

R68. Agriculture and Food, Plant Industry.

R68-38. Cannabis Licensing Process.

R68-38-1. Authority and Purpose.

Pursuant to Subsection 4-41a-201(2)(a)(ii), this rule establishes the process for issuing a cannabis production establishment license.

R68-38-2. Definitions.

- (1) "Cannabis cultivation facility" means a person that:
 - (a) possesses cannabis;
 - (b) grows or intends to grow cannabis; and
 - (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.
- (2) "Cannabis processing facility" means a person that:
 - (a) acquires or intends to acquire cannabis from a cannabis production establishment;
 - (b) possesses cannabis with the intent to manufacture a cannabis product;
 - (c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and
 - (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.
- (3) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.
- (4) "Cannabis Production Establishment Licensing Advisory Board" or "Board" means the board established under Section 4-41a-201.1.
- (5) "Department" means the Utah Department of Agriculture and Food.
- (6) "Independent cannabis testing laboratory" means a person that:
 - (a) conducts a chemical or other analysis of cannabis or cannabis product; or
 - (b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

R68-38-3. Cannabis Production Establishment Licensing.

- (1) The Department will solicit applications for cannabis cultivation facility licenses if the conditions in Subsection 4-41a-205(2)(a) or (b) are met.
- (2) A licensed cannabis cultivation facility may not be awarded a second cannabis cultivation facility license.
- (3) Pursuant to Section 4-41a-201, the Board will not accept a license application unless it is complete. An incomplete application will be returned to the applicant.
- (4) If there are more qualified applicants than available licenses, the department will evaluate the applicants pursuant to Subsection 4-41a-205(3).
- (5) The following conditions shall be met before the Board will consider a license application:
 - (a) a complete application including documents and supplemental materials on the department's application checklist has been submitted;
 - (b) a department official has inspected the premises; and
 - (c) a department official has conducted an inspection as described in Section R68-38-4.
- (6) The department shall forward to the Board the information and recommendation to aid in the license determination.
- (7) The Board will follow the process outlined in Subsection 4-41a-201.1(6) in considering the application.

R68-38-4. Department Review.

- (1) The department's inspection shall:
 - (a) verify required documents and supplemental materials have been submitted with the application;
 - (b) confirm the information in the application is correct;
 - (c) conduct the criminal background check required in Section 4-41a-202; and
 - (d) confirm that operating and business plans comply with state laws and administrative rules.
- (2) The department may require additional information from an applicant.
- (3) The department shall submit the cannabis processing facility or independent cannabis testing laboratory application to the Board with information within 30 days of receiving a completed cannabis processing facility or independent cannabis testing laboratory application.
- (4) Consistent with Subsection R68-38-3(1), the department shall submit a cannabis cultivation facility application to the Board when the department finds a need based on market needs and available licenses.

R68-38-5. Board Review-Licenses with Limited Availability.

- (1) If the Department solicits applications for a limited number of cannabis production establishment licenses, complete applications shall be scored by the Board after the requirements of Subsection R68-38-3(5) are met.
- (2) Licenses shall be issued by the Board according to those applicants with the highest score depending on how many licenses are available.

(3) Board review in these circumstances shall be a blind process and with each name removed from each document that is provided to the Board for consideration.

(4) The Board may consider the following factors in determining whether to grant cannabis production establishment licenses:

- (a) the applicant's experience in the medical cannabis industry;
- (b) the applicant's ability to be compliant within their operating plan;
- (c) the applicant's positive community involvement, if applicable;
- (d) the applicant's anticipated pricing structure;
- (e) the timeline under which each phase of the applicant's business will be operational; and
- (f) other factors determined by the Department or the Board.

(5) Board meetings may only be closed if the Board is discussing security interests. All votes shall be taken in an open meeting.

(6) If an applicant's initial score is changed based on Board discussion, the reason for the change shall be documented.

R68-38-6. Board Review-License Renewals.

(1) The following conditions shall be met before the Board will approve a renewal license application for a cannabis production establishment:

(a) a complete application including documents and supplemental materials on the department's application checklist has been submitted;

(b) the department has confirmed that the cannabis production establishment has been sufficiently compliant with state laws and administrative rules during the term of their license, pursuant to Chapter 4-41a Part 8; and

(c) for cannabis cultivation facilities, the department has confirmed that production has met or exceeded the amounts that were included in the previous year's operating plan.

(2) In approving a renewal license application for a cannabis production establishment, the Board may consider:

(a) information from the department regarding any issues that have arisen during the license term related to product quality; and

(b) any verified customer complaints.

R68-38-7. Public Hearing.

(1) The Board shall make licensing determination during a public hearing where the application was considered.

(2) The Board shall allow prospective applicants to make a presentation at the public hearing in which their application is considered.

(3) The Board shall notify the prospective applicant a minimum of ten business days in advance of the public hearing where their application is being considered.

(4) The Board may limit the time available for presentations by the applicants.

R68-38-8. Cannabis Production Establishment Licensing Advisory Board Electronic Meetings.

(1) The following provisions govern any meeting of the Board.

(a) Notice of the meeting shall specify the anchor location where the members of the Board not participating electronically or by telephone will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(b) Notice of the meeting and the agenda shall be posted at the anchor location. Written or electronic notice shall also be posted on the Public Notice Website. These notices shall be provided at least 24 hours before the meetings.

(c) Notice of the possibility of an electronic meeting shall be given to the Board members at least 24 hours before the meeting. The notice shall describe how a member may participate in the meeting electronically or by telephone.

(d) When notice is given of the possibility of a member appearing electronically or by telephone, any member may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the Board.

(e) At the commencement of the meeting, or at such time as any member initially appears electronically or by telephone, the chair shall identify for the record all those who are appearing by telephone or electronically.

(f) Votes by members of the Board who are not at the physical location of the meeting shall be confirmed by the chair.

(g) The anchor location, unless otherwise designated in the notice, shall be at the offices of the Department of Agriculture and Food.

(i) The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected.

(ii) The anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

KEY: cannabis, cannabis production, licensing, Cannabis Production Establishment Licensing Advisory Board

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Authorizing, and Implemented or Interpreted Law: 4-2-103; 4-41a-201(2)(a)(ii)

