



# Common Sense Initiative

Mike DeWine, Governor  
Jon Husted, Lt. Governor

Joseph Baker, Director

## Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Commerce, Division of Cannabis Control

Rule Contact Name and Contact Information: Emily Groseclose –  
Emily.Groseclose@com.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Non-Medical Cannabis License Applications – “10(B)” Dispensaries

Rule Number(s): 1301:18-2-03 (New); 1301:18-2-04 (New); 1301:18-2-06 (New)

Date of Submission for CSI Review: 3/1/24

Public Comment Period End Date: 3/13/24

**Rule Type/Number of Rules:**

New/ 3 rules

No Change/      rules (FYR?     )

Amended/      rules (FYR?     )

Rescinded/      rules (FYR?     )

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

### **Reason for Submission**

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

**Which adverse impact(s) to businesses has the agency determined the rule(s) create?**

**The rule(s):**

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☐ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

### **Regulatory Intent**

2. **Please briefly describe the draft regulation in plain language.**

*Please include the key provisions of the regulation as well as any proposed amendments.*

OAC 1301:18-2-03 CANNABIS SOCIAL EQUITY AND JOBS PROGRAM (New)

- In coordination with the Cannabis Social Equity & Jobs Program (CSEJ) to be established by the Ohio Department of Development (Development), the Division of Cannabis Control will provide notice in advance of the application period for which preference will be given to participants in the program.
- Non-medical cannabis license applications receiving preference under the CSEJ program cannot be made available until the CSEJ program is operational through Development.

OAC 1301:18-2-04 ADDITIONAL CANNABIS OPERATOR LICENSES (New)

- Pursuant to O.R.C. 3780.10, the Division will review the number of cannabis operator licenses 24 months after the first issuance of an adult use operator license, and on a biannual basis thereafter. The Division may authorize additional application periods.

OAC 1301:18-2-06 “10(B)” DISPENSARIES (New)

- Pursuant to O.R.C. 3780.10(B), the following licenses (i.e., “10(B)” dispensary licenses) must be issued:
  - For a Level I medical marijuana cultivator with a certificate of operation or provisional license: 3 dispensary licenses per entity at locations designated in a license application.

- For a Level II medical marijuana cultivator with a certificate of operation or provisional license: 1 dispensary license per entity at a location designated in a license application.
- For a medical marijuana dispensary with a certificate of operation or provisional license, which does not have any common ownership or control with any cultivator or processor: 1 dispensary license per entity at a location designated in a license application.
- To meet the application and timeframe requirements set in statute, the Division proposes the following process.
  1. The Division will determine each entity that is eligible to apply for the “10(B)” dispensary licenses and the total number of “10(B)” dispensary licenses for which an entity is eligible.
    - The entity determination and total number of eligible licenses will be based upon a review of records obtained by the Division related to licensed medical marijuana entity common ownership and control. The Division will provide these determinations to licensed medical marijuana entities prior to accepting “10(B)” dispensary applications. Entities will then be provided an opportunity to review the determinations and share any further relevant information with the Division.
  2. Eligible entities must submit a complete application as outlined in the proposed rules. This includes information such as primary point of contact, a roster of all owners and officers, a \$5,000 application fee, and for each “10(B)” dispensary license a designation of dual-use or adult-use only.
  3. All applicants are entered into a drawing conducted by a third-party operator.
    - Each applicant will be entered into the drawing for each “10(B)” dispensary license for which they are eligible.
    - If an applicant designated their “10(B)” dispensary license as dual use on the application, they will be entered into the drawing for twice the chance per license of a higher ranking.
    - For example, ABC Corp. is eligible for 3 dispensaries. ABC Corp. indicated on their application that two dispensaries will be dual use and one will be adult-use only. When ABC Corp.’s dispensaries are entered into the drawing, the two that will be dual use will each be entered into the drawing twice for the chance at a higher ranking. The one dispensary that is adult-use only will only be entered into the drawing once. For the dual use licenses that are entered twice, the higher ranked position will be selected as their final ranking.
    - Being entered into the drawing twice is only for purposes of the chance at a higher ranking – it does not affect the total number of licenses for which an entity is eligible.
  4. Following the drawing, applicants will be notified of their randomly assigned rank(s).
  5. Next, applicants will select facility sites in two phases, as follows:

**Phase One**

1. Each entity authorized to apply will have one 10(B) license eligible for Phase One site selection. All applicants must submit a facility site location application to the Division.
  - a. A facility site location application must indicate a primary site location selection and may indicate up to two additional selections that will be chosen, by order of preference, if the primary site location is ineligible.
  - b. No proposed dispensary may be within one mile radius of a licensed dispensary or another proposed facility site.
2. The Division will review all site selections and determine if any are within one mile of a licensed dispensary or another proposed facility site.
  - a. If a proposed facility site is within one mile of an existing medical marijuana dispensary, the applicant must select another site.
  - b. If two or more proposed facility sites are within one mile of each other, the entity(ies) that had the lower drawing rank must select a different facility site.
3. The Division will publish the location of selected sites approved and notify applicants who must select a new site. Those applicants will be provided a timeframe to select a new site.
4. At the end of that timeframe, the Division will review the new proposed sites and quickly determine if any are within one mile of a licensed dispensary or another proposed facility site.
  - a. If a proposed facility site is within one mile of an existing medical marijuana dispensary, the applicant must select another site.
  - b. If two or more proposed facility sites are within one mile of each other the entity(ies) that had the lower drawing rank must select a different facility site.
5. The DCC proceeds with the process described in step 3 above.
  - a. Any applicants who did not submit a new site within the previous timeframe may do so at this time.
6. At the deadline for Phase One as published by the Division, the process will move on to Phase Two.
7. Should any applicants not have an approved location at the conclusion of Phase One, the site selection process for that facility will move to Phase Two.

**Phase Two**

1. The Division will publish a list of applicants and their associated number of “10(B)” dispensary licenses remaining for Phase Two.
2. The Division will establish and make publicly available regional districts throughout the state, and the total number of licenses available in each regional district.
3. Eligible applicants must submit their preferred regional districts to the Division.
4. Applicants will be notified of their assigned regional districts based on the randomly assigned rank established by the prior drawing.

- a. Applicants must then submit to the Division their proposed facility site within the assigned regional district.
    - i. A facility site location application must indicate a primary site location selection and may indicate up to two additional selections that will be chosen, by order of preference, if the primary site location is ineligible.
  - b. If a proposed facility site is within one mile of an existing dispensary or a site selected during Phase One, the applicant must select another site.
  - c. If two or more proposed facility sites are within one mile of each other, the entity that had the lower drawing rank must select a different facility site.
5. The Division will publish the location of selected sites approved and notify applicants who must select a new site. Those applicants will be provided a timeframe to select a new site.
6. At the end of that timeframe, the Division will review the proposed sites and quickly determine if there are any within one mile of a licensed dispensary, a previously approved site, or another proposed facility site.
  - a. If a proposed facility site is within one mile of an existing medical marijuana dispensary, the applicant must select another site.
  - b. If two or more proposed facility sites are within one mile of each other, the entity(ies) that had the lower drawing rank must select a different facility site.
7. The DCC proceeds with the process described in step 5 above.
  - a. Any applicants who did not submit a new site within the previous timeframe may do so at this time.
8. All applicants who have submitted a completed application and approved facility site will be granted a provisional license.

## **Site Control**

It is the intention of the Division that the applicant will demonstrate site control for the purposes of the Phase One and Phase Two site selection application. The Division will consider site control established if the applicant owns the property or has an active lease for the property where the property owner has acknowledged the nature of the business proposed for the site and has agreed to allow the applicant as a tenant.

Site control may also be established by other documentation which shows that the applicant has exclusive rights to operate a cannabis business at the selected facility site location.

The Division intends to allow license holders to relocate their provisional license in the event that the site's property owner has not met the terms, or materially alter the terms, of their agreement.

The Division will not require the applicant to submit signed local zoning approval. It is expected that applicants will do their due diligence to ensure that there are no local

moratoriums or limitations in place that would prevent them from occupying the property, and that the property is properly zoned for the business.

Additionally, it is expected that applicants will do their due diligence to ensure the site is not within 500 feet of a prohibited facility as specified by O.R.C. 3780.07.

### **Regional Districts**

The Division will establish regional districts as part of Phase Two addressed above. The DCC will consider many data points when establishing the regional districts, such as locations of current or proposed dispensaries and anticipated demand for non-medical cannabis.

- 3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

Authorized By: R.C. 3780.03

Amplifies: R.C. 3780.03, 3780.10

- 4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

*If yes, please briefly explain the source and substance of the federal requirement.*

No

- 5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

n/a

- 6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

Non-medical application licensing rules are required pursuant to the initiated statute approved by voters in November to legalize the possession and use of non-medical cannabis. The Division is proposing rules to establish the application process.

The Division has proposed an application and licensing process for new dispensaries that combines an open-market approach, drawing, and finally a more guided approach based on dispensary disbursement throughout the state.

- 7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The success of the non-medical license application process will be determined by completion on a timely basis (provisional licenses must be issued by September 7) and that the entities permitted by statute to apply for a license may successfully do so.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No

### **Development of the Regulation**

**9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

All current medical marijuana licensees were included. Additionally, feedback was requested from everyone signed-up to receive notifications from the Division, and the request was posted on the Division's public website.

**10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

The DCC drafted the rules with consideration of previous medical marijuana licensing application periods – what worked and what could have been improved. This includes feedback received from stakeholders regarding the drawing process and site selection.

The Division has modified the rule based on feedback to ensure that applicants can submit more than one site location during Phase One and Phase Two if they choose.

**11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

Other state cannabis markets and regulations were studied and identified best practices were used to help develop these rules.

**12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

*Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

This rule only establishes the licensing and application process for "10(B)" dispensaries pursuant to O.R.C. 3780.10. The Division reviewed the licensing processes used in other non-medical cannabis states and determined that the proposal in these draft rules is the most equitable and efficient process.

**13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

The initiated statute approved by voters in O.R.C. 3780 places sole regulatory authority over the non-medical cannabis industry with the Division of Cannabis Control. Specifically, initial licensing applications included in this BIA are solely under the authority of the DCC.



**14. Please describe the Agency’s plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

All eligible entities will be required to submit the same application for “10(B)” dispensary licenses.

The licensing application period and materials will be conspicuously posted on the Division’s website. For the initial licenses permitted by the initiated statute, all eligible entities will be notified directly at the email addresses on file with the Division. For future application periods, in addition to website posting, the Division will notify all public email notification subscribers.

**Adverse Impact to Business**

**15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

- a. Identify the scope of the impacted business community, and**
- b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.*

The impacted business community includes current medical marijuana-licensed eligible entities. Future licensing periods will include participants in the Cannabis Social Equity & Jobs Program and others interested in being licensed as a non-medical cultivator, processor, testing lab, or dispensary.

The rules require an application and license to dispense non-medical cannabis. The application fee is \$5,000. The application requirements are not cumbersome and is information that most businesses will have readily available.

Selecting sites will take more time and effort. New dispensaries cannot be closer than a mile to another dispensary and must be at least 500 feet from a prohibited facility (e.g., church, school, park). Additionally, licensees must ensure that the site is within their control and there are no local moratoriums or other factors that would prohibit them from establishing the proposed dispensary at the selected site. Due to all of these factors, attempting to quantify the time and resources necessary would be impractical.

**16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

The rules included in this BIA are new and necessary to establish the licensing application process for non-medical cannabis pursuant to O.R.C. 3780.



**17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The adverse impact created is primarily the requirement to obtain a license to engage in the dispensing of non-medical marijuana, which is required by O.R.C. 3780. The proposed rule seeks to promote fair regulations for business while protecting public health and safety.

**Regulatory Flexibility**

**18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

The Division will issue 40 level III cultivator licenses and 50 dispensary licenses with a preference to certified participants in the Cannabis Social Equity and Jobs Program to be established by the Ohio Department of Development. Once that program is established and applicants are certified, the DCC has the authority to request applications for these licenses.

**19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

The DCC works diligently to ensure that all licensees understand all applications, forms, and compliance requirements. The Division does not fine licensees for simple paperwork violations, but does work with licensees who encounter challenges to ensure they have the information necessary to comply with all laws and rules.

**20. What resources are available to assist small businesses with compliance of the regulation?**

The DCC regularly issues guidance to licensees and posts those documents and other helpful information on its website: [www.com.ohio.gov/cannabiscontrol](http://www.com.ohio.gov/cannabiscontrol). Additionally, the DCC has a team of inspectors who work closely with all licensees to ensure they are able to achieve and maintain compliance with program regulations.



## OHIO DEPARTMENT OF COMMERCE DIVISION OF CANNABIS CONTROL

---

### Chapter 3780

(All section numbers and citations subject to change)

#### 1301:18-2-03 Cannabis Social Equity and Jobs Program

In accordance with sections 3780.18 and 3780.19 of the Revised Code and coordination with the department of development cannabis social equity jobs program, the division shall provide notice in advance of an application period for which preference shall be given to applicants certified as cannabis social equity and jobs program participants.

#### 1301:18-2-04 Additional Cannabis Operator Licenses

- **(A)** Following twenty-four months from the first date of issuance of an adult use operator license, the division of cannabis control shall review the number of cannabis operator licenses on a biannual basis and may authorize additional application periods after considering:
  - **(1)** The current and anticipated market growth and consumer demand, including the number registered patients and adult use consumers seeking cannabis;
  - **(2)** The current and projected supply of cannabis produced by licensed cultivators and processors; and
  - **(3)** The geographic distribution of dispensary sites in an effort to ensure patient and consumer access to cannabis.
- **(B)** All application periods shall comply with rule 1301:18-2-01 of the Administrative Code.

#### 1301:18-2-06 10(B) Dispensaries

- **(A)** For purposes of this rule, the following definitions apply:
  - **(1)** “10(B) applicant” means any cultivator or dispensary who is eligible pursuant to section 3780.10(B) of the Revised Code to apply, and submits an application for, a 10(B) license in accordance with this rule.
  - **(2)** “10(B) license” means a dispensary license issued pursuant to section 3780.10(B) of the Revised Code and this rule.
  - **(3)** “Facility site location application” means an application for selection of a facility site for a 10(B) license.
- **(B)** All 10(B) applicants authorized to apply for 10(B) licensure shall abide by all application requirements outlined under this rule.
- **(C)** An applicant that fails to abide by all application requirements may have its application eligibility adjusted, or its application abandoned, by the division.
- **(D)** Distribution of 10(B) application materials shall occur on the division’s internet website located at [www.com.ohio.gov/divisions-and-programs/cannabis-control](http://www.com.ohio.gov/divisions-and-programs/cannabis-control).
  - **(1)** Any and all updates and ongoing public notices shall be conspicuously posted on the division’s internet website.
  - **(2)** All 10(B) applicants have a duty to regularly monitor and review all notices provided on the division’s internet website throughout the application process.



## OHIO DEPARTMENT OF COMMERCE DIVISION OF CANNABIS CONTROL

---

- **(E) Determination of authorized 10(B) applicants.**
  - **(1)** Prior to publishing 10(B) application materials, the division shall determine which entities are authorized to apply for 10(B) licensure.
    - **(a)** The division shall notify all authorized entities in writing of the following:
      - **(i)** That the entity is authorized to apply for 10(B) licensure;
      - **(ii)** The total number of 10(B) licenses for which the entity may apply;
      - **(iii)** The number of licenses an entity is authorized to apply for that are eligible for the phase one site selection process; and
      - **(iv)** The number of licenses an entity is authorized to apply for which are eligible for the phase two site selection process.
    - **(b)** Each entity authorized to apply shall have one 10(B) license eligible for the phase one site selection process.
      - **(i)** Any additional 10(B) licenses issued to the same entity shall be eligible for the phase two site selection process.
  - **(2)** Upon receipt of its authorization to apply, all eligible 10(B) applicants may submit an initial application as outlined by paragraph F of this rule.
- **(F) Submission of Initial Application**
  - **(1)** All 10(B) initial applications shall be completed on a form prescribed by the division that demonstrates or attests the following:
    - **(a)** The applicant's designated point of contact that shall serve as the main contact for the division for the duration of the application period.
      - **(i)** The following information for the applicant's point of contact:
        - **(A)** Full legal name;
        - **(B)** Telephone number that may be utilized during normal business hours;
        - **(C)** Electronic mail address; and
        - **(D)** Mailing address.
        - **(E)** All information provided must be in working order and readily available to receive voice messages, electronic messages, or other communication as applicable.
    - **(b)** The identity of all of following associated with the applicant:
      - **(i)** All current owners, officers, and board members;
      - **(ii)** All proposed owners, officers, and board members;
      - **(iii)** All institutional or private investors;
      - **(iv)** Any individual with a financial interest in the applicant; and
      - **(v)** Any individual with significant influence or control over the applicant.
    - **(c)** Applicant does not have an ownership or investment interest in, or compensation arrangement with:
      - **(i)** An adult use testing laboratory licensed pursuant to chapter 3780 of the Revised Code; or
      - **(ii)** An applicant for a license to conduct adult use laboratory testing.
    - **(d)** Applicant does not share any corporate officers or employees with:



## OHIO DEPARTMENT OF COMMERCE DIVISION OF CANNABIS CONTROL

---

- (i) An adult use testing laboratory licensed pursuant to chapter 3780 of the Revised Code; or
- (ii) An applicant for a license to conduct adult use laboratory testing.
- (e) All of the following individuals associated with applicant do not have a disqualifying offense as defined by 1301:18-1-01 which would preclude individual licensure:
  - (i) Any administrator or individual responsible for the daily operation of the proposed facility;
  - (ii) All owners, officers, and board members, of the applicant seeking licensure; and
  - (iii) All employees and agents of the proposed facility.
- (f) Applicant will not operate within five hundred feet of a prohibited facility as defined by RC 3780.01(A)(35).
- (g) Compliance with all applicable tax laws within the state of Ohio;
- (h) Applicant is not contemporaneously employed by a regulatory agency or governmental entity within the state of Ohio that within that role may significantly influence or control entities licensed under chapters 3796 or 3780 of the Revised Code.
- (i) Selection of one of the following categories for licensure:
  - (i) **Dual-use cannabis dispensary license.**
    - (A) For purposes of this rule, a dual-use license has the same meaning as defined by 1301:18-1-01 of the Administrative Code.
    - (B) Applicants who choose to apply for a dual-use license shall:
      - (1) Adhere to all dual-use licensing requirements for a period of four years.
      - (2) Ensure that its facility equally serves and accommodates medical patients and caregivers and non-medical consumers alike.
      - (3) Ensure ongoing inventory sufficient to maintain an adequate supply of medical marijuana to meet the current demand and projected patient and caregiver population.
      - (4) Provide accommodations to medical cannabis patients and caregivers that may include, but is not limited to, the following:
        - (a) Dedicated hours of operation limited to medical-only patients and caregivers during which adult-use consumers are prohibited from the facility.
        - (b) Expanded options for medical cannabis delivery and online ordering.



## OHIO DEPARTMENT OF COMMERCE DIVISION OF CANNABIS CONTROL

---

- (c) Efficient point-of-sale accommodations that similarly and expeditiously serve medical patients, caregivers, and adult-use consumers.
- (ii) **Adult-use only dispensary license.**
  - (A) An adult-use only dispensary license may engage in all permissible activities outlined under section 3780.15 of the Revised Code.
  - (j) Payment of the non-refundable application fee in the amount of five-thousand dollars, to be submitted via a method approved by the division.
- (2) **Deficiencies in applications:**
  - (a) Upon determination by the division that a 10(B) applicant failed to meet all requirements of paragraph (F) of this rule, the division shall notify the applicant in writing of all deficiencies contained within the application.
  - (b) Within ten business days of receipt of written notification from the division, the applicant shall alleviate all deficiencies outlined and submit any further documentation requested by the division.
  - (c) Should an applicant fail to cure all application deficiencies, the application shall be deemed abandoned.
- (3) The division shall establish a date and time by which all 10(B) initial applications must be submitted. Any application submitted to the division after the deadline shall be ineligible for licensure and returned to the applicant at the mailing address outlined in the application.
- (G) **The 10(B) Application Drawing**
  - (1) The division shall contract with a third-party operator to randomly rank all 10(B) applications.
  - (2) 10(B) applicants that choose to apply for a dual-use license shall have two times the number of opportunities of selection in the drawing.
  - (3) Drawing process.
    - (a) The third-party operator shall randomly rank all 10(B) applicants, beginning with one and continuing sequentially.
    - (b) All 10(B) applicants shall be ranked numerically in the order in which the application was drawn by the third-party operator.
    - (c) The third-party operator shall not have access to any information, including the initial applications, that would allow the operator to correlate a 10(B) applicant with its randomly assigned rank.
- (H) **Facility Site Selection Process.**
  - (1) After the drawing as outlined in paragraph (G) of this rule, the division shall proceed with the facility site selection process.
  - (2) The site selection process shall occur in two phases.
- (I) **Phase One Facility Site Selection**
  - (1) Applicants who are eligible for phase one facility site selection process shall submit their materials on a form prescribed by the division.



## OHIO DEPARTMENT OF COMMERCE DIVISION OF CANNABIS CONTROL

---

- **(2)** The division shall establish a date and time by which all phase one facility site selection applications must be submitted. Should an eligible 10(B) applicant fail to comply with all requirements of this paragraph, or fail to submit an initial facility site application that meets all required criteria by the deadline, the division may modify the applicant's rank or move the applicant into the phase two site selection process.
- **(3)** Throughout the facility site selection process, the division shall establish one or more days to publish to all applicants all phase one facility site business addresses received and approved by the division up to the date of publication.
- **(4)** A 10(B) applicant that is eligible for phase one facility site selection may submit up to three facility sites per phase one application that shall demonstrate the following for each facility site:
  - **(a)** The business address for the proposed facility;
  - **(b)** The proposed facility site will not be located within one mile of
    - **(i)** An existing licensed dispensary; or
    - **(ii)** The proposed facility site of another phase one applicant as published under paragraph (I)(3) of this rule.
  - **(c)** The proposed facility site is not located within five hundred feet of the end boundaries of a parcel of real estate having situated on it a prohibited facility as defined by RC 3780.01(A)(35);
  - **(d)** The proposed facility site is not subject to any local ordinances or prohibitions from operation as outlined under RC 3780.25;
  - **(e)** The proposed facility site meets all zoning or other local requirements for operation of a dispensary at the proposed facility site;
  - **(f)** If more than one facility site was submitted, the preferred order of selection; and
  - **(g)** Any other information required by the division.
  - **(h)** In the event that more than one 10(B) applicant submits the same facility site, the applicant issued the lower rank pursuant to paragraph (G) of this rule, will be required to select a different facility site and will be authorized to submit a substitute location site application.
    - **(i)** If an applicant is required to select a different facility site and submitted more than one phase one facility site, the division will immediately review that applicant's additional facility sites in the order the applicant selected pursuant to paragraph (I)(4)(a).
  - **(i)** In the event a 10(B) applicant submits a facility site that is within one mile of another phase one facility site as published by the division pursuant to paragraph (I)(3) of this rule, the 10(B) applicant issued the lower rank pursuant paragraph (G) of this rule, will be required to select a different facility site and will be authorized to submit a substitute location site application.
    - **(i)** If an applicant is required to select a different facility site and submitted more than one phase one facility site, the division will



## OHIO DEPARTMENT OF COMMERCE DIVISION OF CANNABIS CONTROL

---

immediately review that applicant's additional facility sites in the order the applicant selected pursuant to paragraph (I)(5)(a).

- **(J) Phase Two site selection.**
  - **(1)** After the phase one site selection process, the division will establish and publish regional districts for the phase two site selection process.
  - **(2)** Applicants who are eligible for the phase two site selection process will submit their preferred regional districts on a form prescribed by the division.
    - **(a)** The division shall establish a date and time by which all regional preference forms must be submitted. Any phase two applicant who fails to submit a regional preference form pursuant to this paragraph will have their preferences determined by the division.
  - **(3)** After receipt and review of the regional preference forms, the division shall notify each phase two applicant of its assigned regional district for its 10(B) license. The assigned regional district shall be based upon the applicant's:
    - **(a)** Regional preference form pursuant to paragraph (J)(2) of this rule; and
    - **(b)** Assigned pursuant to the drawing outlined under paragraph (G) of this rule.
  - **(4)** Upon receipt of its regional district pursuant to paragraph (J)(3) of this rule, phase two applicants may submit a phase two facility site location application on a form prescribed by the division.
  - **(5)** The facility site location application for phase two site selection shall demonstrate the following:
    - **(a)** The business address for the proposed facility;
    - **(b)** The proposed facility site will not be located within one mile of
      - **(i)** An existing licensed dispensary; or
      - **(ii)** The proposed facility site of another phase two applicant as published under paragraph (J)(6) of this rule.
    - **(c)** The proposed facility site is not located within five hundred feet of the end boundaries of a parcel of real estate having situated on it a prohibited facility as defined by RC 3780.01(A)(35);
    - **(d)** The proposed facility site is located within the regional district assigned to the 10(B) applicant pursuant to paragraph (J)(3) of this rule.
    - **(e)** The proposed facility site is not subject to any local ordinances or prohibitions from operation as outlined under RC 3780.25;
    - **(f)** The proposed facility site meets all zoning or other local requirements for operation of a dispensary at the proposed facility site; and
    - **(g)** Any other information required by the division.
  - **(6)** Throughout the phase two facility site selection process, the division shall establish one or more days to publish to all applicants all phase one facility site business addresses received and approved by the division up to the date of publication.
  - **(7)** In the event that more than one 10(B) applicant submits the same phase two facility site, the 10(B) applicant issued the lower rank pursuant to paragraph (G) of this rule, will





## OHIO DEPARTMENT OF COMMERCE DIVISION OF CANNABIS CONTROL

---

be required to select a different facility site and will be authorized to submit a substitute facility site location application.

- **(8)** In the event a 10(B) applicant submits a facility site that is within one mile of another phase two facility site as published by the division pursuant to paragraph (J)(6) of this rule, the 10(B) applicant issued the lower rank pursuant paragraph (G), will be required to select a different facility site and will be authorized to submit a substitute facility site location application.
- **(K) Provisional licenses.** After receiving a facility site location application from a 10(B) applicant and determining that the applicant has met all requirements for provisional licensure established in chapter 3780 of the Revised Code and division 1301:18 of the Administrative Code, the division shall issue a provisional 10(B) license to the applicant for the facility site identified in the facility site location application.
- **(L) Relocation.** The Division may consider an application for relocation of a provisional 10(B) license due to circumstances outside the control of the applicant. Circumstances outside the control of the applicant include, but are not limited to: a local moratorium being placed at the site selected; A property owner removing approval for the cannabis business at the site selected; A prohibited facility being established within 500 feet of the proposed facility site after the submission of applications; If the Division approves a relocation, the applicant must submit a new site for approval that meets the criteria established in Paragraph I or J of this rule, as applicable.
- **(M) Certificate of Operation.** All 10(B) licenses must obtain a certificate of operation within twelve months of receipt of its provisional license.