



Oklahoma Medical Marijuana Law: Application to Real Estate

Sourced from: TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 681. MEDICAL MARIJUANA CONTROL PROGRAM. Working Draft as of August 13, 2018 ([Link](#))

- 1) **Location**
- 2) **Leases**
- 3) **Commercial Building Specifications**
 - a. Construction of Premises
 - b. Perimeter Requirements
 - c. Additional Requirements for Processors
- 4) **Security**
 - a. Alarm Systems
 - b. Video Surveillance System
- 5) **Application Information**
 - a. Individual Applicant
 - b. Application on Behalf of an Entity
 - c. Supporting Documentation
 - d. Background Checks
 - e. Timeframe
 - f. Fee
 - g. More Information
- 6) **Additional Relevant Information**

- 1) **Location:** The location of any retail marijuana establish is specifically **prohibited within one thousand (1,000) feet from any public or private school entrance**. The distance will be measured from any entrance of the school to the nearest property line point of the dispensary.
 - a) A business establishment license shall only be valid for a **single location** at the address listed on the application.
 - b) Applicants for a commercial license must have the specific location of the establishment **before** applying for a license.
 - c) Licenses are valid for a **12-month period**.
 - d) No city or local municipality may unduly change or restrict zoning laws to prevent the opening of a retail marijuana establishment

- 2) **Leases:** If the location is not owned by the individual applicant/entity, a copy of the lease and a **written statement from the owner/landlord certifying consent** that the applicant/entity may operate a medical marijuana commercial facility on the property must be provided in order to be approved for a commercial license.

- 3) **Commercial Building Specifications:**
 - a) **Construction of Premises:** All commercial establishments shall be constructed to meet the standards of any applicable state and local electrical, fire, plumbing, waste and building specification codes including but not limited to the codes adopted by the Oklahoma Uniform Building Code Commission as set forth in OAC 748, Ch. 20.
 - b) **Perimeter Requirements:**
 - i) The perimeter of all commercial facilities shall be maintained in such a way to discourage theft and diversion of marijuana. All processor facilities shall maintain the following:
 - (1) Adequate lighting to facilitate surveillance; and
 - (2) Foliage and landscaping that does not allow for a person or persons to conceal themselves from sight.
 - ii) All stages of marijuana production, cultivation, and the disposal of marijuana and medical marijuana products, on the premises of a commercial establishment shall not be visible or accessible to the public.
 - iii) Except for licensed dispensaries, commercial facilities shall maintain any walls or fencing necessary to shield the operations of the facility from public access and view.
 - iv) Except for the licensed dispensaries, commercial facilities shall ensure any odors that may arise from any stage of marijuana production or the disposal of marijuana are not detectable by the public from outside the processor facility.
 - c) **Additional Requirements for Processors:**
 - i) All processors used in the extraction of marijuana must be located in a separate, completely enclosed room. The room must be equipped with a vented hood, and all extractions must occur under the vented hood. A Lower Explosive Limit (LEL) monitor that can detect, indicate and alarm when combustible gases or solvent vapors used in the extraction process are in the LEL safety range should be in the extraction room at all times.
 - ii) If extractions are to occur with CO₂, the extraction room must have emergency relief valves in the extraction room that are piped to the outside of the building. The extraction room must also be equipped with a CO₂ concentration monitor.

- iii) The facility must be equipped with point-source ventilation, or written procedures must be in place to provide for the use of NIOSH approved N95 disposable respirators during all phases of processing and these respirators must be on hand at all times, including prior to licensure.
 - iv) Processing and extracting with butane is specifically prohibited.
- 4) **Security:** Commercial license holders shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft and diversion of marijuana.
- a) **Alarm System:**
 - i) All commercial establishments shall be equipped with an alarm system which, upon attempted unauthorized entry, shall transmit a signal directly to a central protection company or a local or State police agency which has a legal duty to respond. A designated agent of the licensed commercial establishment shall also receive notification of any such signal.
 - ii) Alarm systems shall provide coverage for all points of ingress and egress to the premises.
 - iii) Alarm systems shall provide coverage of any room with an exterior wall, any room containing a safe, and any room used to grow or store medical marijuana, if applicable.
 - iv) Alarm systems shall be equipped with a "panic device" that upon activation will not only sound any audible alarm components, but will also notify law enforcement.
 - v) Alarm systems shall have "duress" and "hold up" features to enable an agent to activate a silent alarm notifying law enforcement of an emergency.
 - vi) Alarm systems must be equipped with failure notification systems to notify processor facilities and law enforcement of any failure in the alarm system.
 - vii) Alarm systems shall have the ability to remain operational during a power outage.
 - b) **Video Surveillance System:**
 - i) All commercial establishments shall be equipped with video surveillance systems consisting of the following:
 - (1) Digital video cameras;
 - (2) 24 hours per day, 7 days per week recording capabilities;
 - (3) The ability to remain operational during a power outage;
 - (4) Digital archiving capabilities;
 - (5) On-site and off-site monitoring capabilities; and
 - (6) All facilities must maintain at least one display monitor connected to the surveillance system at all times.
 - ii) All commercial establishments shall maintain camera coverage of the following areas:
 - (1) All points of ingress and egress to the premises;
 - (2) Any room with an exterior wall, except restrooms, any room containing a safe, and any room or area used to grow, process, manufacture, or store medical marijuana, if applicable;
 - (3) All areas in which any part of the disposal process of marijuana occurs; and
 - (4) All parking areas and any alley areas immediately adjacent to the building.
 - iii) All recording devices shall display an accurate date and time stamp on all recorded video.
 - iv) All recording devices shall have the capability to produce a still image from the video recording.
 - v) Access to on-site surveillance system controls and monitoring shall be limited to authorized personnel. Commercial establishments shall identify individuals with access to surveillance system controls and monitoring upon request by the Department.
 - vi) All surveillance recordings shall be maintained for a minimum of 90 days.

5) **Application Information:**

- a) **Individual Applicant:** The application for a commercial license made by an individual on their own behalf shall be on the Department prescribed form and shall include at a minimum:
- (1) The applicant's first name, middle name, last name and suffix if applicable;
 - (2) The applicant's residence address and mailing address;
 - (3) The applicant's date of birth;
 - (4) The applicant's preferred telephone number and email address;
 - (5) The applicant's telephone number and email address;
 - (6) An attestation that the information provided by the applicant is true and correct; and
 - (7) A statement signed by the applicant pledging not to divert marijuana to any individual or entity that is not lawfully entitled to possess marijuana.
- b) **Application on Behalf of an Entity:** In addition to requirements of Subsection (c), an application for a commercial license made by an individual on behalf of an entity shall include:
- (1) An attestation that applicant is authorized to make application on behalf of the entity;
 - (2) Full name of organization;
 - (3) Trade name, if applicable;
 - (4) Type of business organization;
 - (5) Mailing address;
 - (6) An attestation that the commercial entity will not be located on tribal lands;
 - (7) Telephone number and email address; and
 - (8) The name, residence address, and date of birth of each owner and each member, manager, and board member, if applicable.
- c) **Supporting Documentation:** For a determination that an entity meets the requirements of Title 63 O.S. § 420 et seq., each application shall be accompanied by the following documentation:
- i) A list of all persons and/or entities that have an ownership interest in the entity;
 - ii) A certificate of good standing from the Oklahoma Secretary of State, if applicable;
 - iii) An Affidavit of Lawful Presence for each owner;
 - iv) If a licensed dispensary, proof that the proposed location of the dispensary is a least one thousand (1,000) feet from a public or private school. The distance specified shall be measured from any entrance of the school to the nearest property line point of the dispensary; and
 - v) Documents establishing the applicant, the members, managers, and board members, if applicable, and seventy-five percent (75%) of the ownership interests are Oklahoma residents as established in 63 O.S. § 420 et seq., and 310:681-1-6 (relating to proof of residency).
- (1) **"Owners" and "Ownership interest" means:**
- (a) All shareholders owning five percent (5%) or more of a corporate entity and all officers of a corporate entity;
 - (b) All partners of a general partnership;
 - (c) All general partners and all limited partners that own five percent (5%) or more of a limited partnership;
 - (d) All members that own five percent (5%) or more of a limited liability company;
 - (e) All beneficiaries that hold a five percent (5%) or more beneficial interest in a trust and all trustees of the trust;
 - (f) All persons or entities that own a five percent (5%) or more interest in a joint venture;
 - (g) All persons or entities that own a five percent (5%) or more interest in an association;

- (h) The owners holding a five percent (5%) or more interest of any other type of legal entity; or
 - (i) Any other person holding at least a five percent (5%) interest in any entity which owns, operates, or manages a commercial facility.
- d) **Background Checks:** Prior to issuance of any dispensary, grower, processor, transportation, or researcher license authorized by this Chapter, the following shall undergo an Oklahoma state criminal history background check within thirty (30) days prior to the application for the license:
 - i) Individual applicants applying on their own behalf;
 - ii) All owners of any applicant for a dispensary, grower, processor, or transportation licenses;
 - iii) For research license applicants, all principal investigators involved in the research project.
- e) **Timeframe:** A commercial establishment license shall be issued for a twelve (12) month period expiring one (1) year from the date of issuance. The license may be issued upon receipt of a completed application, payment of application fee and verification by the Department the entity complies with the requirements of 63 O.S. § 420 et seq. and this Chapter.
 - i) Applications for a commercial license will be accepted by the Department no earlier than sixty (60) days from the date that the State Question is approved by the voters of the State of Oklahoma. The application shall be on the Department prescribed form and shall include the following information about the establishment:
 - (1) Name of the establishment;
 - (2) Physical address of the establishment;
 - (3) GPS coordinates of the establishment; and
 - (4) Phone number and if available, email of the establishment.
- b) **Fee:** Commercial marijuana establishments including dispensaries as well as grower and processor facilities must pay a \$2,500 nonrefundable license application fee.
- c) **More Information:** Complete business application information and a step-by-step checklist of the commercial license application process can be found on the Oklahoma Medical Marijuana Authority [website](#).

6) Additional Relevant Information:

- a) Real estate that hosts a medical marijuana tenant must not have any FDIC insured bank debt. FDIC insured banks are very weary of dealing with a property that has a marijuana tenant/owner involved.
- b) Investors looking to purchase a building that has a medical marijuana tenant must do so through a cash buy or private financing.
- c) It will not be legal to possess a mature marijuana plant until 60 days after August 27th, 2018 and once mature plants are harvested it will take a few weeks to cure, test, and process the plants so dispensaries will likely not be able to open until November 2018 at the absolute earliest.
- d) Since the approved regulations prohibit bringing any marijuana products, including seeds, into Oklahoma from across state lines, it is unclear how legal marijuana cultivation will begin.