



STATE CANNABIS RULES AND THE PINELANDS CMP

Pinelands Commission

Policy & Implementation Committee

9/24/2021

Presentation outline

- Cannabis business licensing classes
- Municipal role in cannabis licensing process
- Status of Pinelands municipal ordinances

Cannabis Rules N.J.A.C. 17:30

- Rules were adopted as Special Adopted Rules on August 19, 2021.
 - Effective Date: August 19, 2021
 - Expiration Date: August 19, 2022
- Authority: New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (CREAMM), N.J.S.A. 24:6I-31 *et seq.*
- The Cannabis Regulatory Commission is charged with overseeing the development, regulation and enforcement activities associated with the personal (adult) use of cannabis in accordance with CREAMM
- Rules address the purchase, sale, cultivation, production, manufacturing, transportation, and delivery of cannabis or cannabis items

Recreational Use Licenses

- The CREAMM Act established six (6) classes of licenses for recreational cannabis businesses
 - Class 1 License – Cannabis Cultivator
 - Class 2 License – Cannabis Manufacturer
 - Class 3 License – Cannabis Wholesaler
 - Class 4 License – Cannabis Distributor
 - Class 5 License – Cannabis Retailer
 - Class 6 License – Cannabis Delivery

Class 1 – Cannabis Cultivator

- A licensed cannabis cultivator is authorized to:
 - 1. Possess, propagate, germinate, plant, cultivate, grow, harvest, dry, cure, process, and package; and
 - 2. Transport, transfer, distribute, supply, and sell this usable or unusable cannabis to other cannabis cultivators or cannabis manufacturers, sell usable cannabis to cannabis wholesalers, or cannabis retailers.
- A licensed cannabis cultivator is not licensed or authorized to:
 - 1. Manufacture or otherwise create cannabis products; or
 - 2. Transport, transfer, distribute, supply, or sell cannabis, usable cannabis, cannabis products, paraphernalia, or related supplies to consumers.
- Cannabis cultivation may occur indoors or outdoors
 - Outdoor cultivation may occur in a full greenhouse with rigid walls, a partial greenhouse, a hoop house, or other non-rigid structure, or an expanse of open or cleared ground fully enclosed by a physical-barrier
- Cannabis cultivation shall not be located on lands valued, assessed or taxed as an agricultural or horticultural use pursuant to the Farmland Assessment Act

Cannabis Cultivation Production Management Tiers

- All cannabis cultivators are assigned a cultivation production management tier
- **Mature Cannabis Plant Grow Canopy** - the total square feet in which a cannabis cultivator plants and grows cannabis plants, and does not include area exclusively used for harvesting, drying, curing, packaging, labeling or storing cannabis

| Production Management Tier | Mature Cannabis Plant Canopy | |
|----------------------------|------------------------------|---------------------|
| | Minimum Square Feet | Maximum Square Feet |
| Microbusiness | - | 2,500 |
| 1 | - | 10,000 |
| 2 | 10,000 | 25,000 |
| 3 | 25,000 | 50,000 |
| 4 | 50,000 | 75,000 |
| 5 | 75,000 | 100,000 |
| 6 | 100,000 | 150,000 |

Class 2 – Cannabis Manufacturer

- Defined as preparing, compounding, mixing, or converting usable cannabis to produce, make, or otherwise create a cannabis product
- **Cannabis product** is a cannabis concentrate or a cannabis infused product that a cannabis manufacturer manufactures or creates from usable cannabis or cannabis concentrate
- **Cannabis infused product** is a product manufactured by a cannabis manufacturer in an authorized form that contains usable cannabis or cannabis concentrate, in solid or liquid form, and one or more ingredients intended for human consumption or use, including an ingestible product, inhalable product or dermal product
- All manufacturing of cannabis must take place in an enclosed indoor, and locked facility

Remaining Cannabis Licenses

Class 3 – Cannabis Wholesaler

- Stores, sells or otherwise transfers recreational use cannabis items between cannabis cultivators, wholesalers or retailers

Class 4 – Cannabis Distributor

- Transports cannabis items in bulk between cannabis cultivators, manufacturers or retailers within the State of New Jersey

Class 5 – Cannabis Retailer

- Purchases recreational use cannabis from licensed cultivators, manufacturers, or wholesalers and sells those items in a retail store

Class 6 – Cannabis Delivery

- Transports a consumer's purchases of recreational cannabis and related supplies from the retailer to that customer

Municipal Authority Provisions in CREAMM

- Municipalities had until 8/21/2021 to pass ordinances prohibiting the operation of cannabis-related businesses. Failure to pass an ordinance prohibiting cannabis establishments results in default provisions as follows:
 - Cultivation, manufacturing, wholesale and distribution facilities are permitted in all municipal industrial zones; and
 - Retail facilities are permitted as a conditional use in all municipal commercial or retail zones

Municipal Authority in CRC Special Regulations

- Municipalities (not in default) may adopt standards that are not in conflict with CREAMM, such as:
 - Limitations on the number of permitted cannabis businesses (maximum number of each class of license permitted)
 - Restrictions on the location, manner, and time of operation of cannabis businesses, except for the times of operation of a delivery service
 - Civil penalties for violations
 - Local licensing requirements
- Municipalities may prohibit outdoor cultivation (and most have)
- Municipalities may provide input to the CRC on the issuance of a license to a particular facility
 - Letter or affidavit from municipal officials indicating whether the location of the facility conforms to zoning requirements and has received approvals (including variances)
 - Proof of local support for the suitability of a cannabis facility's proposed location

Status of Pinelands Area Cannabis Ordinances

- 34 municipalities have adopted ordinances prohibiting all classes of cannabis business
 - Subject to change; towns may decide to permit one or more classes in the future
- 17 municipalities have adopted ordinances to permit one or more classes of cannabis business
- 2 municipalities status not known

Pinelands Management Areas and Cannabis Business Classes

Cannabis Business Classes Permitted by Pinelands Management Area

| Business Class | PAD/SAPA | FA/APA | RDA/PV/ PT/RGA |
|--|----------|---------|-------------------|
| Class 1 - Cultivation | N | P | P |
| Class 2 – Manufacture | N | Limited | P |
| Class 3 – Wholesale | N | Limited | P |
| Class 4 – Distribution | N | Limited | P |
| Class 5 – Retail | N | Limited | P |
| Class 6 – Delivery | N | Limited | P |
| <i>P = Permitted / N = Not Permitted</i> | | | |

- Light industrial uses are permitted in very limited areas of the FA/APA.
- Roadside retail sales and service establishments are permitted in very limited areas of the FA/APA

Questions raised during review of ordinances

- Does cannabis cultivation meet the CMP definition of “agricultural or horticultural purpose or use”?
- To what extent do cultivation activities permitted by the CRC fall under the CMP definition of “agricultural products processing facility”?
- To what extent do manufacturing activities permitted by the CRC fall under the CMP definition of “agricultural products processing facility”?

Outstanding Concerns

- Large cannabis cultivation operations
 - Agriculture is exempt from application to the Commission
 - Scale of facilities permitted under the CRC rules (up to 150,000 s.f.)
 - Particularly impacts of large structures for indoor cultivation in the FA and APA
 - Water consumption
 - Wastewater on septic



Questions?