

Statewide CRC and Municipal Issues

NJ's Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization (CREAMM) Act, allowing for the sale and use of cannabis products for residents 21 and over, was pieced together in February 2021 from bills drafted in 2019, almost immediately after a referendum in November 2020 with more than 70% voter approval to legalize adult recreational cannabis use. Moreover, the preliminary regulations did not come out until (8/19/2021), just two (2) days before the deadline for municipalities to decide whether to opt-in or opt-out (on 8/21/2021). As such, those municipalities that opted-in, in whole or in part, had to create ordinances without the benefit of even preliminary regulations and, suffice to say, there have been issues with those early drafted municipal ordinances and processes, resulting in litigation, particularly given the significant amount of potential revenue perceived to be available at the outset of legalization.

The municipal regulatory scheme requires a combination of expertise (and careful drafting) in both (1) licensing (and unlike with liquor licensing, with cannabis the State and the CRC have deferred almost exclusively to municipal discretion) and (2) zoning (which essentially was an afterthought in the legislative process, thus leaving municipalities to rely on traditional zoning principles and presumably maintaining their primary authority over siting and regulating uses of real property within their borders). Comprehensive final regulations ("Personal Use Cannabis Rules," N.J.A.C. 17:30-1 et seq.) became effective February 8, 2023.

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- 8) Signage cannot constitute an “attractive nuisance” and should be minimalistic and not specifically descriptive of the use (example, no depictions of marijuana leaves) or otherwise inviting to minors. CRC has specific signage regulations.
- 9) Odor mitigation, particularly for outdoor cultivation operations/uses, is very important and there are experts in the field and mitigation has gone well beyond just carbon filters.
- 10) Security protocols are critical, including security cameras and the like.
- 11) Parking is an issue, particularly for retail dispensaries located in downtown areas, and solutions are traditional, such as municipal parking lot passes must be provided by the business to all of its employees to mitigate parking problems.