Recreational Cannabis Statewide Informational Webinar

October 13, 2021

This webinar is for informational purposes only. It is not intended to be legal or business advice.
Agenda

• Overview of the initial rules
• Basic application requirements
• Expectations for CRC background investigations
• What businesses can do to prepare for applications
• Management Service Agreement and Financial Source Agreement 101
• Expectations for neighborhoods with cannabis businesses
• What’s next
• Q&A
Overview of Initial Recreational Cannabis Rules
Initial Rules
Focal Points

- Emphasize social and economic equity and safety.
- Outline the application process and fee structure for transparency.
- Uphold municipal authority.
Classes of Cannabis Businesses

- Class 1 Cannabis Cultivator
- Class 2 Cannabis Manufacturer
- Class 3 Cannabis Wholesaler
- Class 4 Cannabis Distributor
- Class 5 Cannabis Retailer
- Class 6 Cannabis Delivery
- Testing Laboratory
Equity in the Rules

- **Priority review** for applications from target groups
- **Focus on market access** for diverse entrepreneurs
- **Low application fees** and competitive licensing fees
- **Protections for license-holders** from predatory practices
- **Community benefits**
Equity in the Rules

♦ Social Equity

Applicants who:
• Live/d in economically disadvantage areas AND 80% of median household income
• Have (a) cannabis-related criminal offense(s)

♦ Diversely-owned

Certified as minority-, woman-, and/or disabled veteran-owned business

* Impact Zone – defined in N.J.S.A. 24:6I-33

~ a municipality with a large population, high unemployment rate, high number of crime or arrests for marijuana, or a combination of these
2 Types of Cannabis Licenses

**CONDITIONAL**
- Prioritized over annual in application process
- Has up to 5 ½ months to apply to convert to Annual license, via abbreviated application process
- Don’t need site control or municipal approval

**ANNUAL**
- Reviewed after conditionals in application process
- Must undergo full application process as outlined in regulations
- Requires site control & municipal approval

NEW JERSEY CANNABIS REGULATORY COMMISSION
Municipal Guidance
Municipal authority covers:

- zoning regulations and approvals with reasonable fees
- number and kind of cannabis business licenses
- business operations like opening hours
- the ability to enact up to 2% transfer tax
- weighing in on CRC’s selection process with preference
- passing and updating their ordinances
Decision-making Centers of Local Government

**The Local Governing Body** – Determines what to include in the town budget, taxes to be levied on residents & businesses, and what should be legal or illegal within the town. It includes the mayor and other elected, appointed, and hired administrators.

**The Planning Board** - Controls the physical structure of the community, environmental quality, and future development. Its makeup may include non-elected resident volunteers, municipal employees, and elected officials.

**The Zoning Board** - An independent, partly-judicial body that issues zoning variances, rules on zoning appeals, and interprets municipal master plans. Its makeup may include non-elected resident volunteers, municipal employees, and elected officials.
What do applicants need from the business location municipality?

Applicants must have both:

1. A letter or affidavit from zoning officials indicating that the applicant’s proposed location is compliant with local zoning requirements,
   AND
2. A municipal resolution or letter from municipal executive indicating that the intended business location is appropriate for cannabis activities

*Applicants for annual licenses must have both.

"Well I'll be darned! Accordin' to this here zoning law, this town is plenty big enough for both of us!"
Basic Application Requirements
Licenses covered in initial rules

- Covers licensing requirements for all cannabis businesses
- Covers complete operational requirements for cultivators, manufacturers & retailers
- Wholesalers, distributors, and delivery services are coming soon.
Preparing to Start a Cannabis Business in New Jersey
Preparing to start a Cannabis Business in New Jersey

1. Know the law and regulations:
   • Develop a regulatory compliance plan for your business
   • [Cannabis Regulatory Commission Homepage (nj.gov)](nj.gov/cannabis/)
     • Initial Recreational Cannabis Rules & Summary
     • [New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (CREAMMA)](nj.gov/cannabis/)

[Image of the New Jersey Cannabis Regulatory Commission logo]
Preparing to start a Cannabis Business in New Jersey

Identify what kind of business and application you’ll want to use

1. Activity
   - Cultivation
   - Manufacture
   - Retail
   - Delivery
   - Distribution
   - Wholesale
   - Testing Lab

2. Size
   - Standard Business
   - Microbusiness

3. Application / Readiness
   - Conditional
   - Annual
Preparing to start a Cannabis Business in New Jersey

2. Develop a business plan:
   - Market research
     - Customers & buying habits
     - Cannabis business operations
     - Budget & pricing
     - Financing plan
   - Formal business plan is required as part of conditional license application.
Preparing to start a Cannabis Business in New Jersey

3. Decide on a legal business structure:
   - Partnership
   - Limited Liability Company (LLC)
   - Corporation
   - S Corporation

4. Get Federal and State Tax ID Numbers:
   - Federal ID or Employer Identification Number (EIN) 2021 IRS Tax ID / EIN Online Application - Form SS-4 (irs-gov-ein-number.com)
     - Required for federal taxes, hire employees, open bank account, apply for licenses & permits
   - New Jersey State Tax ID https://www.state.nj.us/treasury/taxation/br1.shtml
     - Required to pay NJ taxes
Preparing to start a Cannabis Business in New Jersey

5. Choose & register your business and business name:
   • https://www.state.nj.us/treasury/revenue/gettingregistered.shtml
   • Reserve your domain name for a website
   • Note: A cannabis business can only operate under the name on the license – the legal entity name as it appears on the New Jersey business registration
   • Note: A cannabis business cannot use, display, advertise, or operate under any alternate name.

6. Open a business bank account:
   • Note: There are banks in NJ that accept cannabis business clients
   • A business bank account helps you stay legally compliant and protected.
   • Documents: personal ID, Employer Identification Number (EIN), Social Security Card, business formation papers, ownership agreements, business registration
Preparing to start a Cannabis Business in New Jersey

7. Get business insurance:
   - General liability
     - Required for conditional and annual license applications
   - Product liability
   - Professional liability
   - Commercial property
   - Business owners policy
   - Vehicle insurance
     - Required for transportation and delivery of cannabis and cannabis items
   - Workers’ compensation
8. **Research potential locations:**

- Each city, town, township, village, and borough is responsible for establishing its own process for approving cannabis businesses in the jurisdiction.

- Site control, local approval, and evidence of zoning approval are required for annual license applications.

- Conditional license applicants must identify a potential site but may change it later.
Preparing to start a Cannabis Business in New Jersey

9a. Apply for certification as a minority-owned, woman-owned, and/or disabled veteran-owned business (if applicable):

- Certification procedures and application forms are on the New Jersey Department of Treasury Division of Revenue and Enterprise Services website: https://www.njportal.com/DOR/SBERegistry/
Preparing to start a Cannabis Business in New Jersey

9b. Prepare documentation proof to qualify for conditional application, social equity business, Impact Zone business, and/or microbusiness (if applicable):

- **Residency**
  - **Social Equity Business**: 5 of 10 years in “economically disadvantaged area”
  - **Impact Zone**: current residents and 3 or more consecutive years in impact zone
  - **Microbusiness**: NJ residents for 2 years at time of application; 51% of ownership must be residents of municipality the business wants to locate in, or neighboring municipality

- **Past cannabis convictions**
  - Proof of 2 or more disorderly persons offenses, or one or more indictable offenses.

- **Tax returns**: Conditional license applicants must have made less than $200k (single) or $400k (joint filers) in preceding year.
Preparing to start a Cannabis Business in New Jersey

10. Review application regulations & prepare documents required by license applications:

- Conditional License applicants
- Annual License applicants
- Probity review for:
  - Owners
  - Principals
  - Management services contractors
  - Financial sources
  - And others
Expectations for CRC Investigations
CRC Background Investigation Process

- **Review for statutory compliance**
  - Social equity designations
  - Conditional applicants
  - Microbusiness applicants
  - Ownership limitations

- **Criminal history background check**
  - Low-level cannabis offenses not disqualifying (DQ)
  - DQ offenses must be substantially related to qualifications
  - Can prove rehab for DQ offenses.

- **Probity**
  - Owners, interested parties, some contractors
  - Professional licenses
  - Finances
  - Business formation documents
  - Board meeting minutes
  - History of fines and sanctions
Management Service Agreements and Financial Source Agreements
WHAT IS A MANAGEMENT SERVICE AGREEMENT?

• A management service contractor (MSC) agrees to provide professional staffing and/or management services to a cannabis business (applicant or license holder)

• In exchange for fees, or other compensation **BUT NOT OWNERSHIP INTEREST**

• MSCs can have no more than 5 agreements with cannabis businesses

• Cannabis business owners and principals **CANNOT** be MSCs.
Management Service Agreements (MSAs)

• MSC services can include:
  - Management, supervision, or hiring employees
  - Help with operations or consulting
  - Technical assistance
  - Accounting or recordkeeping
  - Leasing of equipment or real or intellectual property
  - Providing supplies for the business
WHAT IS A FINANCIAL SOURCE AGREEMENT?

• A financial source (FS) agrees to lend capital to a cannabis business (applicant or license holder) as part of a secured or unsecured financing agreement

• A financial source can have no more than 7 agreements with cannabis businesses

• Some examples of financial sources:
  - Creditors with a secured interest in the cannabis business or its premises
  - Creditors holding an outstanding bond, loan, mortgage, trust deed, or note from the cannabis business
MSAs & FSAs CANNOT

- Impose unreasonable fees, interest rates, or returns
- Receive an ownership interest in the cannabis business
- Have an unfair advantage over the cannabis business
- Have a percentage of business profits greater than the net profits received by the cannabis business
- Prohibit the cannabis business from selling to or buying from any company
- Require the cannabis business to enter into non-compete agreements
MSAs & FSAs CANNOT

× Require the cannabis business to enter into non-compete agreements

× Have the power to overrule fundamental business operations decisions, such as strategic planning

× (MSAs) Last more than 4 years without an opportunity to re-negotiate

× (FSAs) Impose penalties for pre-payment or paying off the debt
Before you sign an MSA:

- Check the document for any prohibited terms or conditions.

- Submit all the required MSC documents required by the rules, such as
  - Personnel information
  - Consent to a background check
  - Evidence of rehabilitation, if needed
  - A completed Entity Disclosure Form

- Clearly communicate with the proposed MSC any plans or expectations to audit the MSC’s records that concern the agreement.
Before you sign an FSA:

- Check the document for any prohibited terms or conditions.

- Submit all the required FS documents required by the rules, such as
  - A completed Entity Disclosure Form/Personal History Disclosure Form
  - Information related to any changes to the ownership interest or control of the FS
Expectations for communities
What should you expect to see with a cannabis business neighbor?

**Indoor/Outdoor cultivation**
- Warehouse-like structures
- Municipalities must expressly allow outdoor cultivation
- Outdoor cultivation areas will be required to have additional security and/or physical barriers

**Retail stores**
- Security and age-verification upon entry
- No signage other than name
What should you expect to see with a cannabis business neighbor?

**Odors**
- Mostly an issue for cultivation operations
- Businesses required to use odor mitigation strategies
- Utilizing Heating, Ventilation, Air Conditioning and refrigeration (HVACR) systems uniquely tailored to cannabis industry
What comes next?
Next!

Notice of Application Acceptance

Release of Impact Zone & Economically Disadvantaged Areas Data

Pre-application information session

Rules on delivery, distribution, and wholesaling
Notice of Application Acceptance

- Noticed at a CRC public meeting, to email list, posted on website, published in NJ Register.
- Will specify date on which CRC will begin accepting applications, and types of applications being accepted.
- Will detail full application requirements and expand upon what is in the regulations.
## Resources

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<td>Cannabis Regulatory Commission <a href="http://www.nj.gov/cannabis">www.nj.gov/cannabis</a></td>
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<td>Getting a business started</td>
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| Business registration | [www.business.nj.gov](http://www.business.nj.gov)  
Business Action Center  
Department of Treasury |
| Certifications for diversely owned businesses |  |
| General support for businesses | Chamber of Commerce |
Q & A