

3796:2-1-03

Cultivator application review.

(A) The department, an independent contractor selected by the department, or a combination of the two shall review the submitted applications as described in this chapter and the application instructions. In order to receive consideration under paragraph (B) of this rule, an applicant shall:

(1) Demonstrate sufficient liquid capital pursuant to rule 3796:2-1-02 of the Administrative Code and an ability to meet the financial responsibility requirements under rule 3796:2-1-05 of the Administrative Code;

(2) Certify in writing at the time of application that an owner or prospective owner, officer or prospective officer, board member or prospective board member, administrator or prospective administrator, employee or prospective employee, agent, or other person has not been:

(a) Convicted of a disqualifying offense, as defined in rule 3796:1-1-01 of the Administrative Code; or

(b) Issued a certificate to recommend or applied for certification under Chapter 4731.30 of the Revised Code;

(3) Verify that the proposed facility is not located within five hundred feet of a prohibited facility, which shall be measured in accordance with rule 3796:5-5-01 of the Administrative Code;

(4) Certify that the local jurisdiction where the facility is proposed has not passed a moratorium or taken other action that would prohibit the applicant from operating as a medical marijuana cultivator;

(5) Certify that an owner or prospective owner, officer or prospective officer, board member or prospective board member, administrator or prospective administrator, employee or prospective employee, agent, or other person who may significantly influence or control the activities of the cultivator does not have an ownership or investment interest, or compensation agreement with, or share any corporate officers or employees with any of the following:

(a) A laboratory licensed under Chapter 3796. of the Revised Code; or

(b) An applicant for a license to conduct laboratory testing under Chapter 3796. of the Revised Code;

(6) Provide documentation sufficient to establish that the applicant is in compliance with the applicable tax laws of this state and any jurisdiction where the applicant operates and conducts business; and

(7) Submit an application with the applicable fee under rule 3796:5-1-01 of the Administrative Code that does not contain information that misleads the

department, misrepresents a material fact, or is received after the established application submission period established under paragraph (A) of rule 3796:2-1-02 of the Administrative Code.

(B) The applicants shall be ranked using an impartial and numerical process taking into account the criteria identified in rule 3796:2-1-02 of the Administrative Code, as developed by the department, an independent contractor selected by the department, or a combination of the two. The applicants will be ranked based on the following criteria, at a minimum:

(1) A business plan, which, at a minimum, shall include:

- (a) A proposed business model demonstrating a likelihood of success, a sufficient business ability, and experience on the part of the applicant;
- (b) An organizational chart of the company, including name, address, and date of birth of each principal officer and board member of the cultivator, provided that all those individuals shall be at least twenty-one years of age;
- (c) Experience, which includes information on business licenses held by any person affiliated with the applicant, regardless if said license is active, revoked, suspended, or expired. If expired, applicant shall provide the grounds behind the expiration. The information provided on business licenses shall include the type of license, the licensing agency, the date the license was obtained, and a summary of any negative actions taken against each license;
- (d) Evidence that the applicant owns the property on which the proposed cultivator will be located, has executed a lease for the property that does not contain any use restrictions that would otherwise prevent the cultivator from operating pursuant to Chapter 3796. of the Revised Code and the rules promulgated in accordance with Chapter 3796. of the Revised Code, or has secured the ability to purchase or lease the property that does not contain any use restrictions that would otherwise prevent the cultivator from operating pursuant to Chapter 3796. of the Revised Code and the rules promulgated in accordance with Chapter 3796. of the Revised Code; and
- (e) Documentation that the applicant is in compliance with any local ordinances, rules, or regulations adopted by the locality in which the applicant's property is located, which are in effect at the time of the application. Such documentation may include, but is not limited to, local building department approval demonstrating compliance with rules adopted by the board of building standards pursuant to Chapters 3781. and 3791. of the Revised Code to construct the proposed facility,

local approval to operate as a medical marijuana cultivation facility, and evidence that the applicant's proposed location is in compliance with local ordinances, rules, or regulations adopted by the locality in which the applicant's property is located, which are in effect at the time of application.

(2) An operations plan, which shall include, but not be limited to, the following:

- (a) Documentation of cultivation methods and standards that will provide a steady, uninterrupted supply of medical marijuana;
- (b) Experience with the cultivation of medical marijuana, or agricultural or horticultural products, operation of an agriculturally related business, or operation of a horticultural business;
- (c) A list of medical marijuana varieties proposed to be grown with estimated cannabinoid profiles, if known, including varieties with high cannabidiol content;
- (d) Facility specifications, including the cultivation environment, layout of the marijuana cultivation area (i.e. grow tables, tiered or stacked orientation, et cetera.), evidencing that the applicant will comply with the requirements of Chapter 3796. of the Revised Code and will operate in accordance with the rules promulgated pursuant to Chapter 3796. of the Revised Code; and
- (e) Staffing and training guidelines.

(3) A quality assurance plan, which shall include, but not be limited to, the following:

- (a) Intended use of pesticides, fertilizers, and other agricultural products or production control factors in the cultivation of medical marijuana;
- (b) Best practices for the packaging and labeling of medical marijuana;
- (c) Implementation and compliance with the inventory tracking system;
- (d) An inventory control plan;
- (e) Standards for the destruction of medical marijuana and disposal of waste; and
- (f) Recall policies and procedures in the event of contamination, expiration, or other circumstances that render the medical marijuana unsafe or unfit for consumption, including at a minimum, identification of the products involved, notification to the dispensary or others to whom the product

was sold or otherwise distributed, and how the products will be disposed of if returned to or retrieved by the applicant;

(4) A security plan, which shall include, but not be limited to, the following:

- (a) Policies and procedures to ensure a secure, safe facility to prevent theft, loss, or diversion and protect facility personnel;
- (b) Physical equipment used to monitor the facility and meet the security requirements under Chapter 3796. of the Revised Code and the rules promulgated in accordance with Chapter 3796. of the Revised Code;
- (c) Emergency notification procedures with the department, law enforcement, and emergency response professionals;
- (d) A plot plan of the cultivation facility drawn to a reasonable scale that designates the different areas of operation, including the marijuana cultivation area, with the mandatory access restrictions; and
- (e) Transportation policies and procedures, which includes the transportation of medical marijuana from a cultivator to a processor or dispensary and from a cultivator to a testing laboratory in the state of Ohio, in accordance rule 3796:5-3-01 of the Administrative Code.

(5) A financial plan, which, at a minimum, shall include the following:

- (a) The identity and ownership interest of every person, association, partnership, other entity, or corporation having a financial interest, direct or indirect, in the cultivator with respect to which licensure is sought;
- (b) A cost breakdown of the applicant's anticipated costs in building the facility and implementing the policies and procedures submitted as part of the application and the source of funding for the associated costs;
- (c) Documentation acceptable to the department that the individual or entity filing the application has secured at least five hundred thousand dollars in liquid assets for a level I cultivator provisional license and fifty thousand dollars in liquid assets for a level II cultivator provisional license, which are unencumbered and can be converted within thirty days after a request to liquidate such assets;
 - (i) Documentation acceptable to the department shall include, as evidence of compliance, a signed statement from an Ohio licensed certified public accountant attesting to proof of the required amount of liquid assets under the control of an owner or the entity applying, if such a statement is available at the time of

application.

(ii) The documentation must be dated within thirty calendar days before the date the application was submitted.

(d) Information verifying that the applicant will be able to conform to the financial responsibility requirements under rule 3796:2-1-05 of the Administrative Code; and

(e) A record of tax payments in the form of tax summary pages for individuals and businesses at the state and federal level and in all jurisdictions in which an applicant has operated as a business, and for every person with a financial interest of one per cent or greater in the applicant for the three years before the filing of the application, unless the department determines that documentation should be submitted for all individuals and entities.

(6) Any other information that the department deems necessary to evaluate and determine the applicant's suitability to operate as a cultivator.

(C) In addition to the criteria established in paragraph (B) of this rule, the department may also consider the following when awarding a provisional license:

(1) Principal place of business;

(a) The applicant must provide documentation establishing that its principal place of business is headquartered in Ohio. The applicant may also provide names, addresses, and verification of any persons associated with the applicant that have established residency in Ohio.

(b) The applicant may also provide a plan for generating Ohio-based jobs and economic development.

(2) Environmental plan:

(a) The applicant must demonstrate an environmental plan of action to minimize the carbon footprint, energy usage, environmental impact, and resource needs for the production of medical marijuana.

(b) The applicant may also describe any plans for the construction or use of a greenhouse cultivation facility, energy efficient lighting, use of alternative energy, the treatment of waste water and runoff, and scrubbing or treatment of exchanged air.

(3) Employment practices, which the applicant must demonstrate a plan of action to inform, hire, and educate minorities, women, veterans, disabled persons, and Ohio residents;

(4) Verification of economically disadvantaged groups; and

(a) The applicant must demonstrate the following:

(i) It is owned and controlled by a United States citizen who is a resident of this state and is a member of one of the economically disadvantaged groups set forth in division (C) of section 3796.09 of the Revised Code. As used in this section, "owned and controlled" means that at least fifty-one per cent of the business, including corporate stock if a corporation, is owned by persons who belong to one or more of the groups set forth in this rule, and that those owners have control over the management and day-to-day operations of the business and an interest in the capital, assets, and profits and losses of the business proportionate to their percentage of ownership; or

(ii) It is owned and controlled as a woman-owned business by a United States citizen who is a resident of this state. For purposes of this paragraph, "owned and controlled" has the same ownership and control requirements as listed in subparagraph (i) above.

(5) Research plan, which the applicant must provide the department with a detailed proposal to conduct or facilitate a scientific study or studies related to the medicinal use of marijuana.

(D) The department may request additional information as part of the application review process from an applicant that otherwise meets all of the requirements under paragraph (A) of this rule. The applicant shall have thirty calendar days from the date the applicant receives the department's request to provide the information. If the applicant fails to provide the requested information within thirty calendar days, it will result in an abandoned application. An abandoned application shall not receive further consideration.

(E) An applicant forfeits all fees associated with an abandoned application. The department shall not be required to act on an abandoned application and the application may be destroyed by the department. An abandoned application will not prevent an applicant from applying for a provisional license in the future if the department issues additional provisional licenses pursuant to paragraph (B) of rule 3796:2-1-01 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	R.C. 3796.03
Rule Amplifies:	R.C. 3796.03