

SECTION 3
GENERAL PROVISIONS

Sec. 12.6.31. Defense to criminal prosecutions:

Compliance with the requirements of this section shall not provide an exception, immunity, or defense to criminal prosecution under any applicable law, except in the City of Krebs Municipal Court, for a violation of this section as specifically provided herein.

Sec. 12.6.32. Inspections:

Every medical marijuana dispensary, commercial grower, and processor shall permit the local permitting authority, and any agent of the local permitting authority, or anyone authorized, to inspect the premises of the business pursuant to the City Code, or State Question 788, and any of the rules and regulations adopted pursuant thereto.

Sec. 12.6.33. Costs of inspection and clean-up:

In the event the city incurs costs in the inspection, clean-up, surrender of plants, or any other requirements to remove medical marijuana of any medical marijuana business, or any person cultivating, producing, distributing, or possessing marijuana, the business and responsible person shall reimburse the city all actual costs incurred by the city of such inspection or clean up.

Sec. 12.6.34. Reserved.

Sec. 12.6.35. Forfeiture of permit:

In the event that a commercial medical marijuana business does not commence operations within thirty (30) days of issuance of a permit from the city, the permit shall be deemed forfeited and the business may not commence operations. This requirement will go in effect beginning January 1, 2019.

Sec. 12.6.36. Landlord duty:

It shall be unlawful for the owner of a building to lease space or allow the use of any portion of the building by a commercial medical marijuana business unless the tenant has a valid commercial medical marijuana business permit or has applied for and not been denied a commercial medical marijuana business permit or no marijuana is located on the premises until a permit has been issued by the city.

Sec. 12.6.37. Locations of medical marijuana businesses:

1. Fixed Location Required.

(a) Mobil Medical Marijuana Sales of all types are prohibited within the City of Krebs. This includes but is not limited to trailers, recreational vehicles, and trucks.

(b) With the exception of a commercial grower, it shall be unlawful to operate a medical marijuana business outside of an enclosed, fixed building. All medical marijuana business permits shall be issued for a specific fixed location within an enclosed building.

2. Permitted Use in Zoning District.

A Commercial medical marijuana business permit may be issued only if the business qualifies as a use permitted as a matter of right in the zoning district where it is proposed to be located. Conditional use permits shall not be applicable for medical marijuana businesses. Commercial medical marijuana business permits are permitted by right.

- (a) As “retail sales” for a medical marijuana dispensary;
- (b) As “agriculture” for a medical marijuana grower;
- (c) As “manufacturing and production” for a medical marijuana manufacturer, storage, or processor.

Sec. 12.6.38. Commercial medical marijuana businesses prohibited in residential structure:

1. No Commercial Medical Marijuana Business in Buildings with Residences or Residential Zoning Districts. It shall be unlawful to operated a commercial medical marijuana business in a building that contains a residence, or within a dwelling unit within any zoning district, or within a residential zoning district, or within a mixed-use development that includes a residence.

2. No Retail Sales in Cultivation Facilities or Manufacturing.

It shall be unlawful for any person to permit retail sales within a medical marijuana business that is a cultivation facility or processes medical marijuana.

3. Separation from Uses.

No commercial medical marijuana permit shall be issued for a location within one thousand (1,000) feet of any private or public school. Distances shall be measured from any entrance of the school to the nearest property line point of the medical marijuana business.

Sec. 12.6.39. Application Requirements.

An application for a commercial medical marijuana permit shall be made to the city on forms provided by the City of Krebs for that purpose. The application shall use the application to demonstrate its compliance with this section and any other applicable law, rule, or regulation. The application shall include the following information.

1. The Oklahoma Medial Marijuana Authority Business License Number.

2. Contact information for the owner or owners of the medical marijuana business in whose name the permit is proposed to be issued:

(a) If an owner is a corporation, the name and address of any officer or director of the corporation and of any person holding issued and outstanding capital stock of the corporation;

(b) If an owner is a partnership, association, or company, the name and address of any person holding an interest therein and the managing members. If a managing member is an entity rather than an individual, the same disclosure shall be required for each entity with an ownership interest until a managing member that is a natural person is identified;

(c) If an owner is not a natural person, the organizational documents for all entities identified in the application, identification of the natural person that is authorized to speak for the entity, and contact information for that person.

3. An operating plan for the proposed medical marijuana business, including the following information:

(a) A description of the products and services to be provided by the medical marijuana business.

(b) A dimensioned floor plan, clearly labeled, showing:

(i) The layout of the structure and the floor plan in which the medical marijuana business is to be located;

(ii) The principal uses of the floor area depicted on the floor plan, including but not limited to, the areas where non-patients will be permitted, private consulting areas, storage areas, retail areas, and restricted areas where medical marijuana will be located;

(iii) Areas where any services other than the distribution of medical marijuana are proposed to occur in the premises; and

(iv) The separation of the areas that are open to persons who are not patients from those areas open to patients.

(c) For cultivation facilities, a plan that specifies the methods to be used to prevent the growth of harmful mold, humidity, and other related problems.

4. Lighting plan showing the lighting outside of the medical marijuana business for security purposes and compliance with applicable city requirements.

5. A fire separation plan showing a minimum of a two0 hour fire separation between a medical dispensary and any adjacent business, or a fire suppression plan for all buildings containing cultivation, production, and manufacturing.

6. A plan for disposal of any medical marijuana or medical marijuana- infused product that is not sold to a patient or primary caregiver in a manner that protects any portion thereof from being possessed or ingested by a person or animal.

7. A plan for ventilation of the medical marijuana business that describes the ventilation systems that will be used to prevent any odor of medical marijuana off the premises of the business. For medical marijuana businesses that grow medical marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For medical marijuana infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.

8. A description of all toxic, flammable, or other materials regulated by federal, state, or local government that would have authority over the business if it was not a marijuana business, that will be used or kept at the medical marijuana business, the location of such materials, and how such materials will be stored.

Sec. 12.6.40. Modifications to approved commercial medical marijuana business permit:

Prior to making a modification of a commercial medical marijuana business that would require a building permit to change items required by subsections (4), (5), or (7) of the above section, the permittee shall submit to the city and have approved a completed application for modification of premises on a form provided by the city. The application shall be accompanied by a nonrefundable modification application fee.

Sec. 12.6.41. Fees required:

Any application for a commercial medical marijuana permit shall be accompanied by a nonrefundable application fee in an amount established by the City of Krebs. After the application review period, if the City of Krebs deems the application to be complete a nonrefundable permit fee in an amount established by the City of Krebs will be due prior to the issuance of the commercial medical marijuana permit.

Sec. 12.6.42. Inspection:

An inspection of the proposed medical marijuana business by the City Inspector shall be required prior to issuance of a permit. Such inspections shall occur after the premises are ready for operation, but prior to the stocking of the business with any medical marijuana, and prior to the opening of the business to any patients or

the public. The inspection is to verify that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of the code and any other applicable law, rule or regulation.

Sec. 12.6.43. Application processing:

The processing of the application by the City of Krebs is not complete until the City has (i) determined the application is complete, (ii) determined the medical marijuana business is prepared and able to operate in compliance with all applicable laws, (iii) conducted an inspection of the business, (iv) obtained all other information the department determines necessary to make a decision whether to approve or deny the permit application, or approve it with conditions, and (v) prepared the documentation necessary to support the decision made by the department on the application.

Sec. 12.6.44. Approval requirements:

The City of Krebs may:

1. Issue a commercial medical marijuana business permit if:

(a) The inspection, and all other information available to the city verify that the applicant has submitted a full and complete application, and

(b) Improvements have been made to the business location consistent with the application; and

(c) The applicant is prepared to operate the business with other owners and managers as set forth in the application; and

(d) The applicant and the business location are in compliance with this code and any other applicable law, rule, or regulation.

2. Deny any application that does not meet the requirements of this chapter or any other applicable law, rule, or regulation, or that contains any false or incomplete information, the conditions of an approval of a medical marijuana business permit shall include, at a minimum, operation of the business in compliance with all of the plans and information made part of the application.

Sec. 12.6.45. Persons prohibited as permittees:

It shall be unlawful for any of the following persons to have an ownership or a financial interest in a medical marijuana business, and no permit provided by this chapter shall be issued to or held by, and no medical marijuana business shall be managed by:

1. Any person until the annual fee for the permit has been paid;

2. Any natural person who is under eighteen (18) years of age;

3. Any person who operates or manages a medical marijuana business contrary to the provisions of this Article, any other applicable law, rule, or regulation or conditions imposed on land use or permit approvals, or contrary to the terms of the plans submitted with the permit application, as such plans may be amended as provided in this chapter, or has operated a business in violation of any law.

4. A sheriff, deputy, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local permitting authority.

5. A person whose authority to be a primary caregiver has been revoked by the state health agency.