

Definitions

(j) “Applicant” means any person or legal entity having a financial interest in the business for which licensure is sought and who is directly involved in the operation or management of the business

(a) Direct involvement in the operation or management of the business may be indicated by, but is not limited to, the following behaviors, benefits or obligations:

(i) Any person or legal entity that exercises control over, or is entitled to exercise control over, the business;

(ii) Any person or legal entity, that incurs, or is entitled to incur, debt or similar obligations on behalf of the business;

(iii) Any person or legal entity, that enters into, or is entitled to enter into, a contract or similar obligations on behalf of business;

(iv) Any person or legal entity that identified as the lessee of the premises proposed to be licensed.

(j) “Financial interest” means having an interest in the business such that the performance of the business causes, or is capable of causing, an individual or a legal entity with which the individual is affiliated, to benefit or suffer financially, and such interests include but are not limited to:

(a) Receiving, as an employee or agent, out-of-the-ordinary compensation, either in the form of over-compensation or under compensation;

(b) Lending money, real property or personal property to an applicant or licensee for use in the business;

(c) Giving money, real property or personal property to an applicant or licensee for use in the business; or

(d) Being the spouse or domestic partner of an applicant or licensee. For purposes of this subsection, “domestic partners” includes adults who qualify for a “domestic partnership” as defined under ORS 106.310.

(j) “Licensee” means any person who holds a license issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.

(j) “License holder” includes:

(a) Each applicant listed on an application that the commission has approved;

(b) Each individual who meets the definition of “applicant” and who the commission has added to the license under OAR 845-025-XXXX; or

(c) Each individual who has a financial interest in the licensed business and who the commission has added to the license under OAR 845-025-XXXX.

(j) “Licensee representative” means an owner, director, officer, manager, employee, agent, or other representative of a licensee, to the extent that the person acts in a representative capacity.

845-025-XXXX
Application Process

- (1) On or after January 4, 2016, 8:30 a.m. Pacific Standard Time (PST), a person may submit an application to the Commission, on a form prescribed by the Commission, for a marijuana producer, processor, wholesaler, retail, or laboratory license.
- (2) An application for a marijuana license and all documentation required in the application instructions and in section (4) of this rule must be submitted electronically, via the Commission's website <http://XXXX>. The application fee specified in OAR 845-025-XXXX must also be paid through the Commission's on-line payment system at the time of application.
- (3) An application must include the names and other required information for all individuals who meet the definition of "applicant" and who have a "financial interest" in the business, as those terms are defined in OAR 845-025-XXXX.
- (4) In addition to submitting the application form the following must be submitted:
 - (a) If required for an individual on the application:
 - (A) Information or fingerprints for a criminal background check in accordance with OAR 845-025-XXXX; and
 - (B) An Individual History Form and any information identified in the form that is required to be submitted;
 - (b) A map or sketch of the premises proposed for licensure, including the defined boundaries of the premises;
 - (c) A floor or plot plan sketch of all enclosed areas with clear identification of walls, partitions, counters, windows, all areas of ingress and egress, and all limited access areas;
 - (d) Proof of lawful possession of the premises proposed for licensure;
 - (e) An operating plan that demonstrates at a minimum, how the applicant's proposed premises and business will comply with applicable laws and rules regarding:
 - (A) Security;
 - (B) Employee qualifications and training procedures;
 - (C) Transportation of product;
 - (D) Testing procedures and protocols;
 - (E) *Preventing minors from entering the licensed premises; and*
 - (F) *Preventing minors from obtaining or attempting to obtain marijuana items.*
 - (f) For producers, a report describing the applicant's electrical and water usage.
 - (g) For producers, a description of the growing operation including growing methods, size of proposed growth canopy for mature marijuana plants, and a description of equipment to be used in the production
 - (h) For processors, a description of the type of products to be processed, a description of equipment and materials to be used, including any solvents, gases, chemicals or other compounds used to create extracts or concentrates; and
- (5) The Commission must review an application to determine if it is complete. An application will be considered incomplete if any portion of the application form is not complete, the full application fee has not been paid, or some or all of the additional information required under section (4) of this rule is not submitted.
- (6) An applicant may submit a written request for reconsideration of a decision that an application is incomplete. Such a request must be received by the Commission within ten days

of the date the incomplete notice was mailed to the applicant. The Commission shall give the applicants the opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

(7) If, prior to an application being acted upon by the commission, there is a change with regard to who is an applicant or who is a person with a financial interest in the proposed business, the new applicant or person with a financial interest must submit a form, prescribed by the commission, that:

- (a) Identifies the applicant or person with a financial interest;
 - (b) Describes the applicant's or person's financial interest in the business proposed for licensure; and
 - (c) Includes any additional information required by the commission, including but not limited to fingerprints and information and necessary for a criminal background check.
- (8) Failure to comply with subsection (6) of this rule may result in an application being denied.

Stat. Auth.:
Stats. Implemented:

845-025-XXXX
Applicant and Licensee Qualifications

- (1) An applicant must:*
 - (a) Be at least 21 years of age;*
 - (b) Be the legitimate owner of the business proposed to be licensed; and*
 - (c) Until January 1, 2020, have been a resident of Oregon for at least two consecutive two years prior to the date the initial or renewal application was submitted.*
- (2) Individuals listed as applicants on an initial or renewal application, or identified by the commission as an applicant must maintain Oregon residency while the business is licensed.*

Stat. Auth.:
Stats. Implemented:

845-025-XXXX
Criminal Background Checks

- (1) The Commission shall require all individuals identified as applicants to undergo a criminal background check.*
- (2) The Commission may require individuals identified as having a financial interest in the business proposed to be licensed to undergo a criminal background check.*
- (3) If an individual is required by the Commission to undergo a criminal background check, the individual must provide to the Commission:
 - (a) A criminal background check request form, prescribed by the Commission that includes but is not limited to:
 - (A) First, middle and last name;
 - (B) Any aliases;

- (C) Date of birth;
- (D) Driver's license information; and
- (E) Address and recent residency information.
- (b) Fingerprints in accordance with the instructions on the Commission's webpage: *
- (4) The Commission may request that an applicant disclose his or her Social Security Number if notice is provided that:
 - (a) Indicates the disclosure of the Social Security Number is voluntary; and
 - (b) That the Commission requests the Social Security Number solely for the purpose of positively identifying the applicant during the criminal records check process.
- (5) An applicant's criminal history must be evaluated by the Commission in accordance with ORS 670.280 and section 29(2) and (3), chapter 1, Oregon Laws 2015.
- (6) The Commission may conduct a criminal background checks in accordance with this rule every year at the time of application renewal.
- (7) Records concerning criminal background checks must be kept and handled by the Commission in accordance with ORS 181.534(15).

Stat. Auth.:
Stats. Implemented:

845-025-XXXX **Application Review**

- (1) Once the Commission has determined that an application is complete it must review the application to determine compliance with chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, and these rules.
- (2) The Commission:
 - (a) Must, prior to acting on an application, request a land use compatibility statement from the city or county that authorizes land use in the city or county in which the applicant's proposed premises is located.
 - (b) May, in its discretion, prior to acting on an application:
 - (a) Contact any applicant or individual with a financial interest and request additional documentation or information; and
 - (b) Verify any information submitted by the applicant.
- (3) The Commission must inspect the proposed premises prior to making a decision on an application and issuing a license.

Stat. Auth.:
Stats. Implemented:

845-025-XXXX

Legitimate Ownership

In determining whether an applicant is the legitimate owner of the business proposed to be licensed or subject to license renewal the Commission;

(1) Must consider whether at least one applicant owns at least 51% of the business proposed to be licensed or whether one or more applicant in sum owns at least 51% of the business proposed to be licensed; and

(2) May consider whether an individual or legal entity other than an applicant, or an employee acting under the direction of an applicant, is directly involved in the operation or management of the business.

Stat. Auth.:

Stats. Implemented:

845-025-XXXX

Approval of Application and Issuance of License

(1) If, after the application review and inspection the Commission determines that an applicant is in compliance with section 3 to 70, chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, and these rules the Commission must notify the applicant in writing that the application has been approved and after payment by the applicant of the license fee, provide the applicant with proof of licensure that includes a unique license number, the effective date of the license, date of expiration, and a description of premises for which the license was issued.

(2) A licensee:

(a) May not operate until on or after the effective date of the license.

(b) Must display proof of licensure in a prominent place on the premises.

(c) May not use the Commission name or logo on any signs at the premises, on the business' website, or in any advertising or social media, except to the extent that information is contained on the proof of licensure.

(3) Licensure is only valid for the premises indicated on the license and is only issued to the individuals or entities listed on the application or subsequently approved by the Commission.

(4) A license may not be transferred except as provided in OAR 845-025-XXXX.

Stat. Auth.:

Stats. Implemented:

845-025-XXXX

Denial of Application

(1) The Commission must deny an initial or renewal application if:

(a) An applicant is under the age of 21 or until January 1, 2020, has not been a resident or Oregon for at least two years.

(b) The applicant's land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.

- (c) An applicant for a license which is proposed to be located within 1,000 feet of a school.
- (d) A city or county has prohibited the license type for which the applicant is applying, in accordance with sections 133 or 134, chapter 614, Oregon Laws 2015.
- (2) The Commission may deny an initial or renewal application if it has reasonable cause to believe that:
 - (a) The applicant:
 - (A) Is in the habit of using alcoholic beverages, habit-forming drugs, marijuana, or controlled substances to excess.
 - (B) Has made false statements to the commission.
 - (C) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.
 - (D) Is not of good repute and moral character.
 - (E) Does not have a good record of compliance with sections 3 to 70, chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, or these rules.
 - (F) Is not possessed of or has not demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed.
 - (G) Is unable to understand the laws of this state relating to marijuana or these rules, including but not limited to ORS 475.300 to 475.346 and sections 91 to 99, chapter 614, Oregon Laws 2015.
 - (b) That any individual listed on the application has been convicted of violating a general or local law of this state or another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license, except as specified in Section 29(3), chapter 1, Oregon Laws 2015.
 - (c) Any applicant is not the legitimate owner of the business proposed to be licensed, or other persons have an ownership interest in the business have not been disclosed to the commission.
- (3) The Commission may refuse to issue a license to any license applicant or refuse to renew the license of any licensee, when conditions exist in relation to any person having a financial interest in the business or in the place of business which would constitute grounds for refusing to issue a license or for revocation or suspension of a license if such person were the license applicant or licensee. However, in cases where the financial interest is held by a corporation, only the officers and directors of the corporation, any individual or combination of individuals who own a controlling financial interest in the business and any manager of the business shall be considered persons having a financial interest within the meaning of this subsection.
- (4) If the Commission denies an application because an applicant submitted false or misleading information to the Commission, the Commission may prohibit the applicant from re-applying for 5 years.
- (5) A notice of denial must be issued in accordance with ORS 183.

Stat. Auth.:
Stats. Implemented:

845-025-XXXX

Withdrawal of Application

An applicant may withdraw an initial or renewal application at any time prior to the Commission acting on the application unless the Commission has determined that the applicant submitted false or misleading information in which case the Commission may refuse to accept the withdrawal and may issue a notice of proposed denial in accordance with OAR 845-025-XXXX.

Stat. Auth.:

Stats. Implemented:

845-025-XXXX

Notification of Changes

(1) An applicant or licensee must notify the Commission in writing within 10 calendar days of any of the following:

- (a) A change in any contact information for anyone listed in an application or subsequently identified as an applicant or a person with a financial interest;
- (b) An arrest or conviction for any misdemeanor or felony of an applicant, person with a financial interest, or person who holds a license;
- (c) A disciplinary proceeding or licensing enforcement action by another governmental entity that may affect the licensed business;
- (d) The filing of bankruptcy;
- (e) The closure of bank accounts or credit cards held by the licensed business or licensee by a financial institution;
- (f) The theft of marijuana items or money from the licensed business;
- (g) The temporary closure of the licensed business for longer than 30 days; or
- (h) The permanent closure of the licensed business.

(2) **Change of Ownership.** If a licensee has a change in ownership that is 51% or greater, a new application must be submitted in accordance with OAR 845-025-XXXX.

(3) **Changes in Financial Interest or Business Structure.** A licensee that proposes to change its corporate structure or change who has a financial interest in the business must, prior to making any such change, submit a form prescribed by the Commission, and any information identified in the form to be submitted, to the Commission, prior to making such a change.

(a) The Commission must review the form and other information submitted under this section, and will approve the change if the change would not result in an initial or renewal application denial under OAR 845-025-XXXX, or serve as the basis of a license suspension or revocation.

(b) If the Commission denies the change but the licensee proceeds with the change the licensee must surrender the license or the Commission will propose to suspend or revoke the license.

(c) The Commission will not accept a form for a change in corporate structure or financial interest if the license is expiring in less than 90 days or if the licensee is under investigation by the Commission or has been issued a Notice by the Commission following an alleged violation and the alleged violation has not been resolved.

(4) **Change of Location.** A licensee who wishes to change the location of the licensed premises must submit an application form and the fee specified in OAR 845-025-XXXX but does not need

to submit information and fingerprints required for a criminal background check, or individual history forms if there are no changes to the individuals listed on the initial application.

- (a) A licensee must submit an operating plan as described in OAR 845-025-XXXX if the business operations will change at the proposed new location.
- (b) The commission must approve any change of location prior to licensee beginning business operations in the new location.

Stat. Auth.:
Stats. Implemented:

845-025-XXXX

Changing, Altering, or Modifying Licensed Premises

- (1) A licensee may not make any physical changes to the licensed premises that materially or substantially alters the licensed premises or the usage of the licensed premises from the plans originally approved by the Commission, without the Commission's prior written approval.
- (2) A licensee who intends to make any material or substantial changes to the licensed premises must submit a form prescribed by the Commission, and submit any information identified in the form to be submitted, to the Commission, prior to making any such changes.
- (3) The Commission must review the form and other information submitted under subsection (2) of this rule, and will approve the changes if the changes would not result in an initial or renewal application denial under OAR 845-025-XXXX.
- (4) If the Commission denies the proposed change and the licensee proceeds with the change despite the denial, the licensee must surrender the license or the Commission will propose to suspend or revoke the license.
- (5) For purposes of this rule a material or substantial change requiring Commission approval includes, but is not limited to:
 - (a) Any increase or decrease in the total physical size or capacity of the licensed premises;
 - (b) The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress or egress, when such common entryway, doorway or passage alters or changes limited access areas, including but not limited to areas in which cultivation, harvesting, processing, or sale of marijuana items occurs within the licensed premises; or
 - (c) Any physical change that would require the installation of additional video surveillance cameras or a change in the licensed premises' security system.

Stat. Auth.:
Stats. Implemented:

845-025-XXXX
License Renewal

(1) Renewal Applications:

(a) Any licensee who files a completed renewal application with the Commission at least 20 days before the date the license expires may continue to operate as if the license were renewed, pending a decision by the Commission;

(b) Any licensee who does not file a completed renewal application at least 20 days before the existing license expires must stop engaging in any licensed activity when the license expires. However:

(A) If the Commission receives a completed license renewal application less than 20 days before the date the existing license expires, the Commission will, upon receipt of the appropriate late renewal fee in OAR 845-025-XXXX, issue a letter of authority to operate beyond the expiration of the license, pending a decision by the Commission;

(B) A licensee must not engage in any licensed activity after the license expires. If the Commission receives a completed license renewal application within 30 days after the date the existing license expires, the Commission will, upon receipt of the appropriate late renewal fee in OAR 845-025-XXXX, issue a letter of authority to resume operation, pending a decision by the Commission.

(c) The Commission will not renew a license if the Commission receives the renewal application more than 30 days after the license expires. A person who wants to resume licensed activity in this circumstance:

(A) Must submit a completed new application, including the documents and information required by the Commission.

(B) Must not engage in any licensed activity unless and until they receive authority to operate from the Commission after submitting the completed new application.

(d) A person relicensed under section (1)(c) of this rule who engaged in any activity that would require a license while not licensed, in violation of section (1)(b)(B) of this rule, is subject to administrative sanctions.

(e) A person who engages in any activity that requires a license but is not licensed is in violation of * and is subject to criminal prosecution.

(f) For purposes of this rule, a completed application:

(A) Is considered filed when received by the Commission; and

(B) Is one that is completely filled out, is signed by all applicants and includes the appropriate fee.

Stat. Auth.:

Stats. Implemented: