



# Ohio Department of Commerce Medical Marijuana Control Program

## Cultivation Area Expansion – Evaluation Criteria

The Director of the Department of Commerce (“Director”) has the authority to approve an initial expansion of marijuana cultivation area for licensed cultivators in the Ohio Medical Marijuana Control Program (“MMCP”). The initial expansion authorizes a total marijuana cultivation area of up to fifty thousand square feet for Level I cultivators and six thousand square feet for Level II cultivators, based on cultivator compliance with licensure requirements and other factors related to the program.<sup>1</sup> **Licensees are prohibited from submitting more than one cultivation area expansion request during any twelve-month period.**<sup>2</sup>

### **Evaluation Criteria – Initial Expansion**

On October 1, 2021, the Department of Commerce (“Department”) will begin accepting and reviewing licensee applications for the initial marijuana cultivation area expansion. All the following criteria and documentation requirements will be considered by the Department prior to approval of a licensee’s request under OAC 3796:2-1-09 for a cultivation area expansion:

1. **Expansion Plans:** the cultivator licensee must comply with all submission requirements for expansion plans under OAC 3796:2-1-09(B).<sup>3</sup> The licensee also must demonstrate that the facility floor plan and new construction is in support of the reasonable and regular use of the proposed cultivation area expansion for this application. The Department reserves the right to request additional information regarding the cultivator’s expansion plans as part of its review of the application.
2. **Compliance with Licensure Requirements:**
  - **One-Year Operation Requirement:** the Department will consider this criteria met if the licensee requesting a cultivation area expansion has been operational, meaning plants tagged in the Department’s inventory tracking system (Metrc), for at least one year before submission of the expansion application.

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<sup>1</sup> Ohio Admin Code 3796:2-1-09(A)

<sup>2</sup> Ohio Admin Code 3796:2-1-09(C)

<sup>3</sup> Ohio Admin Code 3796:2-1-09(B)(1-5). Licensee must submit, at a minimum: (1) Plans and specifications for the expansion or alteration in accordance with rule [3796:2-1-02](#) of the Administrative Code that demonstrate compliance with the requirements of the rules adopted by the board of building standards pursuant to Chapters 3781. and 3791. of the Revised Code and the rules adopted by the state fire marshal pursuant to sections [3737.82](#) and [3737.86](#) of the Revised Code;

(2) Propose a timeline for completion of the proposed expansion, which, if approved, will become a mandatory condition;

(3) Demonstrate a history of compliance with Chapter 3796. of the Revised Code and the rules promulgated in accordance with Chapter 3796. of the Revised Code, which includes a history of enforcement actions and sanctions issued by the department or law enforcement against the cultivator;

(4) Provide supporting documentation that the cultivator has consistently met the cultivation requirements under rule [3796:2-1-07](#) of the Administrative Code; and

(5) Demonstrate to the department that the proposed expansion meets the applicable requirements of rule [3796:2-1-02](#) of the Administrative Code and that the cultivator will remain in compliance with Chapter 3796. of the Revised Code and the rules promulgated in accordance with Chapter 3796. of the Revised Code, if the expansion is permitted.



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- **Reasonable and Regular Use of Current Allowable Marijuana Cultivation Area:** the licensee must be reasonably utilizing the full allowable marijuana cultivation area of twenty-five thousand square feet for Level I cultivators and three thousand square feet for Level II cultivators. Limited or sporadic placement of plants in vegetative or flower rooms will not be considered reasonable and regular use of the cultivation area. MMCP compliance agents may conduct a cultivation facility inspection to confirm the reasonable and regular use of the cultivation area.
- **Compliance Requirement:** the Department will consider this criteria met if the licensee has no enforcement actions, including incidents of noncompliance resolved by a consent order, in which the incident occurred within one year before the date of the licensee submission under OAC 3796:2-1-09(B). Enforcement actions during the Department's review of the expansion request may lead to denial of the application.

### 3. Other Factors Related to the Program:

- **Demonstration of Need for Additional Cultivation Capacity:** the licensee must provide a narrative and any supporting documentation demonstrating a need for additional cultivation capacity, including production and distribution of plant material to processors and dispensaries.
- **Licensee Inventory and Sales Data:** the licensee must provide to the Department any requested documentation relating to inventory levels and sales data to be examined and verified in Metrc by the Department. The Department will consider the amount of cultivator licensee harvested plant material that has not been transferred to processors or dispensaries as well as the dates of harvest of stored plant material. Cultivator licensees with fifty pounds or more inventory of any plant material that exceeds one year from the date of harvest may not receive approval of a cultivation area expansion.
- **Any other factors related to the program as determined by the Director or the Director's designee.**