

Draft Rule: Facility Applications and Selection

PURPOSE: This rule explains how medical and marijuana facility licensing and certification applications, with the exception of seed-to-sale tracking system entity and research facility applications, are submitted and how the Department of Health of Senior Services selects licenses and certificates.

(1) Facility Application Process.

(A) Beginning December 8, 2022, an existing medical facility licensee may request its medical facility license convert to a comprehensive facility license.

1. Conversion requests must be submitted in a department-approved online format.

2. Conversion requests shall be accompanied by a conversion fee of two thousand dollars (\$2000). Conversion request fees are nonrefundable.

3. A conversion request is deemed received when the request and conversion fee is received by the department

4. The department shall approve or deny conversion requests within sixty (60) days after the conversion request is received.

5. A conversion request will be granted unless the medical facility licensee is not in good standing with the department. Good standing means the license is active and not suspended at the time the request is made.

(B) The department will begin accepting applications for licensing of microbusiness facilities on June 6, 2023. The Department will not issue a license to a microbusiness facility applicant with an owner who is also an owner of a medical or marijuana facility license.

(C) The department will publish on its website time periods during which it will accept applications and, when applicable, publish the number of licenses to be selected by lottery. The department may extend an existing application time period by posting a new application deadline on its website.

(D) Applications will be considered complete if the application includes all documents required for applications by this rule. Incomplete applications will be denied.

(E) Any variance requests related to the application requirements set forth below must be submitted at least thirty (30) days prior to the beginning of the application time period.

(F) The department will receive applications for all medical and marijuana facility licenses or certifications electronically through a department-provided, web-based application system. In the event of application system unavailability, the department will arrange to accept applications in an alternative, department-provided format and will notify the public of those arrangements through its website.

1. The department shall charge each applicant seeking an available medical or marijuana facility license an application fee to be submitted with the application. The department shall publish the current fees, including any adjustments, on its website at <http://cannabis.mo.gov>.

2. Application fees are nonrefundable, except that any marijuana microbusiness facility applicant not chosen by lottery, may request a refund of its application fee. The application fee will be refunded if the department determines the microbusiness facility applicant not selected by lottery otherwise met the application criteria.

(G) The issuance of a facility license or certification does not authorize the facility licensee to begin activities related to marijuana authorized by the license. A facility licensee will be granted final approval to operate upon passing a commencement inspection.

(H) A facility license or certification shall be valid for three (3) years from its date of issuance.

(2) Application Requirements. Entities must obtain a marijuana license or certification to operate in Missouri. Application requirements for marijuana facility research licenses can be found in the research section of this rule. All other applications for facility licenses or certifications, except for off-site storage of marijuana product, shall include at least the following information:

- (A) Name and address of the primary contact for the applicant entity;
- (B) Legal name of the applicant entity, including fictitious business names;
- (C) All entities that own any part of the applicant entity, with ownership percentage, and a visual representation of the facility's ownership structure;
- (D) A list of all entities licensed or certified or applying for licensure or certification in Missouri to cultivate, manufacture, or dispense marijuana product that are or will be under substantially common control, ownership, or management as the applicant. For each entity listed, a written explanation of how the entity is under substantially common control, ownership, or management as the applicant entity, with supporting documentation;

(E) For a microbusiness facility license application, an attestation that the applicant does not have an owner who is also an owner of an existing medical, comprehensive, or another microbusiness marijuana facility license;

(F) For medical and comprehensive facility applicants, a list of all owners who are also owners of a microbusiness facility license and the relevant microbusiness license number(s);

(G) Proposed address of the facility and—

1. an attestation that the facility location complies with the facility location requirements of this chapter;

2. an attestation that the facility location complies with any facility location requirements of the local government; and

3. all local government requirements for facility location, such as zoning requirements, if applicable;

(H) Blueprints for the facility;

(I) For facilities that will be cultivating marijuana, the cultivation practices(s) used by the facility, and, if using a combination of practices, the ratio of cultivation space limits for each cultivation practice;

(J) An attestation that all facility owners will submit fingerprints within two (2) weeks after the application submission for a state and federal fingerprint-based criminal background check to be conducted by the Missouri State Highway Patrol;

(K) An attestation that no facility owner has a disqualifying felony offense; and

(L) All applicable fees;

(3) In addition to the application requirements in section (2) above, microbusiness facility applicants must also provide documents demonstrating eligibility for microbusiness facility ownership as follows:

(A) A valid, government-issued photo ID; and

(B) For applicants claiming a Net worth of less than \$250,000 and low income, a copy of three of the last ten years of tax returns, each of which must show net worth of less than \$250,000 and income below two hundred and fifty percent of the federal poverty level during the applicable year.

(C) For applicants claiming a service-connected disability a copy of the front of the applicant's valid service-connected disability card.

(D) For applicants claiming an arrest, prosecution, or conviction for a non-violent marijuana offense:

1. A copy of the relevant arrest record; or

2. A copy of the relevant FBI background check; or

3. A certified copy of the relevant prosecutor's case file; or
 4. A letter from the prosecutor's office indicating the charge filed; or
 5. A certified copy of the judgment of conviction; and
 6. If the arrest, prosecution, or conviction was for the applicant's parent, guardian, or spouse:
 - A. A valid, government-issued photo ID of the parent, guardian, or spouse;
- and

B. Proof of relationship:

- (I) A certified copy of the applicant's birth certificate; or
 - (II) A certified copy of the judgment of adoption or guardianship; or
 - (III) A certified copy of the marriage certificate; and
- (E) For applicants claiming residency in a ZIP code or census tract area where either thirty percent or more of the population lives below the federal poverty level or the rate of unemployment is fifty percent higher than the state average (for qualifying areas in the state, a list of ZIP codes and census tracts will be published on the department's website),:

1. Two separate types of utility bills (i.e. one water bill one electric bill) dated within the last four months, which must include:

- A. The name of the applicant;
- B. The dates of service;
- C. The service address; and
- D. The billing address; or

2. A copy of a recent residential lease, which must include the name of the applicant, the full address, and the date the lease went in to effect and expires; or

3. A copy of a residential mortgage which includes the name of the applicant and the address, along with an affidavit that the applicant resides at that address; or

4. A copy of the applicant's real or personal property taxes, dated within the past 12 months, which must include the applicant's name and the date assessed; or

(F) For applicants claiming residency in a zip code or census tract area where the historic rate of incarceration for marijuana-related offenses is fifty percent higher than the rate for the entire state, a certified letter from the local prosecutor's office verifying compliance with this requirement.

1. For applicants claiming graduation from a school district that was unaccredited, a certified letter from the Missouri Department of Elementary and Secondary Education indicating that the school district was unaccredited in the applicant's graduation year, and:

2. A certified copy of the applicant's high school diploma; or

3. A letter from the applicant's school, on school letter head, stating that the applicant graduated from the school; or

(G) For applicants claiming residency in a ZIP code containing an unaccredited school district, or similar successor designation, for three of the past five years, a certified letter from the Missouri Department of Elementary and Secondary Education indicating that the applicable school district was unaccredited in the year(s) the applicant claims to have lived there, and:

1. A copy of two separate types of utility bills (i.e. one water bill one electric bill,) for each quarter of the three years that the applicant claims to have lived in said location which must include:

- A. The name of the applicant;
- B. The dates of service;
- C. The service address; and
- D. The billing address; or

1. Copies of residential leases for three of the past five years, which must include the name of the applicant, the full address, and the effective date and the expiration date of the lease; or

2. A copy of a residential mortgage which includes the name of the applicant and the address, along with an affidavit that the applicant resided at that address during the applicable years; or

3. A copy of three of the last five years' real or personal property taxes for the applicant, which must include the applicant's name, address, and the date; or

4. An applicant may provide any of the acceptable types documentation for each year they are claiming residency in the zip code (i.e., utility bills from one year, lease from a separate year, and property taxes for a third year).

(4) Application Requirements for Off-site Warehouses. Licensees must obtain a separate certification for each warehouse facility used for storing marijuana product at a location other than the approved location of the licensee. Such requests must be submitted after the licensee's facility has passed a commencement inspection and shall include at least the following information:

(A) Blueprints for the offsite storage;

(B) An attestation that the proposed location for offsite storage complies with the facility location requirements of this chapter and any facility location requirements of the local government;

(C) If the local government in which the offsite storage will be located has enacted applicable zoning restrictions, the text of the restrictions, including the citation to said restrictions, and a description of how the proposed offsite storage will comply with those restrictions;

(D) An attestation that the offsite storage will comply with all other rules applicable to the facility for which the offsite storage is being established;

(E) An administrative and processing fee of five thousand dollars (\$5000).

(5) Application Approval and Denial Process

(A) **Lottery.** In cases where there are more applicants than available licenses or certificates, the department will utilize a lottery to determine which applicants will be selected for available licenses or certifications.

1. All timely applications submitted with an application fee will be eligible for the lottery. Untimely applications or applications without an application fee will be denied.

2. Eligible applications will be randomized and listed in sequential numerical order, beginning with the number one. If licenses are to be issued by congressional district, then applicants will be randomized and listed in numerical order within each congressional district.

3. After listing all applicants in sequential numerical order, the department will review each application, beginning with number one, to determine if the applicant is eligible for licensure prior to issuing the license.

4. If during the review period, the department determines an application meets the minimum application criteria, the license will be granted. An application will be denied if:

A. the application does not meet application criteria;

B. the applicant does not meet minimum standards;

C. awarding a license would result in an entity having substantially common control, ownership, or management in more than ten percent of existing licenses within a facility type;

D. the applicant provides false or misleading information in an application. A license will be revoked if the department later determines the applicant provided false or misleading information in the application; or

E. the applicant fails to provide any information requested by the department related to the application review.

5. If an application is denied, the department will review the next numbered application(s) until the available licenses or certifications are filled.

(B) In cases where fewer applications are received during application time periods than there are available licenses or certifications, then all applications meeting the minimum criteria will be issued a license. Applications will be denied for any reason listed in (5)(A).

(C) Any denial shall be issued by the department in writing to the applicant and shall include the specific reasons for the denial and the process for requesting review of the department's decision.

(6) **Renewals.** Renewal requests must be submitted in a department-approved online format at least thirty (30) days but no sooner than ninety (90) days prior to expiration.

(A) Renewal requests shall be accompanied by a nonrefundable renewal fee to be submitted with the request. The department shall publish the current fees, including any adjustments, on its website at <http://cannabis.mo.gov>.

(B) A renewal request is deemed received when both the request and renewal fee is received by the department.

(C) Except for good cause, a renewal request will be granted unless the facility licensee is not in good standing with the department. Good standing means the license is active and not suspended at the time the request is made.