES**

- 4. Can a business still be qualified as a microbusiness if it has more than 2,500 square feet of space that is set aside for future expansion into standard business?**

Yes. A microbusiness must stick to the 2,500 square foot restrictions established by the CREAMM Act and CRC regulations. Microbusinesses must have their entire physical plant (the spaces, equipment, and infrastructure directly utilized by a cannabis business, within the premises, for cultivation, manufacturing, wholesaling, distributing, retail sale, and delivery) occupy no more than 2,500 square feet, including any grow areas, regardless of whether the business has only one plant tier or multiple plant tiers. The facility may have other non-cannabis-related spaces that exceed the 2,500 square feet that could be used for possible expansion in the future, as long as the physical plant of the microbusiness does not exceed the 2,500 square feet while it remains a microbusiness.

- 5. Can multiple microbusinesses be in the same building under different units?**

Yes, if approved by the municipality and the Commission.

- 6. Does the 10-employee limit for microbusiness include on-site employees or total employees on the business's payroll? Can microbusinesses use a management services contractor to augment staff and not go over the 10-employee limit?**

Microbusinesses shall employ no more than 10 employees at one time. This includes any seasonal, part-time, and remote employees but does not include owners and principals. Management services contractors may count as employees, while vendor-contractors will not but still have their own restrictions and requirements. Please refer to N.J.A.C. 17:30-1.2 for the definitions of "employee," "management services contractor," and "vendor-contractor" and N.J.A.C. 17:30-6.8 and 6.9 for details on management services contractors and vendor-contractors.

- 7. How will the cap of 37 on cultivators be counted considering 2018 RFA/Micros?**

Pursuant to N.J.S.A. 24:6I-46, the limitation on 37 cannabis cultivators for the 24-month period following the effective date of the CREAMM Act, includes all Alternative Treatment Centers (ATCs) issued permits to cultivate pursuant to the prior Requests for Application if also licensed for personal use cannabis, but shall NOT include any cultivator licenses issued to microbusinesses.



## LEGACY/SUITABILITY

### **8. I have a prior conviction for intent to distribute under 1 ounce. Do I fall under the social equity business?**

Please see N.J.A.C. 17:30-6.6 for a complete list of criteria to qualify as a Social Equity Business. To claim SEB status, a business must have more than 50% of its ownership meet one of two criteria: (a) have lived in an Economically Disadvantaged Area for 5 of the last 10 years and have a household income that is 80% or less of the average median household income in New Jersey, or (b) have been convicted of at least two disorderly persons offenses or at least one indictable offense related to marijuana or hashish. Possession with intent to distribute < 1 oz. of marijuana under N.J.S.A. 2C:35-5(b)(12) was an indictable offense related to marijuana or hashish, and a person would be eligible to be participate in the ownership of a Social Equity Business based on that conviction.

### **9. How can "legacy" experience be demonstrated in the application?**

Applicants are not required to detail their experience operating in the legacy or unregulated market. Applicants are merely required to provide plans that demonstrate how the applicant intends to operate the business and comply with the relevant laws and regulations. Under law, applications submitted are not considered public records.

### **10. What "evidence of rehabilitation" can an applicant submit to avoid disqualification? What is the process to prove that someone has been rehabilitated? What factors are considered in this process?**

The CRC does not limit or prescribe what qualifies as evidence of rehabilitation. Factors the CRC will consider when determining whether there is clear and convincing evidence that an individual has been rehabilitated include but are not limited to: (i) time since last offense, (ii) time between offenses, (iii) recommendation letters, (iv) certificates of achievement, (v) community service, (vi) employment, (vii) evidence of family support, (viii) volunteer efforts, and (ix) civic engagement. Please refer to N.J.A.C. 17:30-7.12 and N.J.S.A. 2A:168A-1 et seq. for more details.

## APPLICATION PROCESS

### **11. Do I have to mail in my entity disclosure and personal history disclosure forms?**

No, you can submit them electronically, but license applicants should retain the originals in case they are requested by the CRC.



**12. What is the “license applicant disclosure form”?**

It is an Entity Disclosure Form filled out on behalf of the license applicant entity.

**13. If the personal history disclosure or entity disclosure forms are updated, do I need to fill out new versions?**

No, any version that has been made available at <https://www.nj.gov/cannabis/businesses/> can be used. However, if you are just starting your application, please download the most recent forms from that webpage. The CRC intends to continually update and improve our forms and application system, so if there are minor technical errors they will be fixed, and new forms will be released – but applicants can submit using the old versions.

**14. What are the required forms for license applicants in addition to the online application?**

- Personal History Disclosure for all persons of interest.
- Entity Disclosure Forms for the license applicant entity and any entities of interest on the application.
- Signed Affidavits, Releases and Waivers completed by an individual authorized to sign on behalf of the license applicant.
- Social Equity Business attestation, if seeking to apply as a Social Equity Business.

**15. What do I submit for “Background Check Verification”?**

All license applicants will be required to undergo a criminal history background check as part of the application process, however, at this time they do not need to have been fingerprinted at the time of application. For Background Check Verification, please submit a letter signed by an individual legally authorized to sign on behalf of the license applicant that states all individuals on the application will comply with the necessary criminal history background check provisions.

Once the application is reviewed, the license applicant will be provided with detail and instructions for being fingerprinted.

**MISCELLANEOUS**

**16. Is a franchise considered a Management Services Contractor?**

This is dependent on how much ownership, supervision, and control the franchisor has over the franchisee. Refer to N.J.A.C. 17:30-1.2 for the definitions of "owner," "management services contractor," and "principal," N.J.A.C. 17:30-6.7, 6.9, and 6.10, as well as the CRC’s October 13,



2021, webinar, for details on the requirements for management services agreements and financial source agreements and how prospective cannabis business owners can protect themselves from unfair business agreements.

**17. Does the restriction against alternative name use mean that businesses must include "LLC" or "Inc." in all its advertising? Does the restriction apply to businesses that were previously established and have a trade name listed on its NJ business registration certificate? Does the business need to go through a corporate name change with the State and IRS?**

A cannabis business shall only operate under its New Jersey registered entity name. Businesses with an alternate name or trade name that existed before August 19, 2021, can still apply for a cannabis license. But if the business is awarded a license, it can only operate under its registered name. Alternate names, trade names, or DBAs can be noted in an application to help the CRC verify the applicant's identity, but the alternate name cannot be used while conducting cannabis business activities (including advertisements). Previously existing businesses are not required to officially change their name with the State or IRS.

The prohibition on using alternate names does not apply to any alternative treatment center (ATC) that was issued a permit prior to July 2, 2019, or pursuant to an application submitted prior to July 2, 2019. However, an ATC that changes its name or alternate name on or after August 19, 2021, shall be subject to the alternate name restriction.

**18. Will retailers have to apply for a delivery license if they choose to deliver to end consumers?**

No. Cannabis retailers may choose to deliver to end consumers or use a Class 6 Cannabis Delivery Service license-holder to deliver items to consumers. Cannabis retailers engaging in delivery operations or activities must comply with N.J.A.C. 17:30-12.8.

**19. Are there any regs around verbiage/words you are permitted or not permitted to have in your company name or is that controlled at the municipal level? Such as the word Cannabis?**

There is no prohibition on the use of the word "cannabis" in the business name. However, businesses should note that their names will be used in advertisements and location signage and must adhere to the limitations provided for at N.J.A.C. 17:30-14.1 and 14.2, as well as any municipal ordinances or restrictions.

**20. N.J.S.A. 24:6I-35 prohibits cannabis retailers from being located "in or upon any premises which operates a grocery store, delicatessen, indoor food market, or other store engaging in retail sales of food [or] licensed retail sales of alcoholic beverages." How will this work for a shopping mall or strip mall?**



The CRC does not prohibit cannabis businesses from being located in strip malls, as long as the cannabis business premises is self-contained without any access between the cannabis business and other businesses. The cannabis business should have its own entrance and/ or access point that is not accessible by other businesses in the strip mall, and the cannabis business premises must satisfy all the security requirements of N.J.A.C. 17:30-9 and 10.

Additionally, applicants must adhere to any municipal restrictions on being located in these areas. Applicants should also note that it will need to be able to comply with other laws and regulations, including requirements to verify patrons' age and restrictions on displays, signage, and advertisements.

The CRC does prohibit cannabis businesses from being located in shopping malls where there is an open corridor or service corridor that allows access between cannabis business and other stores, and/or retail sales of food and/or alcoholic beverages.

**21. How can local municipal support be demonstrated?**

Local support must be demonstrated by a resolution from the governing body. For a municipality that does not operate with a governing body, a letter of support from the municipal executive will suffice. *See* N.J.A.C. 17:30-7.8.

**22. Can a conditional license applicant add new owners to the company during the conditional conversion process and, if so, are the new owners still subject to the income restrictions that exist at the beginning of the conditional application process?**

Conditional license applicants may add new owners during the conditional conversion process, so long as the new owners are disclosed immediately. The ownership as a whole remains subject to the income thresholds established at N.J.A.C. 17:30-7.3(c)(7), such that 51% of ownership at all times during the conditional licensing phase must remain below the income thresholds.