

What role does receiving conditional approval of a Secondary Site application play in determining whether the applicant’s site will receive final approval for a Secondary Site license?

The date of the conditional approval the Department is required to make pursuant to Section 15-20(h) of the Cannabis Regulation and Tax Act has no bearing on whether the applicant will ultimately receive final approval. As noted in the Notice posted by the Department on August 15, 2019:

“[The Department is] aware that potential conflicts may arise between applicants for Early Approval Adult Use Dispensing Organization Licenses if they seek locations for their second site dispensaries that are within 1,500 feet of each other. In the event of such a conflict, the applicant who receives a license first will be the one permitted to operate. IDFPR will not grant a license for a secondary site until the applicant’s facility has passed final inspection by the [Cannabis Control Section], which will occur after receipt of the necessary zoning approval. IDFPR will also not grant a license if it has granted another dispensing organization a license at a location within 1,500 feet of the applicant’s proposed location. In this situation, IDFPR will require the applicant to amend its application with a different location, and if the applicant does not do so, it will deny the application.”

Could an applicant receive conditional approval for a site and be denied final approval because another applicant located within 1,500ft was awarded a license first?

Yes.

Will the Department review a Secondary Site application if the applicant has not yet applied for zoning but has a location under control?

No. The Department will only review applications that are complete. Section 15-20(c)(6) of the Cannabis Regulation and Tax Act requires applicants to submit “documentation of the approval, the conditional approval or status of the request for zoning approval from the local zoning office that the proposed dispensary location is in compliance with the local zoning rules.” This requirement is addressed in Exhibit C of the application. As such, the Department will only review applications that include evidence of zoning approval, conditional approval, or a status of the request for zoning approval from the local zoning office.

A status of the request for zoning approval may include a document from the local zoning office confirming a zoning request has been made by the applicant.

Will the Department review a Secondary Site application if an applicant has a location under control and has applied for zoning but hasn’t been approved for zoning at the time the application was submitted?

The Department will review and may conditionally approve an application if the applicant has sought but not yet been approved for zoning. However, the Department will not inspect or give final approval to an applicant that has not received final zoning approval or zoning approval that is contingent only on Department final approval of the site.

Will the Department review a Secondary Site application if a locality has not yet enacted a zoning ordinance specific to the sale of adult use cannabis?

Section 15-20(c)(6) of the Cannabis Regulation and Tax Act requires applicants to submit “documentation of the approval, the conditional approval or status of the request for zoning approval from the local zoning office that the proposed dispensary location is in compliance with the local zoning rules.” As such, the Department will only review applications that include evidence of zoning approval, conditional approval, or a status of the request for zoning approval.

A status of the request for zoning approval may include a document from the local zoning office confirming a zoning request has been made by the applicant. Each locality is responsible for deciding whether it will provide the Notice of Proper Zoning form or a status of a request for zoning approval to the applicant.

If, in the absence of a specific ordinance on the sale of adult use cannabis, a locality’s zoning official has signed the Notice of Proper Zoning Form and indicated the proposed site meets zoning requirements, and those documents are included in the application, the Department will review the application. To meet the requirement of Exhibit B to include the relevant local zoning ordinance, applicants should submit any zoning ordinance the locality is relying upon to allow for the operation of the business.

Do Secondary Site applicants need a new Surety Bond or Escrow for the Secondary Site?

Section 15-55 of the Cannabis Regulation and Tax Act requires each dispensing organization to obtain a surety bond or establish an escrow account in the amount of \$50,000. A “dispensary organization” is:

“*a facility* [emphasis added] operated by an organization or business that is licensed by the Department of Financial and Professional Regulation to acquire cannabis from a cultivation center, craft grower, processing organization, or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies under this Act to purchasers or to qualified registered medical cannabis patients and caregivers. As used in this Act, dispensary organization shall include a registered medical cannabis organization as defined in the Compassionate Use of Medical Cannabis Pilot Program Act or its successor Act that has obtained an Early Approval Adult Use Dispensing Organization License.”

Exhibits I and J on the Secondary Site License appear to ask for the same documents regarding business entities. Can you please clarify the difference?

Exhibit J asks for the Operating Agreement, By-Laws, or Articles of Incorporation of the entity that will be holding the Early Approval Adult Use Dispensing Organization License at a Secondary Site. Sometimes those business entities are owned and controlled by other business

entities that are owned and controlled by other business entities and so on, until ultimately there is an individual owner or owners. Exhibit I is asking for the Operating Agreements, By-Laws, or Articles of Incorporation of each business entity until all business entity owners and controllers have been exhausted and only individuals have ownership and control of the business entity.

Will the Department be scoring Secondary Site applications?

Unlike the Conditional Adult Use Dispensing Organization Licenses the Department will be awarding in May 2020, the Department will not be scoring Secondary Site applications. The Department will review Secondary Site applications and locations to ensure all elements meet the requirements of the Cannabis Regulation and Tax Act.