

## 3.0 Licensing

### 3.1 Marijuana establishment types

#### 3.1.1 Marijuana cultivation facility license.

3.1.1.1 Marijuana cultivation facility license permits the following activities:

3.1.1.1.1 Planting and cultivating marijuana plants, subject to the limits associated with each tier of license;

3.1.1.1.2 Harvesting, trimming, drying, and curing of marijuana plants;

3.1.1.1.3 Storing harvested marijuana, including kief, and marijuana trim;

3.1.1.1.4 Selling and distributing marijuana, including kief, and marijuana trim to marijuana cultivation facilities, marijuana product manufacturing facilities and retail marijuana stores.

3.1.1.1.5 Providing samples of marijuana and marijuana products to authorized individuals for mandatory compliance testing in accordance with subsection XXXX of these regulations at the direction of the Commissioner;

3.1.1.1.6 Collecting samples of marijuana for research and development testing and transporting those samples to a marijuana testing facility;

3.1.1.1.7 Preparing, packaging, and labeling marijuana into individual retail units for wholesale to a retail marijuana store;

3.1.1.1.8 Transporting marijuana to marijuana products manufacturing facilities and retail marijuana stores; and

3.1.1.1.9 Destroying marijuana plants and marijuana in accordance with XXXX

3.1.1.2 The Commissioner may issue the following types of cultivation facility licenses:

3.1.1.2.1 Tier 1 cultivation facility license:

3.1.1.2.1.1 Allows cultivation by a licensee of less than or equal to 2,500 square feet of cannabis plant grow canopy, for an indoor facility; or

3.1.1.2.1.2 Allows cultivation by a licensee of less than or equal to 1 acre of cannabis plant grow canopy, for an outdoor facility.

3.1.1.2.2 Tier 2 cultivation facility license:

3.1.1.2.2.1 Allows cultivation by a licensee of equal to or between 2,501 and 7,500 square feet of cannabis plant grow canopy, for an indoor facility; or

3.1.1.2.2.2 Allows cultivation by a licensee of equal to or between 1.1 and 2.5 acres of cannabis plant grow canopy, for an outdoor facility.

3.1.1.2.3 Tier 3 cultivation facility license:

3.1.1.2.3.1 Allows cultivation by a licensee of equal to or between 7,501 and 10,000 square feet of cannabis plant grow canopy, for an indoor facility; or

3.1.1.2.3.2 Allows cultivation by a licensee of equal to or between 2.6 and 5 acres of cannabis plant grow canopy, for an outdoor facility.

3.1.1.2.4 Tier 4 cultivation facility license:

3.1.1.2.4.1 Allows cultivation by a licensee between 10,001 and 12,500 square feet of cannabis plant grow canopy, for an indoor facility; or

3.1.1.2.4.2 Allows cultivation by a licensee between 5.1 acres and 7.5 acres, of cannabis plant grow canopy, for an outdoor facility.

3.1.2 Marijuana product manufacturing facility license. A marijuana product manufacturing facility license permits the following activities:

3.1.2.1 Purchasing marijuana from marijuana cultivation facilities;

3.1.2.2 Purchasing marijuana concentrates or marijuana products from other marijuana product manufacturing facilities;

3.1.2.3 Extracting cannabinoids from marijuana for marijuana concentrates;

3.1.2.4 Creating marijuana products;

3.1.2.5 Selling marijuana, marijuana concentrates, and marijuana products to other marijuana products manufacturing facilities and retail marijuana stores;

3.1.2.6 Providing samples of marijuana and marijuana products to authorized individuals for mandatory compliance testing in accordance with XXXX at the direction of the Commissioner;

3.1.2.7 Collecting samples of marijuana for research and development testing in accordance with XXXX and transporting those samples to a marijuana testing facility;

3.1.2.8 Preparing, packaging, and labeling marijuana and marijuana products;

3.1.2.9 Storing marijuana, marijuana concentrates, and marijuana products;

3.1.2.10 Transporting marijuana, marijuana concentrates or marijuana products to other marijuana products manufacturing facilities and retail marijuana stores;

3.1.2.11 Collecting samples of marijuana for research and development testing and transporting those samples to a marijuana testing facility; and

3.1.2.12 Destroying marijuana, marijuana concentrates and marijuana products in accordance with XXXX;

3.1.3 Retail marijuana store license.

3.1.3.1 A retail marijuana store license permits the following activities:

3.1.3.1.1 Purchasing prepackaged retail units of marijuana from marijuana cultivation facilities;

3.1.3.1.2 Purchasing prepackaged retail units of marijuana, marijuana concentrates, and marijuana products from marijuana products manufacturing facilities;

3.1.3.1.3 Selling prepackaged retail units of marijuana, marijuana concentrates, and marijuana products, to consumer 21 years or older or with a valid medical marijuana program card;

3.1.3.1.4 Providing samples of marijuana and marijuana products to authorized individuals for mandatory compliance testing in accordance with XXXX at the direction of the Commissioner;

3.1.3.1.5 Collecting samples of marijuana for research and development testing in accordance with XXXX and transporting those samples to a marijuana testing facility;

3.1.3.1.6 Storing prepackaged retail units of marijuana, marijuana concentrates, and marijuana products;

3.1.3.1.7 Selling marijuana accessories and non-consumable products such as apparel;

3.1.3.1.8 Transporting prepackaged retail units of marijuana, marijuana concentrates or marijuana products to other retail marijuana stores; and

3.1.3.1.9 Destroying marijuana, marijuana concentrates and marijuana products in accordance with XXXX;

3.1.3.2 A retail marijuana store is prohibited from:

3.1.3.2.1 Selling marijuana, marijuana concentrates, and marijuana products to a person under 21 years of age without a valid medical marijuana program card;

3.1.3.2.2 Give away marijuana, marijuana concentrates, and marijuana products for no remuneration;

3.1.3.2.3 Selling any marijuana, marijuana concentrates, and marijuana products which contain synthetic cannabinoids;

3.1.3.2.4 Selling marijuana, marijuana concentrates, and marijuana products to a person who is visibly intoxicated;

3.1.3.2.5 Selling consumable products not containing marijuana, including, but not limited to, soft drinks, candies and baked goods;

3.1.3.2.6 Selling or giving away products containing tobacco or alcohol;

3.1.3.2.7 Selling retail marijuana or retail marijuana products over the Internet;

3.1.3.2.8 Selling more marijuana, marijuana concentrates, and marijuana products than is allowed for in 4 Del.C. §1332 and these regulations, during a single transaction to an individual; or

3.1.3.2.9 Delivering retail marijuana or retail marijuana products to a person not physically present in the retail marijuana store's licensed premises. Medical marijuana patients with a valid identification card are authorized home delivery.

### 3.1.4 Marijuana testing facility license.

3.1.4.1 A person who has a financial interest in a marijuana testing facility license may not have a financial interest in a registered compassion center, a marijuana cultivation facility, a marijuana products manufacturing facility, or a retail marijuana store.

3.1.4.2 A marijuana testing facility license permits the following activities:

3.1.4.2.1 Receiving samples of marijuana and marijuana products from individuals authorized by the Commissioner for the purpose of required compliance testing;

3.1.4.2.2 Receiving samples of marijuana and marijuana products from marijuana cultivation facilities, marijuana product manufacturing facilities, retail marijuana stores, and individuals authorized by the Commissioner for the purpose of research and development;

3.1.4.2.3 Denying receipt of samples from to marijuana cultivation facilities, marijuana product manufacturing facilities and retail marijuana stores, for any reason, including samples that do not meet the requirements of XXXX;

3.1.4.2.4 Performing analysis of samples of marijuana and marijuana products following protocols approved by the Commissioner and in accordance with XXXX;

3.1.4.2.5 Providing a certificate of analysis, for the sample provided to the marijuana testing facility, to marijuana cultivation facilities, marijuana product manufacturing facilities and retail marijuana stores;

3.1.4.2.6 Storing samples of marijuana and marijuana products;

3.1.4.2.7 Destroying and disposing of samples, subject to all requirements of XXXX;

3.1.4.2.8 Reporting of testing results in accordance with XXXX and XXXX; and

3.1.4.2.9 Receiving samples of marijuana, marijuana concentrates and marijuana products from medical marijuana patients and consumer 21 years or older, for the purpose of testing;

## 3.2 License types

3.2.1 Open licenses. The Commissioner may issue the following types of open licenses:

3.2.1.1 Marijuana cultivation facility license

3.2.1.2 Marijuana product manufacturing license

3.2.1.3 Retail marijuana store license

3.2.1.4 Marijuana testing facility license

3.2.2 Social equity license.

3.2.2.1 The Commissioner may issue the following types of social equity licenses:

3.2.2.1.1 Marijuana cultivation facility license for more than 2,500 square feet

3.2.2.1.2 Marijuana cultivation facility license for 2500 square feet or less  $\leq 2,500$  square feet

3.2.2.1.3 Marijuana product manufacturing license

3.2.2.1.4 Retail marijuana store license

3.2.2.1.5 Marijuana testing facility license

3.2.2.2 To hold a social equity license, an individual holding at least 51% ownership and control must meet one of the following criteria:

3.2.2.2.1 resided for at least 5 of the preceding 10 years in a disproportionately impacted area as defined in § 1302 of this Title; or

3.2.2.2.2 Was convicted of or adjudicated delinquent of a marijuana-related offense under Delaware law prior to April 23, 2023, with the exception of delivery to a minor or any offense involving a Tier 3 quantity of marijuana as defined in § 4651C of Title 16.

3.2.2.2.3 Had a parent, legal guardian, child, spouse, or dependent who was convicted of or adjudicated delinquent for a marijuana-related offense under Delaware law prior to April 23, 2023, with the exception of delivery to a minor or any offense involving a Tier 3 quantity of marijuana as defined in § 4651C of Title 16.

3.2.3 Microbusiness license.

3.2.3.1 The Commissioner may issue the following types of microbusiness licenses:

3.2.3.1.1 Marijuana cultivation facility license

3.2.3.1.2 Marijuana product manufacturing license

3.2.3.2 To hold a microbusiness license, an individual holding 51% ownership and control must meet all the following criteria:

3.2.3.2.1 Employ no more than 10 employees

3.2.3.2.2 Hold only a tier 1 marijuana cultivation facility license

### **3.3 General license criteria**

3.3.1 An applicant for an open, social equity or microbusiness license must meet each of the following requirements, if applicable. Except as otherwise provided in this Section, if the applicant is a business entity, every owner, officer, and director of the business entity who hold more than 10% of the outstanding issued shares must meet each of the requirements of this Section.

3.3.1.1 The applicant must be at least 21 years of age. If the applicant is a business entity, every owner, officer, and director of the business entity must be at least 21 years of age.

3.3.1.2 The applicant must submit to a criminal history record check in accordance with the requirements in 4 **Del.C.** §1345 and these regulations.

3.3.1.3. The applicant must complete all forms required by the Commissioner fully and truthfully and provided all information and documents requested by the Commissioner.

3.3.1.4 The applicant may not knowingly or recklessly make a false statement of material fact to the Commissioner in applying for a license under these regulations. The Commissioner may revoke a license pursuant to 4 **Del.C.** §1331 and these regulations if subsequent to the issuance of the license, the Commissioner determines the licensee knowingly or recklessly made a false statement of material fact to the Commissioner in applying for the license.

3.3.2 The Commissioner may consider any of the following convictions or their functional equivalent under the laws of the United States, any state or territory of the United States, or any other country:

3.3.2.1 A violent Title 11 or Title 31 felony conviction as defined in 11 **Del.C.** §4201(c)

3.3.2.2 Any class A through C felony conviction as defined in Title 11

3.3.2.3 Any felony conviction regarding an offense against public administration as defined in 11 **Del.C.** Ch. 5 subchapter VI

3.3.2.4 A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor

3.3.2.5 Any felony conviction as defined in 16 **Del.C.** Ch. 47

3.3.2.6 Any felony conviction as defined in 30 **Del.C.** Ch. 5

3.3.2.2 A license may not be granted if the Commissioner has received a substantial objection as defined by 4 **Del.C.** §1354 unless the Commissioner has considered and denied such objection.

### **3.4 Criminal history records check**

3.4.1 Applicants must follow all criminal history records check guidance provided by the Commissioner, including but not limited to fingerprinting and state and federal criminal history records checks.

3.4.2 For applicants that are business entities, fingerprinting and criminal history record checks are required for every owner, officer, and director.

3.4.3 All criminal history record information obtained by the Commissioner and the Division of Alcohol and Tobacco Enforcement (DATE) is confidential, is for the official use of the Commissioner only, and may not be disseminated outside of the Office of the Marijuana Commissioner.

3.4.4 The applicant is responsible for all costs associated with fingerprinting and criminal history record checks.

## **4.0 Application process and issuance of licenses**

### **4.1 Social equity, microbusiness, and open application requirements**

4.1.1 An applicant shall submit an application to the Commissioner for a license.

4.1.2 An applicant may not apply for, may not be issued, and may not renew any license that would result in the applicant, or a person with a financial interest in that application or license under this chapter, owning or operating more than one marijuana establishment of the same license type in a single county.

**4.1.2.1 This section does not prohibit an applicant from applying for and being issued or renewed more than one license in a single county, provided that each license is of a different license type.**

4.1.3 An application shall be completed on a form designated by the Commissioner.

4.1.4 The Commissioner shall not require an applicant to obtain or own any property or facility to operate a marijuana business prior to conditional licensing.

4.1.5 The Commissioner may verify an applicant's status as a social equity applicant prior to the submission of the initial application and require the applicant to submit supporting documentation

4.1.6 Any information an applicant submits in support of their social equity status is considered part of the application and is subject to verification by the Commissioner.

## **4.2 Application requirements and minimum qualifications**

4.2.1 The application and required forms shall be submitted in the form set forth by the Commissioner prior to opening of the application window.

4.2.2 The Commissioner shall determine whether a submitted application meets the minimum qualifications for the lottery by reviewing the following:

4.2.2.1 The applicant's comprehensive business plan, including an annual budget and pro forma financial statements.

4.2.2.2 The applicant's business plan demonstrating a likelihood of success and sufficient experience, training, and expertise on the part of the applicant and managing officers.

4.2.2.3 The applicant's plans for safety, security, and the prevention of product diversion.

4.2.2.4 The applicant's plans for operations, training, and staffing, including all the following:

4.2.2.4.1 A social responsibility plan outlining diversity goals, including plans to recruit and hire people of color, women, and veterans and to support their ownership and promotion within the organization, as well as the percentage of employees it plans to hire from within the respective city or region of the State.

4.2.2.4.2 A plan to provide a safe, healthy, and economically beneficial working environment with fair scheduling practices, family-supporting wages, and benefits for its employees.

4.2.2.4.3 Any criminal, civil, or regulatory history encountered by other entities the applicant and managing officers have previously controlled or managed.

4.2.2.5 For applications for marijuana cultivation facility license and marijuana product manufacturing facility license only:

4.2.2.5.1 An environment and sustainability plan, including efforts it will take to minimize the environmental impact and resources needs of its facilities and other

business operations, such as plans to minimize water usage, employing organic cultivation methods, and adoption of other sustainable business practices.

4.2.2.6 Additional minimum qualifications may be established by the Commissioner and communicated to prospective applicants prior to the application period.

4.2.2.7 The Commissioner may require an applicant, or any individual or entity that holds an ownership interest in or control of the applicant, to complete an attestation demonstrating the applicant meets the requirements for the license established in 4 **Del.C.** §1331.

4.2.3 Applicants shall remit a nonrefundable application fee with their submission of the application as follows:

4.2.3.1 \$5,000 for all marijuana establishments

4.2.3.2 \$1,000 for social equity applicants

4.2.3.3 \$3,000 for microbusiness applications

4.2.3.4 The Commissioner may adjust the application fees annually for inflation

### **4.3 Application review process**

4.3.1 The Commissioner shall announce an application round at least 10 days prior to the acceptance of applications. The announcement shall include:

4.3.1.1 Types of licenses available during the licensing round;

4.3.1.2 Number of licenses available by license type; and

4.3.1.3 Beginning and closing day of the application period.

4.3.2 The Commissioner shall accept applications for a period of 30 calendar days.

4.3.3 The responsibility for demonstrating the minimum qualifications set forth in subsection 4.2 of these regulations rests on the applicant.

4.3.4 The Commissioner may deny an application for any of the following reasons:

4.3.4.1 It is incomplete in any material detail;

4.3.4.2 It contains a material misstatement, omission, misrepresentation, or untruth;

4.3.4.3 It does not meet the minimum qualifications for the license type;

4.3.4.4 It is not submitted by the established deadline; or

4.3.4.5 The applicant fails to provide additional information requested by the Commissioner.

4.3.5 The Commissioner may award fewer licenses than authorized under law in any licensing round if there are an insufficient number of qualified applicants

4.3.6 The Commissioner shall notify all applicants whether they met the minimum qualifications and will be placed in the lottery.

### **4.4 Lottery process**



4.4.1 All applicants determined by the Commissioner to meet the minimum qualifications in 4.2 shall be entered into a lottery system to award the licenses. This lottery shall be conducted in an impartial and random manner, with the format of the lottery being determined at the discretion of the Commissioner.

4.4.2 No later than 10 days following the lottery, the Commissioner shall inform all applicants whether they were selected in the lottery, thereby becoming a Selected Applicant.

4.4.3 The Commissioner may request any additional information or supporting documentation from a Selected Applicant necessary to verify aspects of the application, including but not limited to additional information and supporting documentation related to the ownership and control of the applicant at any point prior to issuing an active license.

4.4.4 The Commissioner may deny issuing a conditional license or an active license to an applicant selected in the lottery if:

4.4.4.1 The applicant fails to provide any additional information or supporting documentation requested pursuant to subsection 4.4.3 of these regulations within 10 business days; or

4.4.4.2 Additional information or supporting documentation submitted by the applicant demonstrates the applicant is not eligible for a conditional or active license.

#### **4.5 Selected applicant status and supplemental license application requirements**

4.5.1 A Selected Applicant shall complete a supplemental license application in a format prescribed by the Commissioner.

4.5.2 Selected Applicants are granted a period of 10 business days from the date of notification of selection from the Commissioner to complete a supplemental license application and pay applicable licensing fees.

4.5.3 The supplemental application will require a selected applicant to:

4.5.3.1 Undergo a criminal background check in accordance with 4 **Del.C.** §1345;

4.5.3.2 Provide verification for any information or supporting documentation submitted with the application;

4.5.3.3 Disclose any disciplinary measures taken against any professional or business license held by the applicant, or by any individual or entity with an ownership stake in the applicant, in any jurisdiction;

4.5.3.4 Execute necessary waivers to permit any governmental authority in any jurisdiction to share with the Commissioner and DATE all data the Selected Applicant has previously provided to other jurisdictions in connection with a marijuana-related license, as well as any information those jurisdictions have gathered during their investigations of the Selected Applicant;

4.5.3.5 Authorize the release of financial, personal, and background information from all financial institutions, fiduciaries, and other entities, exempting them from any contractual, statutory, or common law confidentiality obligations, to aid in assessing the Selected Applicant's capability to operate a licensed facility;

4.5.3.6 Undergo a comprehensive financial background investigation, to be conducted by the Commissioner; and

4.5.3.7 Provide the proposed jurisdiction within which the Selected Applicant intends to operate.

4.5.4 If a selected applicant fails to meet the requirements in subsection 4.5.3 of these regulations within the 10-business day period, the Commissioner may extend this period provided that the selected applicant demonstrates a good faith effort towards completing the requirements in subsection 4.5.3 of these regulations. Should the Commissioner deny the extension request, or the selected applicant remains unable to meet the requirements outlined in subsection 4.5.3 of these regulations, the Commissioner is authorized to revoke selected application status.

4.5.5 The prescribed licensing fees shall be as follows, paid to the Commissioner:

4.5.5.1 For a retail marijuana store, \$10,000 biennially;

4.5.5.2 For a marijuana testing facility, \$10,000 biennially;

4.5.5.3 For an indoor marijuana cultivation facility with a cannabis plant grow canopy area less than or equal to 2,500 square feet or an outdoor marijuana cultivation facility with a cannabis plant grow canopy area less than or equal to 1 acre, \$2,500 biennially;

4.5.5.4 For an indoor marijuana cultivation facility with a cannabis plant grow canopy area between 2,501 and 7,500 square feet or an outdoor marijuana cultivation facility with a cannabis plant grow canopy area equal to or between 1.1 and 2.5 acres \$5,000 biennially;

4.5.5.5 For an indoor marijuana cultivation facility with a cannabis plant grow canopy area between 7,501 and 10,000 square feet or an outdoor marijuana cultivation facility with a cannabis plant grow canopy area equal to or between 2.6 and 5 acres \$7,500 biennially;

4.5.5.6 For an indoor marijuana cultivation facility with a cannabis plant grow canopy area greater than 10,001 square feet, but less than 12,500 square feet, or an outdoor marijuana cultivation facility with a cannabis plant grow canopy area greater than 5.1 acres, but less than 7.5 acres, \$10,000 biennially;

4.5.5.7 For a marijuana product manufacturing facility, \$10,000 biennially.

4.5.5.8 A social equity licensee shall pay the Commissioner biennially for the social equity license at a discounted rate of 40% of the applicable open license. A social equity licensee must renew the license biennially by paying the fee prescribed above minus the discount rate, providing confirmation that all the criteria in 4 **Del.C.** §1336 are satisfied, and a labor peace agreement is provided.

4.5.5.9 A social equity licensee must renew their license biennially by paying the fees described below, providing confirmation that all the criteria in 4 **Del.C.** §1336 are satisfied, and a labor peace agreement is provided:

4.5.5.9.1 For a retail marijuana store, \$4,000 biennially;

4.5.5.9.2 For a marijuana testing facility, \$4,000 biennially;

4.5.5.9.3 For an indoor marijuana cultivation facility with a cannabis plant grow canopy area less than or equal to 2,500 square feet or an outdoor marijuana cultivation facility with a cannabis plant grow canopy area less than or equal to 1 acre, \$1,000 biennially;

4.5.5.9.4 For an indoor marijuana cultivation facility with a cannabis plant grow canopy area between 2,501 and 7,500 square feet or an outdoor marijuana cultivation facility with a cannabis plant grow canopy area equal to or between 1.1 and 2.5 acres \$2,000 biennially;

4.5.5.9.5 For an indoor marijuana cultivation facility with a cannabis plant grow canopy area between 7,501 and 10,000 square feet or an outdoor marijuana cultivation facility with a cannabis plant grow canopy area equal to or between 2.6 and 5 acres \$3,000 biennially;

4.5.5.9.6 For an indoor marijuana cultivation facility with a cannabis plant grow canopy area between 10,001 and 12,500 square feet or an outdoor marijuana cultivation facility with a cannabis plant grow canopy area greater than 5.1 acres but less than 7.5 acres, \$4,000 biennially;

4.5.5.9.7 For a marijuana product manufacturing facility, \$4,000 biennially.

4.5.5.10 A microbusiness licensee must renew their license biennially by paying the fees described below, providing confirmation that all the criteria in 4 **Del.C.** §1340 are satisfied, and a labor peace agreement is provided:

4.5.5.10.1 For a retail marijuana store, \$4,000 biennially;

4.5.5.10.2 For a marijuana testing facility, \$4,000 biennially;

4.5.5.10.3 For an indoor marijuana cultivation facility with a cannabis plant grow canopy area less than or equal to 2,500 square feet or an outdoor marijuana cultivation facility with a cannabis plant grow canopy area less than or equal to 1 acre, \$1,000 biennially;

4.5.5.10.4 For a marijuana product manufacturing facility, \$4,000 biennially.

4.5.6 Upon successful completion and approval of the supplemental application and payment of licensing fees, the applicant will be granted a conditional license.

4.5.7 Prior to the issuance of a conditional license, a Selected Applicant shall not:

4.5.7.1 Purchase, possess, cultivate, manufacture, or sell marijuana or marijuana products;

4.5.7.2 Transfer any ownership interest that causes a change in the individual or entity that holds the controlling ownership interest;

4.5.7.3 Transfer control; or

4.5.7.4 Transfer an ownership interest that causes the conditional social equity licensee to no longer meet the social equity applicant definition.

## **4.6 Issuance of conditional license**

4.6.1 Following the review and Commissioner's approval of the Selected Applicant's Supplemental Application, the Selected Applicant shall be granted a Conditional License.

4.6.2 Conditional licensees are granted a period of 18 months from the issuance of the conditional license to secure a physical business premises, receive approval from the Commissioner for the licensed premises, and demonstrate readiness to commence operations.

#### 4.6.3 Termination of a conditional license

4.6.3.1 The Commissioner may terminate a conditional license if a conditional licensee, or any individual or entity included in the supplemental application:

4.6.3.1.1 Has been convicted of or pleaded nolo contendere to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have conviction or plea set aside;

4.6.3.1.2 Fraudulently or deceptively attempts to obtain a license;

4.6.3.1.3 Is ineligible to hold an ownership interest in or control of a business licensed under **XXXX**;

4.6.3.1.4 Fails to reveal any material fact pertaining to the temporary licensee's qualification for a license;

4.6.3.1.5 Fails to submit a complete supplemental license application;

4.6.3.1.6 Fails to convert to a licensee;

4.6.3.1.7 Violates this regulation;

4.6.3.1.8 Is not registered or in good standing with the Delaware Department of State, Division of Corporations; or

4.6.3.1.9 Has taxes in arrears in any jurisdiction.

#### 4.7 Issuance of active license

4.7.1 A conditional license shall be converted into an active license upon:

4.7.1.1 Submission and subsequent approval of final safety, security, and operations plans by the Commissioner;

4.7.1.2 Payment of any fees or costs associated with obtaining a background check;

4.7.1.3 Submission of an attestation signed by a bona fide labor organization stating that the licensee has entered into a labor peace agreement with such bona fide labor organization;

4.7.1.4 Submission of a form, provided by the Commissioner, which demonstrates compliance with all local laws including local zoning, fire codes and building codes;

4.7.1.5 Identifying and demonstrating legal control of the proposed site, through lease, purchase, or other means, for the marijuana business; and

4.7.1.6 A completed full inspection of the proposed site premise by the Commissioner and DATE.

4.7.2 Conditional licensees are granted a period of 18 months from the issuance of the conditional license to secure a physical business premises, receive approval from the Commissioner for the licensed premises, and demonstrate readiness to commence operations.

4.7.3 In the event that the licensee fails to initiate operations, fulfilling all compliance requirements and criteria set by the Commissioner within the 18-month period, the Commissioner may extend this period

for operational commencement, provided that the conditional licensee demonstrates a good faith effort towards initiating operations. Should the Commissioner deny the extension request, or the licensee remains unable to commence operations, the Commissioner may revoke the conditional license.

#### **4.8 Retention of applications**

4.8.1 Upon notification that an applicant was not selected by the lottery, the applicant may request the Commissioner retain the application for subsequent licensure application rounds.

4.8.2 The Commissioner shall keep an applicant's submitted application on file for one year if the applicant requests this retention.

4.8.3 The Commissioner may contact an applicant with a retained application for any additional information required for subsequent licensing rounds.

4.8.4 Any application retained by the Commissioner that meets the specifications and requirements of a subsequent licensing round within the one-year retention period shall be automatically entered into subsequent licensing rounds if:

4.8.4.1 The applicant has properly amended the application if requested by the Commissioner under subsection 4.4.4 of this regulation; and

4.8.4.2 Any additional information requested by the Commissioner has been updated.

4.8.5 The Commissioner may not enter a retained application into a subsequent licensing round if:

4.8.5.1 Any individual included in the application is in violation of ownership restrictions under **XXXX**; and

4.8.5.2 Any individual associated with the application has been found to be in violation of **XXXX**.

#### **4.9 Appeals process for license denial**

4.9.1 Applicants that fail to attain the minimum score established by the Commissioner for licensing may appeal that decision by following the steps outlined herein and in 4 **Del.C.** §1362.

4.9.2 The Commissioner shall issue decisions on all appeals and hearings in a written format. Such decisions are deemed final and binding.

4.9.3 Procedure for appeal. In cases where a party involved in the hearing wishes to contest the Commissioner's decision denying a license, an appeal must be filed. This appeal must be lodged within a 30-day period following the postmark date of the Commissioner's decision.

4.9.3.1 The appeal is initiated by submitting a written notice of appeal to the office of the Commissioner.

4.9.4 Processing of appeal. Upon receipt of an appeal, the Commissioner shall notify the Chair of the Appeals Commission regarding the pending appeal.

4.9.4.1 The Chair of the Appeals Commission shall schedule a meeting of the Commission, providing a minimum notice period of 20 days to all parties concerned.

4.9.5 The Appeals Commission shall be conducted as follows:

4.9.5.1 The Appeals Commission shall review the appeal based on the existing record.

4.9.5.2 The Commission shall adhere to the provisions of the Administrative Procedures Act, 29 Del.C. Ch. 101.

4.9.5.3 The Commission holds the authority to affirm, reverse, or modify the Commissioner's decision.

4.9.6 A decision made by the Commissioner may only be reversed upon the establishment of an abuse of discretion.

## **5.0 License renewals, transfers and change of information**

### **5.1 License renewal process**

5.1.1 At least 90 calendar days before the expiration of a license, the Commissioner shall notify the licensee of the:

5.1.1.1 Date on which the license expires;

5.1.1.2 Process and the fee required to renew the license; and

5.1.1.3 Consequences of a failure to renew the license.

5.1.2 At least 30 calendar days before a license expires, a licensee seeking renewal shall submit:

5.1.2.1 The renewal application in the form designated by the Commissioner;

5.1.2.2 Proof that fingerprints have been submitted to the State Bureau of Identification and the Federal Bureau of Investigation for each agent and any owner with an ownership interest of 10 percent or more;

5.1.2.3 Any additional information or supporting documentation requested by the Commissioner to verify aspects of the license, including but not limited to additional information and supporting documentation related to the ownership and control of the license, including materials listed in subsection 5.2 of these regulations; and

5.1.2.4 Payment of the renewal fee determined by the Commissioner.

5.1.3 The Commissioner and DATE may conduct a full inspection of the licensed premise before renewing a license.

5.1.4 Marijuana cultivation facility licensees may request a 1-tier increase in size each renewal period if the following requirements are met:

5.1.4.1 The licensee has submitted an updated safety, security, and prevention of diversion plan that has been approved by the Commissioner;

5.1.4.2 The licensee has submitted an updated environment and sustainability plan that has been approved by the Commissioner; and

5.1.4.3 The licensee has demonstrated to the Commissioner that 80% of marijuana cultivated by the licensee was sold throughout the current period of licensure.

5.1.5 A microbusiness licensee may not request a license tier increase.

5.1.6 If a licensee fails the inspection or submits a deficient application for renewal, the licensee may apply for reinstatement by:

5.1.6.1 Submitting a plan to correct the deficiencies noted during an inspection; and

5.1.6.2 Amending the application for renewal.

5.1.7 The Commissioner may deny a license renewal if:

5.1.7.1 The plan to correct deficiencies identified in an inspection is deficient;

5.1.7.2 The amended application for renewal is deficient;

5.1.7.3 The license renewal applicant ownership and operational control is found to violate 4 **Del.C. Ch. 13**.

5.1.7.4 The licensee is found in violation of regulations during the license period.

5.1.8 A licensee who fails to apply for license renewal by the date specified by the Commissioner, or whose license was not renewed by the Commissioner:

5.1.8.1 Shall cease operations at all premises and

5.1.8.2 May not provide cannabis to any entity or individual.

5.1.9 A license may be reinstated upon:

5.1.9.1 Payment of the reinstatement fee specified by the Commissioner; and

5.1.9.2 Submission of a reinstatement application approved by the Commissioner.

## **5.2 Change in ownership**

5.2.1 The Commissioner may approve a transfer or assignment of ownership for any open license provided the following is filed:

5.2.1.1 An application on a form prescribed by the Commissioner;

5.2.1.2 The transferee has paid the required fee as determined by the Commissioner;

5.2.1.3 A financial statement of the new owner or owners;

5.2.1.4 Personal financial statements of all individuals, partners, or stockholders holding at least 10% of the corporate stock;

5.2.1.5 A copy of the agreement of the terms of the sale or other exchange of financial interest, including stock and equity distribution;

5.2.1.6 Copy of all documents explaining interest and profit/loss distribution; and

5.2.1.7 Any other documents requested by the Commissioner.

5.2.2 The Commissioner may not approve a transfer or assignment of ownership of a social equity license to a person who would not meet the criteria for the issuance of a social equity license until at least three years have passed since being awarded a social equity license.

5.2.3 The Commissioner may deny transfer of an interest for any proposed transferee:

5.2.3.1 If the transferee has been convicted of or pleaded nolo contendere to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

5.2.3.2 If the payment of taxes due in any jurisdiction is in arrears;

5.2.3.3 Such a transfer violates State, local or federal law; or

5.2.3.4 Other good cause exists to deny the proposed transfer.

5.2.4 Any individual or entity identified as having ownership or control of a license may not hold an ownership interest that exceeds the limitations set forth in XXXX.

5.2.5 If the Commissioner approves a transfer of an ownership interest of a license and subsequently the Commissioner finds that such a transfer violates State, local, or federal law or other binding contractual agreements, the Commissioner may:

5.2.5.1 Issue a fine against any parties involved in the transfer;

5.2.5.2 Declare the transfer void; or

5.2.5.3 Rescind the license.

5.2.6 A change in ownership includes a change in the entire ownership, change in the partial ownership, or the sale or exchange of shares of stock by stockholders.

### **5.3 Change in location**

5.3.1 A licensee may apply to change the location of the licensee's operation.

5.3.2 The licensee shall submit an application to the Commissioner along with the fee specified by the Commissioner.

5.3.3 A licensee may not begin cultivation, processing or dispensing of cannabis at a new location until the Commissioner approves the change.

### **5.4 Other material changes to license**

5.4.1 All other material changes to a license shall require the express approval of the Commissioner.