



## What are the key provisions of the Cannabis Regulatory Commission's initial regulations?

The Commission issued its first set of regulations on August 19, 2021. The rules address barriers to entry that have plagued some cannabis markets across the country. Key components include:

- Prioritizing applications from people with prior marijuana convictions, certified minority-, women-, and disabled veteran-owned businesses, and people who live or will operate in one of several designated Impact Zones or economically disadvantaged areas;
- Flexible application requirements for microbusinesses and those applying for conditional licenses;
- Application fees as low as \$100;
- Requiring cannabis businesses to contain odors and engage with neighbors who may have concerns about their presence, as well as create and implement environmental sustainability plans;
- Prohibitions on the use of harmful ingredients or chemicals in the cultivation of cannabis or the manufacturing of cannabis products;
- Requiring cannabis businesses to have consumer education materials available for customers, including information on potential side effects of cannabis use, safe techniques for using cannabis, and indicators of substance abuse; and
- Strict requirements that products sold in stores come with warning statements about potential health risks as well as the hotline for accessing poison control centers.

The 160-page rule, as well as a summary of each subchapter, is available on the Commission's website.



## What are the Cannabis Regulatory Commission's fees for cannabis businesses?

The Commission's fees are based on the Commission's cost to process and review applications and enforce compliance, with consideration given to the proposed cannabis business's class, the size of proposed operations, and the business's anticipated market share of the industry. The Commission's fee schedule is attached.



## Why do the CRC's rules not include license application information for wholesalers, distributors, or delivery service businesses?

The tight statutory deadline for filing initial rules did not allow the Commission to include rules on every sector of the cannabis industry. As such, the Commission chose to prioritize those sectors that must come first when establishing the new industry. The initial regulations do include minimum standards for providing the secure transport and home delivery of cannabis items. However, the Commission is dedicated to ensuring that details for wholesalers, distributors, and delivery service businesses are included in its formal rule proposal, which is expected to be released in the near future.



## Can a business operate legally with just approval from a local municipality instead of obtaining a state license?

No. All legal cannabis operators must receive a license from the NJCRC to conduct cannabis business in New Jersey.




## Which municipalities have been designated as areas of Impact Zones?

The CRC is working to compile a list of impact zones as defined in N.J.S.A. 24:6I-33 and expects to provide this information in the near future.



## Is there a deadline for municipalities to decide whether to allow or deny adult-use cannabis in their town?

Yes, there is a statutory deadline. Based on the CREAMM Act, municipalities had until August 21, 2021, to decide whether to allow or deny adult-use cannabis in their towns. The CRC has no discretion to extend this deadline.



## For municipalities that have chosen to allow cannabis businesses to operate, what authority do municipalities have regarding the establishment and operation of a cannabis business?

So long as it does not conflict with the CREAMM Act, a municipality may enact an ordinance or regulation to:

- Determine how many of each class of cannabis businesses are allowed in their jurisdiction;
- Regulate location and hours of operation for cannabis businesses, except for the times of operation of a licensed delivery service. Local regulations may include requirements that a cannabis business premises be a certain distance from the closest church, synagogue, temple, or other place used exclusively for religious worship; or from the closest school, playground, park, or child daycare facility;
- Levy local taxes of up to 2%;
- Institute additional local approval processes, though local fees must be reasonable; and
- Enact civil penalties for violations within the municipality.

Municipalities will also be able to weigh in with the CRC on preferences for license applicants. A local government official shall not solicit from a cannabis business, and a cannabis business shall not offer, anything of value in exchange for zoning approval, proof of local support, or written approval for such cannabis business.



## Can a municipality prohibit the consumption of cannabis on public property and in public spaces?

Generally, an adult 21 years of age or older can use cannabis on private property where property owners allow. The CREAMM Act does not permit people to smoke or vape cannabis in any public place or in indoor public spaces as defined in N.J.S.A. 26:3D-57. Public smoking laws also apply to cannabis smoking, and municipalities may enact additional restrictions on public consumption.



## Can a municipality restrict cannabis delivery services in their jurisdiction?

A municipality's ordinance can prohibit the operation of cannabis delivery service businesses within the municipality. However, a municipality cannot restrict or prevent cannabis from being transported through the municipality or being delivered to consumers within the municipality. Any such restriction shall be deemed void and unenforceable.




## Can a municipality impose additional taxes or fees?

Yes. The rate of a transfer tax established shall be at the discretion of the municipality, but in no case shall a local rate exceed:

- 2% of the receipts from each sale by a cannabis cultivator;
- 2% of the receipts from each sale by a cannabis manufacturer;
- 1% of the receipts from each sale by a cannabis wholesaler; or
- 2% of the receipts from each sale by a cannabis retailer.

Any local transfer tax must be accompanied by a user tax on any cannabis business operating more than one business location. The user tax must be equivalent to the transfer tax rate and imposed on the value of each transfer or use of cannabis between one business location and another business location, regardless of whether the second business location is in a different municipality.



## Who is responsible for collecting and administering any transfer tax or user tax imposed by municipal ordinance?

The chief financial officer of the municipality shall collect and administer any transfer tax or user tax imposed by ordinance pursuant to N.J.S.A. 40:48I-1, including enforcing the payment of delinquent taxes.



## What are the local city requirements for commercial cannabis activity?

The CREAMM Act authorizes municipalities to enact ordinances or regulations governing the number of cannabis establishments within their borders. Each municipality is responsible for establishing and enforcing its own rules and process that a cannabis business must follow to obtain local approval.



## What information do municipalities need to provide license applicants? Do they need to provide written host agreements?

Municipalities that allow cannabis businesses to operate within their jurisdiction must provide the public with information about the number and type of cannabis business that are allowed within their jurisdiction. Municipalities do not need to enter into or otherwise provide a host agreement with license-holders or license applicants.

Under the CREAMM Act, applicants seeking licensure from the CRC must include in their application both (1) municipal zoning approval for the proposed location and (2) proof of local support for the proposed business location.

Municipal zoning approval must be in the form of a letter or affidavit from the appropriate municipal zoning official(s) indicating that the applicant's proposed location is compliant with local zoning requirements for the proposed cannabis activities, including any variances granted.

Proof of local support for the suitability of the location may be demonstrated by one of the following:

- where a municipality has a governing body, adoption of a municipal resolution indicating that the intended location is appropriately located or otherwise suitable for cannabis business activities; or
- where a municipality has no governing body, a written letter of support from the municipality's executive indicating that the intended location is appropriately located or otherwise suitable for cannabis business activities.



## What should a municipality include in its local licensing application?

Municipalities that allow cannabis businesses to operate within their jurisdiction must provide the public Municipalities are not required to establish a local licensing system. If a municipality does decide to create a local licensing application, the CRC recommends considering the following:

- Keep the application simple. Municipalities will receive copies of applications submitted to the CRC, so there will be no need to reinvent the wheel.
- Information solicited by municipalities should focus on municipal matters, such as how an applicant plans to address:
  - waste disposal;
  - business signage;
  - parking;
  - keeping municipal officials up-to-date on any significant changes in operations;
  - connecting to or communicating with municipal emergency services; and
  - compliance with construction codes.
- Municipal application fees are not required. If a municipality does decide to establish fees, such fees should be reasonable. For reference, see the CRC's fee schedule attached.
- Look to see if the applicant has already been approved by the CRC for a conditional license or an annual license. Conditional license-holders have 120 days to find a site and secure local support and zoning approval.
- Municipalities can establish their own social equity initiatives.



## What equity programs can municipalities offer to cannabis businesses at the local level?

The CREAMM Act does not prohibit municipalities from developing their own initiatives to promote equity in the cannabis industry.

Municipal officials should consult with their municipal counsel for legal advice on what program provisions are permitted under the law. Equity initiatives or programs cannot conflict with the CREAMM Act or any regulation promulgated by the commission.



## What happens if a city prohibits all or certain cannabis businesses?

Under the CREAMM Act, municipalities wishing to limit the classes of cannabis businesses permitted in their jurisdiction had until August 21, 2021, to enact an ordinance specifying restrictions prohibiting the operation of one or more classes of cannabis businesses. Any municipality that did not pass an ordinance to this effect by the deadline will have to wait 5 years before trying to pass a restriction ordinance. If, after the 5-year period, a municipality enacts an ordinance to prohibit one or more classes of cannabis businesses, the prohibition shall be prospective only and not apply to any cannabis business already operating in the municipality.

Municipal officials should consult with their municipal counsel for legal advice on what actions are permitted under the law.

The CRC will not issue a license to an applicant that would be in violation of a local ordinance or regulation.



## What happens if a municipality took no action prior to the statutory deadline of August 21, 2021? Can it still act later to regulate the time, place, and manner of cannabis business operations?

Under N.J.S.A. 24:61-45, if a municipality does not enact an ordinance banning one or more classes of cannabis businesses, then cannabis businesses will automatically be permitted to operate in the following areas for the next 5 years:

- A cultivator, manufacturer, wholesaler, distributor, or delivery service shall be permitted uses in all industrial zones of the municipality.
- A retailer shall be a conditional use in all commercial zones or retail zones, though they must still meet any applicable zoning ordinance or get a variance in accordance with the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

However, a municipality can still pass an ordinance addressing the permissible hours of operation and manner of operation.



## Where an ATC currently operates in a particular municipality, will that municipality have the opportunity to consider and approve/deny the ATC's expansion into the adult-use market?

Yes. A municipality's decision whether to allow adult use cannabis businesses will also apply to ATC expansion. ATCs cannot begin offering personal-use cannabis before first receiving written approval from the municipality in which the ATC is located and certifying to the Commission that the ATC has enough supply and operational capacity to meet the needs of registered qualifying patients.