

New Jersey Cannabis Regulatory Commission Adopts Initial Rules to Govern Personal Use Cannabis Industry: Landlords, Tenants & Others Should Note Real Estate Implications

On August 19, 2021, the New Jersey Cannabis Regulatory Commission adopted its initial rules to implement the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act passed by the legislature on December 17, 2020 and signed into law by Governor Phil Murphy on February 22, 2021. The rules, which will be effective for a one-year period (expiring August 19, 2022) are lengthy and detailed in the oversight structure established for the regulated community (including owners and passive investors) and certain related businesses, including financial investors (including debt and equity) and management services contractors (including landlords).

Municipalities

The rules authorize municipalities to enact ordinances to set the number of cannabis businesses allowed within the municipality, including the maximum number within each class of license, and the location, manner and times of operation. Municipalities are authorized to impose their own local licensing requirements and establish civil penalties for a violation of their ordinances. A municipality may impose fees that are reasonably based on the administrative costs for the issuance of a municipal permit and may adopt an ordinance imposing a transfer tax or user tax on the sale of usable cannabis or cannabis products by a cannabis establishment located within the municipality. The Commission will inform a municipality of an application for a license that will be located within the municipality, and the municipality is authorized by the rules to express its preference to the Commission with respect to multiple applicants for the same license.

Licensing Process and Priorities

The rules establish a clear prioritization for certain licenses, with preference given to:

The rules set forth the details for an applicant to qualify as a Social Equity Business, Diversely Owned Business and Impact Zone Business. They also set forth in detail the rules governing the application process for a microbusiness, conditional and annual license, and the expansion of an Alternative Treatment Center (providing medical marijuana) into the personal use market. Annual licenses (including, an annual microbusiness license) are valid for one year, and the rules set forth the annual renewal process. They also establish the fees for applications, renewals, changes in ownership and location, and expansion of an Alternative Treatment Center into the personal use market.

The rules address the operations of a cannabis cultivator, manufacturer, retailer, home delivery service, and testing laboratory. Each have certain unique regulatory requirements that must be evaluated when applying for and operating such a business. Certain limitations are also established under the licensing rules promulgated by the Commission, including:

Real Estate Implications for Property Owners, Landlords, Tenants, Lenders

There are a number of real estate related implications presented by the rules, including:

This Client Alert provides a general overview of some significant issues covered by the New Jersey Cannabis Regulatory Commission's initial rules. The rules do not, however, address a wholesale or distribution license.

Next Steps

Interested parties should stay alert for the Commission's publication of a request for applications, and planning for that event should begin immediately.

Please contact the author of this Alert, **Jack Fersko** jfersko@greenbaumlaw.com | 732.476.3354 with questions related to the regulation of New Jersey's cannabis industry or to discuss your specific business circumstances. Mr. Fersko is Chair of the firm's **Cannabis Industry Practice Group** and Co-Chair of the **Real Estate Department**.

Related Attorneys

