



**The Grand Traverse Band of  
Ottawa and Chippewa Indians**

**Legal Department**

2605 N. West Bay Shore Drive • Peshawbestown, MI 49682 • (231) 534-7601 • FAX 231-534-7600

**MANDATORY 30-DAY POSTING**

**MEMORANDUM**

TO: Tribal Membership  
FROM: GTB Legal Department  
RE: Proposed Marijuana Ordinance, Title 15, Chapter 10  
DATE: May 20, 2021

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**Please post the attached proposed ordinance that was approved for posting by Tribal Council at a Tribal Council Regular Session on May 19, 2021. Due to the continued Covid-19 protocol, and the GTB Building closures, this posting is being made available on the GTB website at: [http://www.gtbindians.org/legal\\_department.asp](http://www.gtbindians.org/legal_department.asp) under the 30-Day Notice link and also via Nixle so it can be reviewed by tribal membership for 30 days. This is an opportunity for tribal members to provide comments, if any, about this proposed ordinance. Your comments will be provided to Tribal Council prior to the adoption of this ordinance. This posting will end on June 19, 2021 and can be removed at time.**

Any comments regarding the above referenced should be directed to the GTB Legal Department either by writing to the GTB Legal Department, 2605 N.W. Bayshore Dr., Peshawbestown, MI 49682, or by telephone (231) 534-7601, or by e-mail, to [Mary.Kelley@gtbindians.com](mailto:Mary.Kelley@gtbindians.com).

**Posting Sites:**

[http://www.gtbindians.org/legal\\_department.asp](http://www.gtbindians.org/legal_department.asp)

Attachment



# The Grand Traverse Band of Ottawa and Chippewa Indians

2605 N. West Bay Shore Drive • Peshawbestown, MI 49682-9275 • (231) 534-7750

## Certification of Tribal Council Action Regular Session of May 19, 2021

I hereby certify as the Tribal Council Secretary that the foregoing Motion was Approved and Adopted at the Regular Session of the Grand Traverse Band of Ottawa & Chippewa Indians Tribal Council

### 30-day Posting, Marijuana Ordinance

Motion made by Tribal Council Member Napont and Supported by Tribal Council Secretary Pelcher to approve the 30-day posting of Title 10 Marijuana Ordinance.

6-FOR; 0-AGAINST; 0-ABSENT; 0-ABSTAINING  
Motion Carries

Theresa M. Pelcher, GTB Tribal Council Secretary

CC: John F. Petoskey, General Counsel

## **Title 10 Marijuana**

### **Subchapter 1- Findings, Purpose, and Policy**

#### **§101 Findings**

The Grand Traverse Band Tribal Council, on behalf of the Grand Traverse Band of Ottawa and Chippewa Indians, finds that:

- (a) The need to diversify the Tribal economy beyond what is primarily tourism-based businesses has become evident due to the severe financial impacts the Tribe has suffered as a result of extended business closures and lack of travel to the region caused by the Covid-19 pandemic.
- (b) Marijuana is an economic commodity in an emerging market that is not based on tourism.
- (c) Tribal regulation and control of the commercial cultivation, processing, distribution, and sale of marijuana for adult use within the Tribe's jurisdiction is essential for the protection of public health and welfare of the Tribe and residents and visitors to the Tribal community.
- (d) Tribal regulation and control of the commercial cultivation, processing, distribution, and sale of marijuana for adult use within the Tribe's jurisdiction is in the best interest of the Tribe.
- (e) The Tribe has the inherent authority to license and regulate the commercial cultivation, processing, distribution, and sale of adult-use marijuana within the Tribe's jurisdiction.
- (f) Marijuana use is prohibited under federal law, 1970 Controlled Substance Act (prohibiting Cannabis Sativa L. and its derivatives), 21 U.S.C. Section 811 (a)-(i), as modified by the Agriculture Improvement Act of 2018 (permitting trace amounts of THC in hemp and CBD products), P.L.115-334 (2018), however, marijuana recreation and medical use is not prohibited under State of Michigan Law, Michigan Regulation and Taxation of Marijuana Act, MCL 333.27951 to 333.27967; see also, Michigan Licenses Rule Set that provide detailed rules under the following headings:
  - a. Administrative Rules for the Michigan Medical Marihuana Program
  - b. Michigan Medical Marihuana Act
  - c. Marihuana Licenses
  - d. Marihuana Licensees
  - e. Marihuana Operations
  - f. Marihuana Sampling and Testing
  - g. Marihuana-Infused Products and Edible Marihuana products

- h. Marihuana Sale or Transfer
- i. Marihuana Employees
- j. Marihuana Disciplinary Proceedings
- k. Industrial Hemp Rules for Marihuana Businesses
- l. Marihuana Facility/Establishment Laws
- m. Marihuana Tracking Act
- n. Medical Marihuana Facilities Licensing Act
- o. Michigan Regulation and Taxation of Marihuana Act
- p. Bulletins Page
- q. Medical Marihuana Operation and Oversight Grants Application
- r. County Grant Allotments
- s. Municipal Guide
- t. RAB 2020-17 Taxation of Adult-Use (Recreational) Marijuana Under the Michigan Regulation and Taxation of Marihuana
- u. The Market for and Economic Impact of the Adult-Use (Recreational) Marijuana Industry at ([michigan.gov/mra/](http://michigan.gov/mra/)) (last visited March 10, 2021), and more generally marijuana use in some form is legal in all but eight states:

1. Recreational sales are legal in 16 states plus Washington D.C. (a federal enclave).
2. Medical sales are legal in 36 states plus Washington D.C.
3. Medical sales of CDB (low-THC) products are legal in 7 states\
4. Marijuana use is decriminalized in 32 states.

(g) GTB Tribal Constitution provides that the Tribe has the authority “To levy and collect taxes, license fees, or assessments upon persons, entities, property, or activities subject to the jurisdiction of the Band *where not prohibited by federal law*” (emphasis supplied). Article IV Section 1 (i). For purposes of this Statute, the Tribal Council, acting in its combined “legislative and executive capacity,” GTB Constitution Article IV Section 1, and with reference to GTB Constitution Article V Section 2 that “[jurisdiction] shall be exercised to the fullest extent consistent with self-determination and the sovereign powers of the Tribe[,],” finds that this tribal Statute is not contrary to tribal and state law and is consistent with the “criminal prohibitory-civil regulatory” distinction articulated in *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987) that authorized tribal activities so long as the tribal activities were not criminally prohibited under state law but rather were civilly regulated under state law. Therefore, this Statute is consistent with State law and the standards of *Cabazon*. In further support of this proposition, the Council finds that the Assimilative Crimes Act, 18 U.S.C. Section 13, makes state law applicable to conduct occurring on lands reserved or acquired by the federal government as provided in 18 U.S.C. Section 7(3) when the act or omission is not made punishable by an enactment of Congress. Recognizing that federal law prohibits the use of marijuana for any purpose, the United States, nevertheless, has not prosecuted state actors or legislative action in the State of Michigan or any other of the 16 states in the Union that have authorized sales of

marijuana for recreational purposes, any of the actors or legislative action in the 36 states in the Union that have authorized medical sales of marijuana, or any of the actors or legislative action in the 7 states that have authorized sales of low-THC products for medical purposes. Therefore, the Tribal Council asserts that the same practice and principle of non-prosecution should be extended to the Tribe under this Ordinance. Furthermore, the use of the Assimilative Crimes Act, (ACA) 18 U.S.C. 13, analysis could address any United States prosecutorial concerns for the safe and secure regulation of Marijuana use in Michigan Indian Country. Therefore, the Tribal Council finds that this tribal Ordinance is not *prohibited by federal law* when the sovereign status of the GTB is considered in *pari materia* with the sovereign status of Michigan that laws on the same subject or matter must be construed with reference to each other (Michigan's sovereign status and GTB's sovereign status) to promote the principle of uniformity and predictability in the application of law. This Ordinance is consistent with "prohibitory-civil regulatory" distinction and the application of the ACA to address any regulatory jurisdiction of the United States. Based on these findings, the Council specifically finds that this Ordinance is not contrary to federal law, policy and practice, as administered by the present Department of Justice as of May 19, 2021, particularly in light of the February 2021 reaffirmed "Cole Memorandum" by nominee Attorney General Merrick Garland, now confirmed, originally issued in August of 2013 that the Justice Department would not prosecute "jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale and possession of marijuana"; nor is this Ordinance contrary to GTB Constitution, Article IV, Section 1 (i) as violation of federal law based on DOJ current practice and policy.

- (h) The Tribal Council further finds that based on the findings and rationales stated in subsection (g) this Ordinance would not be contrary to provisions of the Indian Self-Determination Education Assistance Act, 25 U.S.C., Sections 5301-5423, the Indian Health Care Improvement Act, 25 U.S.C., Section 1601, et. seq., the Native American Housing Assistance and Self-Determination Act, 25 U.S.C., Sections 4101 et. seq., the Indian Gaming Regulatory Act 25 U.S.C., Section 2701 et. seq., the Indian Law Enforcement Reform Act, 25 U.S.C., 2801 et. seq., that provide contrary authority that marijuana is prohibited under federal law and the tribal programs administered by these listed federal laws. Nevertheless, to the extent that a conflict exists between these listed federal statutes and federal programs administered by GTB, and this Ordinance, then GTB policy program administration is directed to follow federal law for these identified federal statutes in the administration of tribal programs or enterprises.

## **§ 102 Purpose**

The purpose of this ordinance is to:

- (a) Make the commercial cultivation, processing, distribution, and sale of marijuana and marijuana products for adult (persons over the age of 21) use legal within the Tribe's jurisdiction for Tribal entities licensed pursuant to this Ordinance;
- (b) Regulate the commercial cultivation, processing, distribution, and sale of marijuana within the Tribe's civil and criminal jurisdiction;
- (c) Regulate, control, and license all commercial marijuana activity occurring within the Tribe's civil and criminal jurisdiction; and
- (d) Prevent the sale, cultivation, processing, and distribution of marijuana within the Tribe's civil and criminal jurisdiction not consistent with this Statute.

## **§103 Policy**

- (a) The establishment, promotion, and operation of commercial activities related to adult use marijuana activity within the Tribe's jurisdiction is necessary and desirable provided that such activity is regulated and controlled by the Tribe pursuant to Tribal law consistent with the substantive law of the State regulating marijuana activity, such as those relating to the distribution of marijuana to minors, preventing revenue from the sale of marijuana from going to criminal enterprises, preventing the unlawful diversion of marijuana to other jurisdictions, preventing authorized marijuana activity from being used as a pretext for the trafficking of other illegal drugs or activity, preventing violence in the cultivation and distribution of marijuana, preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use, and preventing the growing of marijuana and its attendant public safety and environmental danger on publicly accessible lands.
- (b) The revenue generated from marijuana activity authorized under this ordinance shall be used to support and enhance marijuana business growth within the Tribe's jurisdiction and to provide funds to Tribal government to support the provision of services including, but not limited to, law enforcement, education, health care, and social services.
- (c) When operated in accordance with the provisions of this statute, such marijuana activity will be conducive to the general welfare of all residents of the Tribe's jurisdiction and six country service area as defined by the Tribe's Constitution, Article I, Section 2.

## Subchapter 2- Definitions

### §201 Definitions

In this ordinance, except where otherwise specifically provided, or the context otherwise requires, the following terms and expressions shall have the following meanings:

- (a) “Act” or “the Act” means the Michigan Regulation and Taxation of Marijuana Act, MCL §§ 333.27951 et seq.
- (b) “Adult” means a person over the age of 21 years.
- (c) “Applicant” means the EDC acting in its Section 17 capacity under the Indian Reorganization Act or a Limited Liability Company established by a Tribal entity under the Tribal LLC Code, a term that is defined therein.
- (d) “Band” means the Grand Traverse Band of Ottawa and Chippewa Indians.
- (e) “Council” or “Tribal Council” means the governing body of the Grand Traverse Band of Ottawa and Chippewa Indians.
- (f) “Commission” means the Grand Traverse Band Marijuana Regulatory Commission.
- (g) “Tribal Constitution” means the Constitution of the Grand Traverse Band as amended.
- (h) “Consultant” means a business entity contracting with the Band or an entity of the Band to provide management-level services related to the cultivation, processing, distribution, sale, or other services related to the commercialization of marijuana.
- (i) "Cultivate" means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marijuana plant by manual or mechanical means.
- (j) “Edible marijuana product” means any marijuana infused product-containing marijuana that is intended for human consumption in a manner other than smoke inhalation.
- (k) “Employee” means an employee of a Licensee.
- (l) “Jurisdiction” or “Band’s jurisdiction” means the Band’s “territory” as defined by Article I Section I of the Tribal Constitution and any land presently established as Indian Country under federal law or future case law or federal statute establishment of Indian Country.
- (m) “Licensee” means any Tribal Entity, Employee, Vendor, or Consultant holding a license issued by the Commission.

- (n) "Marijuana" means all parts of the plant of the genus marijuana, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marijuana concentrate and marijuana-infused products. For purposes of this act, marijuana does not include:
1. the mature stalks of the plant, fiber produced from the stalks, oil, or cake, made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;
  2. industrial hemp, as defined in 7 U.S.C. §5490(a)(2); or
  3. any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.
- (o) "Marijuana Activity" means the growth, processing, distribution, sale, or other act related to marijuana authorized by this ordinance.
- (p) "Marijuana Concentrate" means the resin extracted from any part of the plant of the genus marijuana.
- (q) "Marijuana Establishment" means any tribal establishment created by a Licensee for the purposes of engaging in marijuana activity that is permitted by this ordinance.
- (r) "Marijuana Grower" means a person or tribal entity licensed to cultivate marijuana and sell or otherwise transfer marijuana from a tribal establishment to another marijuana establishment within "Indian Country" (as defined by 18 U.S.C. 1151) or specifically licensed to sell outside Indian Country to a State of Michigan licensed marijuana establishment.
- (s) "Marijuana-infused Product" means a topical formulation, tincture, beverage, edible substance, or similar product containing marijuana and other ingredients and that is intended for human consumption.
- (t) "Marijuana License" means a license issued by the Commission to a qualified Tribal Entity, Employee, Vendor, or Consultant authorizing such persons and entities to engage in commercial marijuana activity within the Band's jurisdiction.
- (u) "Marijuana Processor" means a person or tribal entity licensed to obtain marijuana from marijuana establishments; process and package marijuana; and sell or otherwise transfer marijuana or marijuana product to marijuana establishments within Indian Country or specifically licensed to sell outside Indian Country to a State of Michigan licensed marijuana establishment.



- (v) "Marijuana Retailer" means a person or Tribal entity licensed to obtain marijuana from marijuana establishments and to sell or otherwise transfer marijuana to marijuana establishments and to individuals who are 21 years of age or older.
- (w) "Marijuana Safety Compliance Facility" means a facility authorized by the Commission to test marijuana and marijuana products to ensure safety for distribution and use as well as compliance with this ordinance and any rules, regulations or procedures promulgated by the Commission. [what is the cost of testing and who bears the cost?]
- (x) "Ordinance" means this Ordinance, the Grand Traverse Band Marijuana Ordinance, as now or hereafter amended.
- (y) "Process" or "Processing" means to separate or otherwise prepare parts of the marijuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marijuana concentrate or marijuana-infused products.
- (z) "Record" means books, ledgers, documents, writings, photocopies, correspondence, electronic records, videotapes, surveillance footage, electronic storage media, electronically stored records, money receptacles, equipment in which records are stored, including data or information in tracking system described in §902 of this Ordinance, or any other document that is used for recording information.
- (aa) "Tribal Entity" means a wholly owned economic development entity of the Grand Traverse Band or any entity wholly owned by such entity.
- (bb) "Tribal Judiciary" means the Grand Traverse Band Tribal Court.
- (cc) "Vendor" means a person or entity providing goods or services that are less than management-level services related to the cultivation, processing, distribution, sale, or other services related to the commercialization of marijuana.

### **Subchapter 3- General Provisions; Policy Background**

#### **§301 Authority and Sovereign Powers and Responsibilities**

- (a) This Ordinance is enacted pursuant to the inherent sovereign powers of the Band and the powers expressly delegated to the Tribal Council by Article IV of the Tribal Constitution.
- (b) The regulation of Marijuana Activity shall be the responsibility of the Marijuana Regulation Commission, as set forth in Chapter 5 of this Ordinance.

#### **§302 Grand Traverse Band Tribal Policy of Self Government**

The Band is firmly committed to the principle of Tribal self-government. Consistent with federal policy, Tribal government provides a wide range of public services, including general governmental services, the maintenance of peace and good order, the establishment of educational programs, and the promotion and regulation of economic activities within the sovereign jurisdiction of the Band.

### **§ 303 Title, Repeal of Prior Laws, and Effect of Repeal**

- (a) This Ordinance may be cited as the GTB Marijuana Ordinance. This Ordinance shall be appropriately inserted into the Grand Traverse Band Tribal Code [Grand Traverse Band Code (G.T.B.C.)].
- (b) This Ordinance shall be construed and applied consistent with the provisions of 9 GTBC Section 107 (p) (1)(A)(i)(ii).
- (c) [there are no tribal ordinances presently]

### **§304 Construction**

- (a) In construing the provisions of this Ordinance, unless the context otherwise requires, the following rules shall apply:
  - 1. This Ordinance shall be liberally construed to effectuate its purposes.
  - 2. Words in the present tense include future and past tenses.
  - 3. Words in the singular number include the plural, and words in the plural include the singular.
  - 4. Words of the masculine or neuter gender include masculine and feminine genders and the neuter.  
[other rules of statutory construction?, plain meaning? Ambiguities resolved by legislative history, (council discussion or motions incident to adoption); statute read as a whole, in context, and, if possible, to give effect to every word of statute; no surplusage].
- (b) This Ordinance does not limit the application of any other remedies or sanctions that are available through tribal, state, and federal laws, and the GTBC.

### **§305 Savings Clause**

If any section of this Ordinance or the application of it to any person or circumstance, is held invalid by a court of competent jurisdiction, the remainder of this Ordinance and application to other persons or circumstance are not affected.

### **§306 Tribal Ownership of Marijuana Establishments**

All Marijuana Establishments shall be owned by a Tribal Entity.

### **§307 Sovereign immunity of the Band**

All inherent sovereign rights of the Band as a federally recognized Indian Tribe are hereby expressly reserved, including sovereign immunity from suit in any state, federal or tribal court.

## **Subchapter 4- Limited Application**

### **§ 401 Strictly Interpreted**

This Ordinance authorizes the commercial cultivation, processing, distribution, and sale of marijuana. This authorization shall be strictly and narrowly construed. Any marijuana-related activity not specifically authorized by this Ordinance, are done in violation of this Ordinance

### **§ 402 Inconsistent Laws of the Tribe**

All ordinances of the Tribe and all titles, chapters, and sections of the Tribal Code that are alleged to be inconsistent with this Ordinance are subject to tribal judicial review by tribal members in the GTB Tribal Court in the nature Declaratory Judgment to determine to determine whether the titles, chapters, and sections are inconsistent and therefore do not apply to conduct that is permitted by this Ordinance.

## **Subchapter 5- Commission of Marijuana Regulation**

### **§501 Establishment; Residency and Place of Business; Immunity**

- (a) Pursuant to Article IV, Section 1(m) of the Constitution, the Band hereby charters, creates and establishes the Grand Traverse Band Marijuana Regulatory Commission (“The Commission”) as a subordinate governmental organization of the Band and delegates to it certain authorities, powers, and duties to act as the primary regulator of commercial marijuana activity within the Band’s jurisdiction. The Commission shall have three members consisting of at least two tribal members and a non-member provided that the non-member offers unique skills, experience to the Commission.
- (b) The Commission is a resident of, and will maintain its principal place of business, on the Reservation of the Band in Peshawbestown, Michigan. The Commission may conduct business under this Ordinance at any location within the six-county service area that it deems to be in the best interests of the Band.
- (c) As a subordinate governmental organization, the Commission enjoys the same attributes of sovereignty as the Band, including, but not limited to, sovereign immunity from suit and liability in any jurisdiction, court, or venue.

- (d) The power of appointment and removal to the Commission shall be exercised by the Tribal Council. Appointment and removal of Commission members shall only be done by the full 7-member Tribal Council by majority vote of at least 4 council members voting for appointment or removal. The standard of removal is at the discretion of the Council.
- (e) The Commission shall follow the provisions of Title 1, Chapter 2., Committee Procedures and Title 2. Tribal Administration, Chapter 5., GTB Open Access to Meetings Act.]

**§ 502 Delegation of Powers to the Marijuana Regulatory Commission**

- (a) The Commission shall have the following powers to administer and enforce the laws of the Band relating to commercial marijuana activity:
  - 1. Make such rules and regulations and establish such services as it deems necessary to carry out the provisions and purposes of this Ordinance, subject to the approval of the Tribal Council.
  - 2. Recommend to the Tribal Council, policies for marijuana regulation and licensing.
  - 3. Issue licenses to and register those individuals or entities that shall be subject to the provisions of this Ordinance.
  - 4. Conduct audits of the marijuana establishments created under this ordinance and make reasonable requests for any financial or other information from the marijuana establishments that are necessary to ensure compliance with this Ordinance and any rules and regulations promulgated by the Commission.
  - 5. Direct the investigation of any reported violations of this Ordinance.
  - 6. Make or cause to be made reasonable inspections or investigations of Licensees and related individuals or entities, as the Commission deems necessary to ensure compliance with this Ordinance. In undertaking such investigations, the Commission may request the assistance of Licensees, Federal, State and local law enforcement officials, legal counsel, and other appropriate third parties.
  - 7. Be responsible for the enforcement of this Ordinance, including setting fines and imposing other penalties deemed appropriate for failure to comply with the provisions of this Ordinance and any rules and regulations promulgated by the Commission.

8. To exercise the Tribal power to tax authorized by the Constitution Article IV Section 1 (i) in accordance with a specific Tribal Council resolution delegating the scope, nature, process of such taxing power to the Commission and in accordance with this Ordinance and other applicable law.
  9. Adopt a schedule of fees to be charged for Licenses and background investigations, subject to the approval of Tribal Council by motion of the Council, and pursuant to the Tribal power to “levy and collect taxed, license fees, or assessment upon persons, entities, property or activities subject to the jurisdiction of the Band where NOT PROHIBITED BY FEDERAL LAW.” Article IV Section 1 (i) . Additionally, the Executive Director may waive a fee, upon a finding that such waiver of fees is in the best interest of the Band.
  10. Exercise any additional powers and duties as delegated by Tribal Council to the Commission to fully carry out the provisions of this Ordinance and any rules and regulations promulgated by the Commission.
- (b) The Commission shall not regulate the Band or any entities of the Band outside of marijuana activity.
- (c) All policies, procedures, and regulations of the Commission, whether new or amended, are not valid until approved by motion of the Tribal Council.

**§ 503 Executive Director**

- (a) The Tribal Council shall hire an Executive Director of the Commission of Marijuana Regulation, who shall be the chief administrative officer of the Commission. The Executive Director shall be at least 21 years of age and shall be selected on the basis of administrative ability, background in regulatory activity or law enforcement, and general knowledge of commercial marijuana activities and business principles.
- (b) Prior to hiring, the Tribal Council shall perform a background check on the Executive Director. No Person shall be appointed Executive Director if:
1. His or Her prior activities, criminal record, if any, or reputation, habits or associations:
    - (A) Pose a threat to public interest; or
    - (B) Threaten the effective regulation and control of marijuana within the Band’s jurisdiction; or

- (C) Enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the regulation of marijuana within the Band's jurisdiction;
- 2. He or she has been convicted of or entered a plea of nolo contendere to a felony involving a controlled substance; or
- 3. He or she has been convicted of or entered a plea of nolo contendere to a felony or to a misdemeanor involving dishonesty or moral turpitude in any jurisdiction.

**§ 504 Powers and Duties of the Executive Director**

- (a) The Executive Director shall have the authority to hire and manage a reasonable staff as required to carry out the powers and duties of the Commission.
- (b) In addition to any other powers and duties set forth in this Ordinance, the Executive Director shall supervise and control all activities, functions, and employees of the Commission and shall oversee the enforcement of the provisions of this Ordinance, including any rules and regulations promulgated by the Commission.
- (c) Upon prior resolution and approval of the Tribal Council, the Executive Director may employ such advisors as the Executive Director may deem necessary. Advisors may include, but are not limited to, lawyers, accountants, law enforcement specialists and marijuana professionals.
- (d) The Commission shall provide a quarterly report to the Tribal Council summarizing Commission reports and financials, investigative reports and reports received from all marijuana retail establishments within the Band's jurisdiction as it deems necessary to keep the Tribal Council fully informed as to the status of the Commission's activities.

**§505 Assets of the Commission**

The Commission shall have only those assets specifically assigned to it by the Tribal Council or acquired in its name by the Band or by it on its own behalf. No activity of the Commission or any indebtedness incurred by it shall implicate or in any way involve any credit or assets of tribal members or the Band not assigned in writing to the Commission.

## **Subchapter 6- Marijuana License**

### **§601 General**

- (a) Every Tribal Entity, Employee, Vendor, or Consultant seeking to engage in, or assist with the cultivation, production, processing or sale of marijuana within the Band's jurisdiction must obtain and maintain a Marijuana License from the Commission.
- (b) An individual seeking to obtain a Marijuana License may only submit an application on his or her behalf or on behalf of the Vendor, Consultant, or Tribal Entity. The applicant shall not submit an application to act as a stand in for another individual or entity whose Marijuana License has been suspended or revoked or who is otherwise ineligible to obtain a license. If the Commission determines that an individual submitted any application for the purpose of acting as a stand in, the Commission shall immediately deny the application or revoke the issued license.
- (c) Each Tribal Entity, Vendor, or Consultant must submit a separate application for each type of marijuana activity the applicant wishes to participate in. For example, if an applicant wishes to cultivate, process and sell marijuana, or provide goods or services related to that activity within the Band's jurisdiction, the applicant must submit a separate application for each activity. The Commission may waive this requirement for a Tribal Entity at the Commission's discretion.

### **§ 602 Application for Tribal Entity**

A Tribal Entity seeking to obtain a Marijuana License must submit a complete Marijuana License Application to the Commission. A Marijuana License Application must be made under oath on a form provided by the Commission, and must, at a minimum, contain the following information:

- (a) The type of Marijuana License the Tribal Entity is applying for;
- (b) The name, address, date of birth, copy of a government-issued identification, and contact information for any manager, director, or officers of the Tribal Entity;
- (c) A complete criminal history report on the form provided by the Commission for any manager, director, or officer of the Tribal Entity; and
- (d) Written permission from each manager, director, or officer of the Tribal Entity giving the Commission the right to access and review his or her background including his or her criminal record, and to share this information with any tribal, state, local, or federal agency for the purposes of enforcing compliance with this Ordinance.

(e) A written disclosure of:

1. All legal judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, against any manager, director or officer of the Tribal Entity, that are related to business operations, including, but not limited to fraud, environmental, food safety, labor, employment, worker's compensation, discrimination, and tax laws and regulations, in this jurisdiction and in any state, federal, or Tribal jurisdiction;
2. All licenses related to marijuana held by any manager, director, or officer of the Tribal Entity, including, but not limited to licenses relating to marijuana growth, production, processing, testing, transporting or sale, held in any other jurisdiction;
3. All ownership interests in any present or past business ventures for any manager, director, or officer of the Tribal entity;
4. Any other disclosure required by the Commission;
5. An affirmation that all managers, directors, or officers of the Tribal Entity do not currently, and shall not have any relationship with any individual involved in an illegal drug market; and
6. An affirmation that the information contained in the application is true and correct to the best of the Tribal Entity's knowledge;
7. Any other information, disclosures, or affirmations required by the Commission.

### **§603 Application for Consultant**

Any Consultant seeking to obtain a Marijuana License must submit a complete Marijuana License Application to the Commission. A Marijuana License Application shall be made under oath on a form provided by the Commission. Each question on the application must be answered by the applicant in its entirety and must, at a minimum, contain the following information:

- (a) The type of Marijuana Activity the applicant is applying for.
- (b) The applicant's name, address, date of birth, copy of a government-issued identification, and contact information for the applicant and any person who controls the applicant directly or indirectly.
- (c) If the applicant represents a business entity, the applicant shall submit:



1. The name, address, date of birth, copy of a government-issued identification and contact information for any individual owning more than a ten percent interest in the entity;
  2. The full name of the business;
  3. A Certificate of good standing from the business's jurisdiction of formation;
  4. The principal business address;
  5. The employer identification number ("EIN") of the business; and
  6. The full name, phone number, and email address of any officers, directors, or employees that have signing authority for the business.
- (d) A complete criminal and financial history report on the form provided by the Commission for the applicant, and any owners, directors, or other persons who have a direct or indirect interest in the marijuana retail establishment.
- (e) Proof of financial responsibility for liability for bodily injury on the form prescribed by the Commission, for an amount of no less than \$300,000. If the proof required in this subsection is a bond, the bond must be in a format acceptable to the Commission.
- (f) A signed and notarized disclosure of:
1. All legal judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, against the applicant, that are related to business operations, including, but not limited to fraud, environmental, food safety, labor, employment, worker's compensation, discrimination, and tax laws and regulations, in this jurisdiction and in any state, federal, or Tribal jurisdiction;
  2. All licenses related to marijuana, including, but not limited to licenses relating to marijuana growth, production, processing, testing, transporting or sale, held in any other jurisdiction;
  3. All existing and previous relationships with Indian tribes, including ownership or interest in any tribal businesses;
  4. All ownership interests in any present or past business ventures; and
  5. Any other disclosure required by the Commission.
- (g) A written attestation that the applicant:

1. Consents to any criminal and financial background investigation conducted by the Commission under this Ordinance;
2. Consents to access and review of the applicant's background, including his criminal record, and to sharing this information with any tribal, state, local, or federal agency for the purposes of enforcing compliance with this Ordinance;
3. Consents to any inspections, examinations, searches, seizures, investigations of compliance, regular inspections, and auditing of books and records conducted by the Commission under this Ordinance; and
4. Affirms the applicant's continued duty to provide and comply with any request for additional information, documentation, statements, attestations, or disclosures by the Commission to the extent such requests are allowed by law; and
5. Affirms the applicant's continued duty to cooperate in any investigation, inquiry, or hearing conducted or requested by the Commission.

(h) A sworn statement that:

1. If the License applied for is issued, the applicant will submit to the jurisdiction of the Band and the Commission;
2. If the License applied for is issued the applicant will abide by all applicable Tribal laws, regulations and policies;
3. The applicant does not currently, and shall not have any relationship with any individual involved in an illegal drug market; and
4. The information contained in the application is true and correct to the best of the applicant's knowledge.

(i) Any other information, documentation, statements, attestations, or disclosures requested by the Commission.

#### **§604 Application for Vendor**

Prior to doing business with a Licensee a Vendor must:

- (a) Disclose any licenses or business interests relating to marijuana that the Vendor currently holds in any jurisdiction.
- (b) Submit a sworn statement that the Vendor:

1. Will submit to the jurisdiction of the Band and the Commission;
2. Will abide by all applicable Tribal laws, regulations and policies;
3. Does not currently, and shall not have any relationship with any individual or entity involved in an illegal drug market;
4. Consents to any criminal and financial background investigation conducted by the Commission under this Ordinance;
5. Consents to the Commission sharing the Vendor's information with any tribal, state, local, or federal agency for the purposes of enforcing compliance with this Ordinance and the laws of other jurisdictions; and
6. Consents to provide and comply with any request for additional information, documentation, statements, attestations, or disclosures by the Commission to the extent such requests are required by law.

#### **§605 Commission Review of Marijuana License Applications**

- (a) The Commission shall use the information provided on the application as a basis to conduct a thorough background investigation on the applicant. The Commission shall notify the applicant of any deficiency and provide instructions for submitting a complete application. The applicant shall timely respond to the notice of the deficiency in accordance with this subsection.
- (b) A nonrefundable application fee in an amount set by the Commission must be paid at the time of filing to defray the costs associated with the background investigation conducted by the Commission. If the costs of the investigation and processing the application exceed the application fee, the applicant shall pay the additional amount to the Commission. Additionally, the Commission may waive any fee charged for Licenses or background investigations, upon a finding that such a waiver of fees is in the best interest of the Band.

#### **§606 License Issuance**

- (a) Failure to comply with any of the application requirements listed §602 or §603 of this Ordinance or any other requirements otherwise established by the Commission shall be grounds for denial of the application.
- (b) Failure to pay any fees required by the Commission may result in a denial of the application.
- (c) If the Commission identifies a deficiency in an application, the agency shall notify the applicant and the applicant shall submit the missing information or

proof that the deficiency has been corrected to the Commission within ten (10) days of the date the applicant received the deficiency notice. The application is considered incomplete until the Commission receives the missing information or proof that the deficiency has been corrected.

- (d) The failure of an applicant to correct a deficiency within ten (10) calendar days of notification by the Commission may result in the denial of the application. An applicant denied under this subsection is not barred from reapplying by submitting a new application and fee.
- (e) Once the Commission receives a complete application, the Commission shall thoroughly review the application materials within a reasonable amount of time and provide the applicant with a notice of acceptance or denial of the application. If the Commission accepts the application, the Commission shall issue a temporary license to the applicant within fourteen (14) business days of acceptance. If the Commission denies the application, the Commission shall provide the applicant with the reason for denial in the notice of denial.
- (f) The Commission shall not issue a license until the proposed marijuana establishment is complete and the Commission has done a physical prelicensure inspection in accordance with §607. If the Commission determines that the proposed marijuana establishment does not conform to this Ordinance or any Commission rules or regulations, the Commission shall not issue a license to the applicant until the establishment conforms to the requirements of this Ordinance or any Commission rules or regulations
- (g) Upon issuance of a license, the Commission shall provide the Licensee with a unique Marijuana License Number and shall create and maintain a file for the License using this Number.
- (h) A Licensee has a continuing duty to update any changes in information to the Commission and to cooperate in any investigation, inquiry, or other process conducted by the Commission. Failure to update any changes in information may result in the denial of the license.

#### **§607 Persons and Entities Ineligible for a Marijuana License**

- (a) A person is ineligible to receive a Marijuana License if any of the following circumstances exist:
  - 1. He or she has a prior conviction that involved distribution of a controlled substance to a minor;
  - 2. He or she has knowingly provided the Commission with false information;

3. He or she is an employee, officer, or consultant of the Commission involved in the implementation, administration, or enforcement of this Ordinance;
  4. He or she holds an elective office of a governmental unit of any state, the Tribe or the federal government; is a member of or employed by a regulatory body of a governmental unit in any state, or the federal government or is employed by a governmental unit of any state;
  5. He or she fails to pay the licensure fee, or any other fee set by the Commission within the time frame set by the Commission; or
  6. He or she fails to meet any other criteria reasonably established by the Commission.
- (b) An entity shall be ineligible for a Marijuana License if the Commission, after an adequate review, determines the application is incomplete or deficient, or that the authorization of the Tribal Entity poses a threat to the Band, the public interest, or the effective regulation of Marijuana, or creates or enhances the danger of unsuitable or illegal practices and methods and activities in Marijuana production, or the Tribal Entity has not demonstrated the capacity to comply with applicable Federal, State, local, and Tribal regulation.
- (c) In determining whether to grant a Marijuana License to an applicant, the Commission may consider other factors, including but not limited to:
1. Whether the applicant or anyone who will have ownership in the proposed marijuana establishment has a pattern of convictions involving dishonesty, theft, or fraud that indicate the proposed marijuana establishment is unlikely to be operated with honesty and integrity;
  2. Whether the applicant has been served with a complaint or other notice filed with any public body regarding payment of any tax required under tribal, federal, state, or local law that has been delinquent for 1 or more years;
  3. Whether the applicant has a history of noncompliance with any regulatory requirements, all legal judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, against the applicant, that are related to business operations, including, but not limited to fraud, environmental, food safety, labor, employment, worker's compensation, discrimination, and tax laws and regulations, within the Band's jurisdiction, or any state, federal, or tribal jurisdiction.
  4. Whether the applicant has operated a marijuana establishment without licensure in violation of this Ordinance.

5. The applicant or anyone who will have ownership in the proposed marijuana establishment has a pattern of convictions involving dishonesty, theft, or fraud that indicate the proposed marijuana establishment is unlikely to be operated with honesty and integrity.

#### **§608 Prelicensure Inspection of Marijuana Establishments**

- (a) The Commission shall establish an inspection process to ensure that the applicants and proposed Marijuana Establishments meet the requirements of this Ordinance.
- (b) The Commission shall establish and publish physical requirements for each type of marijuana establishment to ensure the safety of licensees, customers, and the general public. The standards shall be P100 Facilities Standards for the Public Buildings Service (PBS) of the U.S. General Services Administration (GSA) or similar published industry standards accepted by the industry.
- (c) The Commission shall inspect the premises in accordance with this Ordinance and Commission established procedures.
- (d) The Commission may require additional inspections by other agencies.
- (e) A marijuana establishment must meet and comply with all permitting, inspection, public safety, construction, and other requirements required by this Ordinance, its related regulations, and as otherwise required by Tribal law.

#### **§609 Marijuana License Renewal Application and Renewal Fees**

- (a) Any Tribal Entity or Consultant seeking to renew a Marijuana License must submit a complete, signed and accurate Marijuana License Renewal Application and any license renewal fee to the Commission at least thirty (30) days prior to the expiration date of the licensee's Marijuana License.
- (b) The Marijuana License Renewal Application shall be on a form provided by the Commission and shall require the following information, at a minimum:
  1. The type of Marijuana License the licensee holds;
  2. The Marijuana License number;
  3. Any changes in information since the license was last issued;
  4. Any disciplinary action taken by the Commission, Tribal Law Enforcement, or other Tribal government entity against the Licensee since the license was last issued;

5. Any disciplinary action taken by the Commission, Tribal Law Enforcement, or other Tribal government entity against the Licensee or an employee of the Licensee since the license was last issued;
6. A signed and notarized disclosure of:
  - (A) All legal judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, against the Licensee or any manager, director or officer of the Licensee, that are related to business operations, including, but not limited to fraud, environmental, food safety, labor, employment, worker's compensation, discrimination, and tax laws and regulations, in this jurisdiction and in any state, federal, or Tribal jurisdiction;
  - (B) All licenses held by the Licensee or any manager, officer or director of the Licensee related to marijuana, including, but not limited to licenses relating to marijuana growth, production, processing, testing, transporting or sale, held in any other jurisdiction;
  - (C) All ownership interests in any present or past business ventures for the Licensee or any manager, director, or officer of the Licensee;
  - (D) If the Licensee is a Consultant, all existing and previous relationships with Indian tribes, including ownership or interest in any tribal businesses; and
  - (E) Any other disclosure required by the Commission.
7. A written attestation that the Licensee and all managers, directors, or officers of the Licensee continue to:
  - (A) Consent to any criminal and financial background investigation conducted by the Commission under this Ordinance;
  - (B) Consent to access and review of the applicant's background, including his criminal record, and to sharing this information with any state, local, or federal agency for the purposes of enforcing compliance with this Ordinance;
  - (C) Consent to any inspections, examinations, searches, seizures, investigations of compliance, regular inspections, and auditing of books and records conducted by the Commission under this Ordinance; and

- (D) Affirm the Licensee's continued duty to comply with all reasonable information requests by the Commission; and
- (E) Affirm the Licensee's continued duty to cooperate in any investigation, inquiry, or hearing conducted or requested by the Commission.

8. A sworn statement that:

- (A) The information provided in the licensee's Marijuana Renewal License Application is current, complete, true, and accurate, and that the Licensee has fulfilled its obligation under this Ordinance to notify the Commission of any change in information provided in its original license application and subsequent annual renewal form or forms previously filed, if applicable; and
- (B) The Licensee and all managers, directors, or officers of the Licensee do not currently, and shall not have any relationship with any individual involved with the illegal drug market.

9. If the Licensee is a Consultant, the Licensee must provide a sworn statement that:

- (A) The Licensee continues to submit to the jurisdiction of the Band and the Commission; and
- (B) The Licensee will continue to abide by all applicable Tribal and State laws, regulations and policies.

10. Any other information requested by the Commission

### **§610 Marijuana Grower License**

- (a) A Marijuana Grower License authorizes a Marijuana Grower to grow not more than the number of plants indicated on the license. A single Marijuana Grower may not grow more than 2,000 plants at one time. The Commission may grant exceptions to this restriction on a case-by-case basis.
- (b) A Marijuana Grower may possess, package, and store marijuana within the Marijuana Grower's marijuana establishment.
- (c) A Marijuana Grower may sell or transfer marijuana product, other than seeds, seedlings, tissue cultures, immature plants, and cuttings, to a Marijuana Processor or Marijuana Retailer. A Marijuana Grower may sell or transfer marijuana products to a Marijuana Processor or Marijuana Retailer only after such products have been tested by a Commission-approved marijuana safety compliance facility,



as defined in §201(w) of this Ordinance. The Licensee must be able to provide the Commission with proper verification that the testing procedure done on any product is in compliance with this Ordinance and any rules or regulations promulgated by the Commission.

- (d) A Marijuana Grower shall ensure that the handling of marijuana product that is to be sold or transferred to a Marijuana Retailer is done in compliance with this Ordinance and any rules or regulations promulgated by the Commission.
- (e) A Marijuana Grower may accept via sale or transfer marijuana seeds, tissues, cultures, and clones from any other source upon approval by the Commission. A Marijuana Grower may sell or transfer marijuana seeds, tissues, cultures and clones to another Marijuana Grower when done in compliance with any rules or regulations promulgated by the Commission.
- (f) A Marijuana Grower may receive compensation for all goods or services authorized under this Ordinance.
- (g) A Marijuana Grower must enter all transactions, current inventory, and other information into the tracking system described in §902 of this Ordinance.
- (h) A Marijuana Grower must comply with the marijuana transportation requirements set forth in §1105 of this Ordinance.

#### **§611 Marijuana Processor License**

- (a) A Marijuana Processor may receive or purchase marijuana from Marijuana Growers or Marijuana Processors and sell or transfer marijuana and marijuana products to Marijuana Retailers or Marijuana Processors.
- (b) A Marijuana Processor may possess, process, package and store marijuana and marijuana products acquired from a Marijuana Grower or Marijuana Processor.
- (c) A Marijuana Processor shall ensure that the handling of marijuana product that is to be sold or transferred to a Marijuana Retailer is done in compliance with this Ordinance and any rules or regulations promulgated by the Commission.
- (d) A Marijuana Processor must enter all transactions, current inventory, and other information into the monitoring system described in § 902.
- (e) A Marijuana Processor must comply with the marijuana transportation requirements set forth in §1105.
- (f) A Marijuana Processor may receive compensation for all goods or services authorized under this Ordinance.

#### **§612 Marijuana Retailer License**

- (a) A Marijuana Retailer License authorizes the purchase or transfer of marijuana only from a Marijuana Grower, Marijuana Processor, or Marijuana Retailer, and sale only to Marijuana Retailers and individuals 21 years of age or older.
- (b) A Marijuana Retailer must enter all transactions, current inventory, and other information into the tracking system described in § 902 of this Ordinance.
- (c) A Marijuana Retailer must comply with the marijuana transportation requirements set forth in § 1105 of this Ordinance.
- (d) Before selling or transferring marijuana to an individual 21 years of age or older, a Marijuana retailer shall verify the individual's age by means of a valid government-issued photographic identification card or passport containing a date of birth.
- (e) Before selling or transferring marijuana to an individual 21 years of age or older, the Marijuana retailer must ensure that the amount of the sale or transfer does not exceed the single transaction limit set forth in §1203(4) of this Ordinance.
- (f) A Marijuana Retailer shall ensure that the handling of marijuana product is done in compliance with this Ordinance and any rules or regulations promulgated by the Commission.
- (g) A Marijuana Retailer may receive compensation for all goods or services authorized under this Ordinance.

### **§613 License Term and Substance**

- (a) All Marijuana Licenses shall be valid for one (1) year from the date of issuance. Nothing in this Ordinance shall create a property interest in a Marijuana License.
- (b) A Licensee must comply with all reporting, recordkeeping, tracking, and auditing requirements established by this Ordinance, Commission rules and regulations, and applicable Tribal law.
- (c) The marijuana establishment of a Licensee must be at a fixed location. Mobile marijuana establishments and drive through operations are prohibited. Any sales or transfers of marijuana product by internet or mail order, or consignment are prohibited.
- (d) A Licensee may not cultivate, process, store, or sell marijuana at any location other than a physical address approved by the department and within an enclosed area that is secured in a manner that prevents access by persons not permitted by the marijuana establishment to access the area as prescribed by Commission rules and regulations.

- (e) A Licensee may not sell or otherwise transfer to any person or entity, marijuana that was not cultivated, produced, distributed, and/or taxed in compliance with this Ordinance.
- (f) A Licensee or any agent acting on behalf of the Licensee may not transport more than 15 ounces of marijuana or more than 60 grams of marijuana concentrate at one time.
- (g) A Licensee shall secure every entrance to the marijuana establishment so that access to areas containing marijuana is restricted to employees and other persons expressly provided access by the Licensee. All agents of the Commission, Tribal law enforcement officers, and emergency personnel shall have permission to access the entire marijuana establishment while in performance of official business.
- (h) A Licensee shall secure all inventory and equipment during and after operating hours to deter and prevent theft of marijuana, marijuana product, and marijuana accessories.

#### **§ 614 Procedure for Suspension or Revocation of License**

- (a) The Commission may suspend or revoke a license, after following the protocol set form in subsection (b), for any of the following reasons:
  - 1. The Licensee withheld pertinent information on the application;
  - 2. The Licensee made false statements on the application;
  - 3. The Licensee participated in a marijuana related activity that was not authorized by this Ordinance or other applicable law;
  - 4. The Licensee participated in a Marijuana related activity that was outside of the scope of the activities authorized by his or her Marijuana License;
  - 5. The Licensee attempted to bribe a Tribal Council member, the Executive Director, or other person, in an attempt to avoid or circumvent Tribal law or other applicable law;
  - 6. The Licensee is knowingly involved in the falsification of books or records which relate to a marijuana operation;
  - 7. The Licensee violated this Ordinance or the rules and regulations of the Commission;

8. The Licensee has been convicted or has entered a plea of nolo contendere to any felony involving a controlled substance, fraud, theft, or embezzlement; and
  9. The Licensee has refused to comply with any lawful order, inquiry, or directive of the Commission, the Tribal Council, Tribal law enforcement, or other tribal, state, or federal government Commission or official.
- (b) Upon reasonable cause that any of the events in subsection (a) occurred, the Executive Director shall serve the Licensee with an order to show cause as to why the Licensee's license should not be suspended or revoked. The Commission shall afford any such identified Licensee the following process:
1. The Licensee shall have an opportunity to request a meeting with the Executive Director to present his or her case.
  2. The meeting shall be set for not less than five (5) business days or more than ten (10) business days from the date of the notice.
  3. All decisions made by the Executive Director at the conclusion of this meeting shall be final.

## **Subchapter 7- Marijuana Establishments; General Requirements**

### **§701 Marijuana Grower**

- (a) A Marijuana Grower may operate a marijuana establishment under either of the following conditions:
1. The Marijuana Grower's entire operation is within a building that meets all security requirements established by the Commission under §1101 of this Ordinance, and passes the preclosure inspection as required in §607 of this Ordinance; or
  2. The majority of the Marijuana Grower's operations are within a building that meets all the requirements set forth in subsection (a), except that cultivation may occur in an outdoor area, if all of the following conditions are met:
    - (A) The outdoor area containing the cultivation of marijuana plants is contiguous with the building, fully enclosed by fences or barriers that block outside visibility of the marijuana plants from the public view, with no marijuana plants growing above the fence or barrier that is visible to the public eye and the fences are secured and comply with the applicable security measures in this Ordinance,

including, but not limited to, locked entries only accessible to authorized persons or emergency personnel;

(B) After the marijuana is harvested, all drying, trimming, curing, or packaging of marijuana occurs inside the building meeting all the requirements under this Ordinance; and

(C) The building meets the security requirements and passes the inspections required under this Ordinance and all applicable tribal laws, tribal code, rules and regulations.

(b) If a Marijuana Grower's marijuana establishment does not meet either of the conditions set forth above, the Marijuana Grower shall be operating in violation of this Ordinance.

(c) The Commission shall publish a list of approved chemical residue active ingredients for marijuana growers to use in the cultivation and production of marijuana plants and marijuana products to be sold or transferred in accordance with this Ordinance.

#### **§702 Marijuana Retailer**

(a) A Marijuana Retailer shall have a separate room that is dedicated as the point of sale area for the transfer or sale of marijuana product as provided in this Ordinance. The marijuana retailer shall keep marijuana products behind a counter or other barrier to ensure that a customer does not have direct access to the marijuana products.

(b) A Marijuana Retailer shall not allow onsite, or as part of the marijuana establishment, any of the following:

1. Sale, consumption, or serving of food or alcohol; or
2. Consumption, use, or inhalation of a marijuana product.

#### **§703 Marijuana Establishments Generally**

(a) A marijuana establishment shall ensure that the handling of marijuana product is done in compliance with current good manufacturing practice in manufacturing, packing, or holding human food, as determined by this Ordinance or otherwise determined by the Commission.

(b) Marijuana establishments shall not allow onsite or as part of the marijuana establishment any of the following:

1. Sale, consumption, or serving of food or alcohol; or

2. Consumption, use, or inhalation of a marijuana product.
- (c) Access to the marijuana establishment's restricted and limited access areas is restricted to the Licensee; employees of the Licensee, escorted visitors, the Commission, Tribal Law Enforcement; or any other Tribal Official acting within his or her authority.
  - (d) Licensee records must be maintained and made available to the Commission upon request.
  - (e) The Licensee's Marijuana License(s) for the marijuana establishment as provided under the Ordinance must be framed under a transparent material and prominently displayed in the marijuana establishment.

**§704 Operations at the Same Location**

- (a) A Licensee that has any combination of Marijuana Licenses may operate separate marijuana establishments at the same location. For a Licensee to operate a combination of Marijuana Licenses at the same marijuana establishment, all of the following requirements must be met:
  1. The Commission has authorized the proposed operation of all Licenses to be used at the same location.
  2. The operation is not in violation of any Tribal code provision or regulation.
  3. The Licensee has done all of the following:
    - (A) Apply for and be granted each applicable Marijuana License and pay the required fees for each Marijuana License;
    - (B) Have distinct and identifiable areas with designated structures that are contiguous and specific to each Marijuana License;
    - (C) Have separate entrances and exits, inventory, record keeping, and point of sale operations;
    - (D) Post the Marijuana License on the wall in its distinct area and as provided in this Ordinance;
    - (E) Obtain any additional inspections and permits required by Tribal Council or any Tribal government agency or officer; and
    - (F) Comply with the provisions in this Ordinance.

- (b) A marijuana establishment shall have distinct and identifiable areas with designated structures that are specific to each Marijuana License operating at the marijuana establishment.
- (c) A marijuana establishment shall have separate entrances and exits, inventory, record keeping, and point of sale operations, for each Marijuana License operating at the marijuana establishment.

### **Subchapter 8- Reporting**

#### **§801 Required Reporting**

- (a) A Licensee must inform the Commission of any change in the information provided by the Licensee on the Marijuana License Application within ten (10) days of such change. If the Commission determines that a change is material to the Marijuana License Application, the Commission may require the Licensee submit a new Marijuana License Application. Material changes in the Application include, but are not limited to, change in location for the marijuana establishment and change in ownership of the marijuana establishment.
- (b) An applicant or Licensee shall notify the Commission within 1 business day of becoming aware of all of the following:
  - 1. Adverse reactions to a marijuana product sold or transferred by any licensee;
  - 2. Criminal convictions, charges, or civil judgments against an applicant or licensee in any tribal, state, federal, or foreign jurisdiction; and
  - 3. Regulatory disciplinary action taken or determined against an applicant or licensee by any tribal, state, federal, or foreign jurisdiction, including any pending action.
- (c) An applicant or Licensee shall notify the Commission within ten (10) calendar days of the initiation or conclusion of any new judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, that involves the applicant or the licensee.
- (d) Licensees shall notify the Commission and Tribal law enforcement authorities within twenty-four (24) hours of becoming aware of the theft or loss of any marijuana or marijuana product or other criminal activity at the marijuana establishment or that occurred during the physical transfer of any marijuana product.

- (e) Failure to provide notifications or reports to the Commission pursuant to this chapter may result in sanctions, loss of licensure, fines, or other disciplinary action determined to be appropriate by the Commission.

## **Chapter 9- Record Keeping, Tracking and Investigation**

### **§901 Bank Account, Record Keeping and Audit Requirements**

- (a) The Band or Tribal Entity engaged in marijuana operations shall maintain a separate bank account or accounts for that purpose. All expenses related to the marijuana operation taking place within the Band's jurisdiction shall be paid from the accounts, and all receipts of the marijuana operation taking place on within the Band's jurisdiction shall be deposited in the accounts, and such funds shall not be commingled with other Tribal funds or economic development funds until such time as such funds are distributed to the Band or another entity of the Band.
- (b) A Licensee shall keep accounting records of all Marijuana-related projects on a double entry system of accounting, maintaining detailed supporting and subsidiary records. Marijuana-related projects shall maintain the following records for not less than five (5) years:
  - 1. Revenues, expenses, assets, liabilities and equity for the Marijuana project.
  - 2. Contracts, receipts, and other transaction documents relating to the Marijuana project.
- (c) The Licensee shall maintain a complete list of all employees of the Licensee to be made available to the Commission at any time.
- (d) A Licensee shall provide the Commission with a copy of an annual independent audit, and a quarterly profit/loss statement in accordance with generally accepted accounting principles. The Commission retains the authority to order an audit of a marijuana-related project at any time at its own cost.

### **§902 Tracking System**

- (a) A Licensee shall adopt and use a third-party inventory control and tracking system that has been approved by the Commission. The Commission shall publish and maintain a list of third-party inventory control and tracking systems that are approved by the Commission. Any third-party inventory control and tracking system approved by the Commission for use by Licensee must, at a minimum, have all of the following capabilities:
  - 1. Tracking all marijuana plants, products, packages, purchase totals, waste, transfers, conversions, sales, and returns.



2. Tracking lot and batch information throughout the entire chain of custody consistent with recognized commercial practices.
3. Tracking all products, conversions, and derivatives throughout the entire chain of custody.
4. Tracking marijuana plant, batch, and product destruction.
5. Tracking transportation of product.
6. Performing complete batch recall tracking that clearly identifies all of the following details relating to the specific batch subject to the recall:
  - (A) Sold product.
  - (B) Product inventory that is finished and available for sale.
  - (C) Product that is in the process of transfer.
  - (D) Product being processed into another form.
  - (E) Post-harvest raw product, such as product that is in the drying, trimming, or curing process.
7. Reporting and tracking loss, theft, or diversion of product containing marijuana.
8. Reporting and tracking all inventory discrepancies.
9. Reporting and tracking adverse customer responses or dose-related efficacy issues.
10. Reporting and tracking all sales and refunds.
11. Electronically receiving and transmitting information as required by this Ordinance or by Commission issued rules or regulations.
12. Receiving testing results electronically from a marijuana safety compliance facility via a secured application program interface into the system and directly linking the testing results to each applicable source batch and sample.
13. Identifying test results that may have been altered.
14. Providing the licensee with access to information in the tracking system that is necessary to verify that the licensee is carrying out the marijuana transactions

authorized under the licensee's Marijuana License in accordance with this Ordinance.

15. Providing information to cross-check that product sales are made to an individual 21 years of age or older and that the product received the required testing.
16. Providing the Commission and other Tribal government agencies with access to information in the database that they are authorized to access.
17. Providing tribal law enforcement with access to only the information in the database that is necessary to enforce this Ordinance.
18. Providing licensees with access only to the information in the system that they are required to receive before a sale, transfer, transport, or other activity authorized under a Marijuana License issued under this Ordinance.
19. Securing the confidentiality of information in the database by preventing access by a person who is not authorized to access the information by the licensee or under this Ordinance.
20. Providing analytics to the Commission regarding key performance indicators such as the following:
  - (A) Total daily sales;
  - (B) Total marijuana plants in production; and
  - (C) Total marijuana plants destroy.
- (b) The Licensee shall provide the Commission with a quarterly report of the Licensee's inventory that contains all information requested by the Commission.
- (c) The Commission may request the Licensee to share any of the information maintained in the tracking system with the Commission at any time.
- (d) Marijuana products not identified and recorded in the tracking system pursuant to this Ordinance must not be at a marijuana establishment. A Licensee shall not transfer or sell a marijuana product that is not identified in the tracking system as required by this Ordinance.
- (e) Any marijuana product without a batch number or identification tag or label pursuant to this Ordinance must not be at a marijuana establishment. A Licensee shall immediately tag, identify, or record in the §902 tracking system any marijuana or marijuana product that is cultivated or otherwise obtained by the Licensee in compliance with this Ordinance.

- (f) A violation of this Ordinance may result in sanctions or fines, or both, in accordance with this Ordinance or any rules or regulations promulgated by the Commission.

**§903 Inspection; Investigation**

- (a) The Commission shall do all of the following with respect to inspections and investigations of Licensees, proposed marijuana establishments, and marijuana establishments:
  - 1. Oversee and conduct inspections of proposed marijuana establishments and marijuana establishments to ensure compliance with this Ordinance, Commission rules and regulations, and Tribal law;
  - 2. Inspect, examine, and audit records of the Licensee and the marijuana establishment, including all employment records, to ensure compliance with this Ordinance, Commission rules and regulations, and Tribal law; and
  - 3. Oversee and conduct all investigations of alleged violations of this Ordinance, Commission rules and regulations, and Tribal law.
- (b) The Commission may inspect, examine, and audit relevant records of the Licensee. If a Licensee fails to cooperate with an investigation, the Commission may impound, seize, assume physical control of, or summarily remove records from a proposed marijuana establishment or marijuana establishment as authorized under this Ordinance.
- (c) The Commission may take any reasonable or appropriate action to enforce this Ordinance and related regulations or tribal code provisions as applicable.
- (d) A Licensee may not refuse the Commission access to the marijuana establishment during the hours of operation. The Commission may access the marijuana establishment without a warrant and without notice to the licensee during the marijuana establishment's hours of operation.
- (e) No marijuana establishment may refuse representatives of the Commission the right during the hours of operation to inspect the licensed premises or to audit the books and records of the marijuana establishment.
- (f) The Commission may place an administrative hold on marijuana products and order that no sales or transfers occur during an investigation for an alleged violation or violation of this Ordinance.

## **Chapter 10- Sampling; Testing; Packaging**

### **§1001 Batch Sampling Procedures.**

- (a) A Marijuana Grower shall uniquely identify each immature plant batch in the tracking system described in §902 of this Ordinance. Each immature plant batch must not consist of more than 100 immature plants.
- (b) A Marijuana Grower shall tag each plant that is greater than 8 inches in height from the growing or cultivating medium or more than 8 inches in width with an individual plant tag and record the identification information in the tracking system described in §902 of this Ordinance.
- (c) A Marijuana Grower shall delineate or separate the plants as the plants go through different growth stages and ensure that the plant tag is always identified with the plant throughout the growth span so that all plants can be easily identified and inspected pursuant to this Ordinance. A Marijuana Grower shall ensure that identification information is recorded in accordance with this Ordinance in the tracking system described in §902 of this Ordinance.
- (d) After a tagged plant is harvested, the entire group of plants harvested is a harvest batch. A sample of each harvest batch must be tested by a Commission-approved marijuana safety compliance facility using sampling and testing methods set forth in §1002 and §1003.
- (e) A Marijuana Grower shall quarantine a harvest batch from other plants or batches that have test results pending. A harvest batch must be easily distinguishable from other harvest batches until the batch is broken down into packages.
- (f) Before any plant material from a harvest batch is transferred or sold to a Marijuana Processor or Marijuana Retailer, except as provided in subsection (h) of this Section, a sample of the harvest batch must be tested by a Commission-approved marijuana safety compliance facility using sampling and testing methods set forth by §1002 and §1003 of this Ordinance.
- (g) All test results must indicate “passed” in the tracking system described in §902 of this Ordinance before the plant material can be transferred or sold to a Marijuana Processor or Marijuana Retailer, except as provided in subsection (h) of this Section. A Marijuana Grower must be able to provide proof of passing results to the Commission upon request.
- (h) A Marijuana Grower establishment may transfer or sell marijuana to a Marijuana Processor without first being tested by a marijuana safety compliance facility in order to produce live resin. The maximum harvest batch size for the production of live resin must be 60 pounds. After the Marijuana Processor has produced live resin, the Marijuana Processor shall have the sample tested pursuant to §1003.

- (i) After test results show a passed test and the harvest batch is packaged, the Marijuana Grower shall destroy the individual plant tags. Each package must have a package tag attached. A Marijuana Grower shall ensure this information is placed in the tracking system described in §902.
- (j) A Marijuana Grower shall not transfer or sell any marijuana product that has not been packaged with a package tag attached and recorded in the tracking system described in section §902, except as provided in subsection (h) of this Section.

### **§1002 Sampling**

- (a) A recognized and accredited marijuana safety compliance facility shall sample and test marijuana and marijuana product as provided in this Ordinance.
- (b) The Commission shall produce and publish sampling requirements for all marijuana and marijuana products. A Licensee shall ensure that all marijuana and marijuana products are sampled in accordance with the Commission's sampling requirements.
- (c) If a testing sample is collected from a marijuana establishment for testing, that marijuana establishment shall quarantine the marijuana product that is undergoing the testing from any other marijuana product at the marijuana establishment. The quarantined marijuana product must not be transferred or sold until testing results pass as provided under this Ordinance and the results are recorded in the tracking system described in §902.
- (d) Any marijuana product that a marijuana safety compliance facility collects for testing from a Licensee under this Ordinance must not be transferred or sold to any other marijuana establishment other than the Licensee from whom the sample was collected.
- (e) A marijuana safety compliance facility may request additional sample material from the same Licensee from which the sample was collected for the purposes of completing the required safety tests as long as the requirements of this Ordinance and the Commission are met.

### **§1003 Testing**

- (a) All marijuana and marijuana products produced under this Ordinance must be tested at a recognized and accredited marijuana safety compliance facility. The Commission shall publish a list of approved marijuana safety compliance facilities that are acceptable for use under this Ordinance and update this list as appropriate. All acceptable marijuana safety compliance facilities shall use the same testing procedures with the same number of replicate analyses, standards,

testing analysts, and equipment. A Licensee shall not use a marijuana safety compliance facility that is not approved by the Commission.

- (b) The Commission shall produce and publish safety requirements for all marijuana and marijuana products, which shall be updated periodically by the Commission. A Licensee shall ensure that all testing of marijuana and marijuana products done by a marijuana safety compliance facility clearly shows that the tested product meets all current Commission safety requirements.
- (c) A marijuana safety compliance facility must meet all the following requirements:
  - 1. Be fully accredited to the International Organization for Standardization (ISO), ISO/IEC 17025:2017 by an International Laboratory Accreditation Cooperation (ILAC) recognized accreditation body or by an entity approved by the agency within 1 year after the date the marijuana safety compliance facility license is issued and agree to have the inspections and reports of the International Organization for Standardization made available to the agency.
  - 2. Maintain internal standard operating procedures that conforms to ISO/IEC 17025:2017 standards.
  - 3. Maintain a quality control and quality assurance program that conforms to ISO/IEC 17025:2017 standards.
  - 4. Use analytical testing methodologies for the required safety tests that are approved and confirmed by the Commission to produce scientifically accurate results for each safety test it conducts.
- (d) A marijuana safety compliance facility shall conduct the required safety tests specified in subsections a. to g. of this subsection on all marijuana product that is part of the harvest batch as specified in §1001 of this Ordinance. After the testing of the harvest batch is completed, the Commission may publish a guide indicating which of the following safety tests are required based on product type when the marijuana product has changed form:
  - 1. Potency analysis performed just as the marijuana product is without any corrective factor taken for moisture content that includes concentrations of the following:
    - (A) Tetrahydrocannabinol (THC).
    - (B) Tetrahydrocannabinol acid (THC-A).
    - (C) Cannabidiol (CBD).
    - (D) Cannabidiol acid (CBD-A).

2. Foreign matter inspection.
  3. Microbial screening.
  4. Chemical residue testing that includes all of the following:
    - (A) Pesticides.
    - (B) Fungicides.
    - (C) Insecticides.
  5. Heavy metals testing as required in this Ordinance.
  6. Residual solvents. The agency shall publish a list of required residual solvents to be tested for and their action limits.
  7. Water activity including moisture content.
- (e) A marijuana safety compliance facility shall conduct residual solvent testing on batches of marijuana concentrates and marijuana-infused products. The Commission shall publish a list of required residual solvents to be tested for and their action limits.
- (f) For the purposes of calculating potency of total THC and total CBD, the following calculations must be used:
1. Total THC must be calculated as follows, where M is the mass or mass fraction of delta-9 THC or delta-9 THC-A:  $M \text{ total delta-9 THC} = M \text{ delta-9 THC} + 0.877 \times M \text{ delta-9 THC-A}$ .
  2. Total CBD must be calculated as follows, where M is the mass or mass fraction of CBD and CBD-A:  $M \text{ total CBD} = M \text{ CBD} + 0.877 \times M \text{ CBD-A}$ .
  3. For marijuana and concentrates total THC and total CBD must be reported in percentages.
  4. For marijuana infused products total THC and total CBD should be reported in milligrams per grams (mg/g).
- (g) Except as otherwise provided in §1104, if a sample collected pursuant to §1002 or provided to a marijuana safety compliance facility pursuant to this Ordinance does not pass the required safety tests, the marijuana establishment that provided the sample shall dispose of the entire batch from which the sample was taken and

document the disposal of the sample using the tracking system described in §902 of this Ordinance.

- (h) A marijuana safety compliance facility shall destroy any marijuana samples held for 30 days after test completion and dispose of the resulting waste in accordance with §1102.
- (i) For the purposes of the microbial screening and foreign matter inspection, the Commission shall publish a list of action limits. A marijuana sample with a value that exceeds the published action limit is considered to be a failed sample. A marijuana sample that is at or below the action limit is considered to be a passing sample.
- (j) For the purposes of the heavy metal testing, the agency shall publish a list of action limits. A marijuana sample with a value that exceeds the published action limit is considered to be a failed sample. A marijuana sample that is at or below the action limit is considered to be a passing sample.
- (k) For the purposes of the residual solvent test, the agency shall publish a list of action limits. A marijuana sample with a value that exceeds the published action limit is considered to be a failed sample. A marijuana sample that is at or below the action limit is considered to be a passing sample.
- (l) For the purposes of the chemical residue test, the Commission shall publish a list of action limits. A marijuana sample that is at or below the action limit is considered to be a passing sample. A marijuana sample with a value that exceeds the action limit is considered to be a failed sample.
- (m) A marijuana safety compliance facility shall not do any of the following:
  - 1. Desiccate samples unless performing moisture analysis on the sample.
  - 2. Dry label samples.
  - 3. Pre-test samples.
- (n) If a sample provided to a marijuana safety compliance facility pursuant to this Ordinance and §1002 passes the safety tests required by this Ordinance, the Licensee shall ensure that all required information of passed test results is entered into the tracking system described in §902 of this Ordinance within three (3) business days of test completion. Passed test results must be in the tracking system for a batch to be released for processing, packaging, and labeling for transfer or sale in accordance with this Ordinance.
- (o) A marijuana safety compliance facility shall enter the results of the safety tests into the tracking system and described in §902 of this Ordinance. The marijuana



safety compliance facility shall notify the Commission of any failed safety compliance test results and shall provide the Commission with a copy of the failed safety test results upon request.

- (p) The Commission shall immediately remove any marijuana safety compliance facility that fails to comply with the provisions of this Ordinance or falsifies records related to this Ordinance, from the approved list and shall notify Licensees of this change.

#### **§1004 Packaging Process**

- (a) A Marijuana Licensee shall give marijuana or marijuana product a new package tag and shall enter the package tag into the tracking system described in §902 of this Ordinance anytime the marijuana product changes form or is incorporated into something else.
- (b) Before a Marijuana Grower or Marijuana Processor packages any marijuana or marijuana product for retail sale, the Marijuana Grower or Marijuana Processor shall have the sample tested pursuant §1003. A Marijuana Processor or Marijuana Grower shall not transfer or sell any final package to a Marijuana Retailer until the Marijuana Processor or Marijuana Grower receives passing test results for the product from the marijuana safety compliance facility and enters those results in the tracking system described in §902 of this Ordinance.

### **Chapter 11- Operations**

#### **§1101 Security**

The Commission shall produce and publish security requirements for all marijuana establishments. A Licensee shall maintain a security system that meets all requirements established by the Commission.

#### **§1102 Marijuana Product Destruction and Waste Management**

The Commission shall produce and publish procedures and requirements for the destruction and disposal of marijuana and marijuana products. If a Licensee must dispose of or destroy any marijuana or marijuana product, the Licensee must ensure that such disposal meets all procedural and other requirements established by the Commission and is compliant with all applicable Tribal laws.

- (a) A Licensee shall not sell any marijuana or marijuana products that the Commission orders destroyed.
- (b) A Licensee shall maintain accurate and comprehensive records regarding marijuana and marijuana product waste that accounts for, reconciles, and evidences all waste activity related to the disposal. A licensee must record and

account for all marijuana products disposed of under this Section in the tracking system required by §902.

**§1103 Storage of Marijuana Product.**

- (a) All inventories of marijuana products must be stored at a marijuana establishment in a secured limited access area or restricted access area and must be identified and tracked consistently in the tracking system required by §902.
- (b) All containers used to store marijuana products for transfer or sale between marijuana establishments must be clearly marked, labeled, or tagged with all information required by the Commission, and must be enclosed on all sides in secured containers. The secured containers must be latched or locked in a manner to keep all contents secured within. Each secured container must be identified and tracked in compliance with this Ordinance.
- (c) All chemicals or solvents must be stored separately from marijuana products and kept in locked storage areas.
- (d) Marijuana-infused products, edible marijuana products, or materials used in direct contact with such marijuana-infused products or edible marijuana products, must have separate storage areas from toxic or flammable materials.
- (e) All marijuana-infused products or edible marijuana products must be stored:
  - 1. Under appropriate conditions of temperature, humidity, and light so that the identity, purity, strength, and composition of the components of the marijuana product are not affected;
  - 2. Under appropriate conditions so that the packaging and labels of the marijuana product are not affected;
  - 3. Under appropriate conditions that prevent the mix-up, contamination, or deterioration of components, marijuana products, or packaging and labels; and
  - 4. In compliance with any other requirements set by the Commission.
- (f) A Licensee shall store all marijuana products for transfer or sale behind a counter or other barrier, such counter or barrier must be separated from stock rooms or storage areas, such that customers cannot view the marijuana retailer's entire inventory without being escorted into stock rooms or storage areas by the Licensee or an employee of the Licensee.

### **§1104 Recall of Marijuana Product**

- (a) To ensure the safety of all marijuana products sold, a Licensee must notify the Commission of any health or safety issues related to any product sold by the Licensee within one (1) business day of receiving such information.
- (b) The Commission may issue a recall for any marijuana product that presents a health or safety issues to consumers. The Commission shall notify all Licensees of a recall and shall provide Licensees with guidance on notifying customers and destroying recalled product.

### **§1105 Transportation of Marijuana**

- (a) All marijuana or marijuana product transported between Licensees or Marijuana Establishments on the Reservation must:
  - 1. Be carried out by current employees of the transferor Licensee who have each been registered as a “transporter” with the Commission as described in §1302 of this Ordinance;
  - 2. Be carried out by a two (2) person transporter crew with at least 1 individual remaining with the vehicle at all times during the transportation of marijuana;
  - 3. Be transported in one (1) or more locked, secured, and sealed containers and not be directly accessible by any individual in the vehicle while in transit;
  - 4. Be transported in a vehicle that is registered with the Commission as a marijuana transport vehicle;
  - 5. Be transported in a marijuana transport vehicle that does not bear markings or other indication that it is carrying marijuana or a marijuana-infused product; and
  - 6. Be transported with no unnecessary stops between the two establishments.
- (b) The Licensee transferor shall enter all transactions, current inventory, and other information into the tracking system described in §902 of this Ordinance prior to transporting any marijuana.
- (c) An employee of the Licensee transferee must enter all relevant information into the tracking system described in §902 of this Ordinance within twelve (12) hours of receipt.
- (d) A Licensee must keep detailed records of marijuana transportation between Licensees and other Marijuana Establishments. These records must include:

1. The exact contents of each transfer, including, but not limited to:
    - (A) The batch number, identification tag, or label as is used to identify the product in the tracking system described in §902 for all marijuana or marijuana product in the transfer;
    - (B) The total amount of the transfer; and
    - (C) Any other information specified by the Commission.
  2. The License information of the Licensee transferor and Licensee transferee;
  3. The address of the origin and destination of the transfer;
  4. The names and contact information of the registered transporters used to carry out the transfer; and
  5. The registered marijuana transport vehicle used to carry out the transfer.
- (e) Subject to jurisdictional limitations, a marijuana transport vehicle is subject to administrative inspection by a tribal law enforcement officer at any point during the transfer to determine compliance with this Ordinance.
- (f) Transporters shall remain onsite until the marijuana product is weighed and accepted or rejected before leaving the marijuana establishment.
- (g) All Licensees shall identify and register as “marijuana transport vehicles,” all vehicles to be used to transport marijuana with the Commission. When registering a marijuana transport vehicle with the Commission, the Licensee shall provide the Commission with, at a minimum, the make, model, year, color, registration information and license plate number of each vehicle. The Commission may require additional information, as the Commission deems appropriate.
- (h) Transporters shall log and track all handling of money associated with the purchase or sale of marijuana between marijuana establishments. These records must be maintained and made available to the agency upon request.
- (i) The transfer of trade samples does not require the use of a marijuana secure transporter provided the amount of trade samples does not exceed either:
1. 15 ounces of marijuana.
  2. 60 grams of marijuana concentrate.
- (j) A marijuana establishment may transfer marijuana or marijuana product without following the requirements of this section if both of the following are met:

1. The marijuana establishment that is to receive the transported product occupies the same location as the marijuana establishment transferring the transported product and the marijuana or marijuana product is transferred using only private real property; and
  2. The marijuana establishment transferring the product enters each transfer into the tracking system described in §902 of this Ordinance.
- (k) In cases of emergencies, the transporter shall notify the transferor and transferee as soon as is practicable. If any marijuana or marijuana product was stolen or otherwise taken from the transporter en route, the transporter shall update the tracking system described in §902 of this Ordinance and notify the Commission as soon as is practicable.

## **Subchapter 12- Retail Sale of Marijuana Product**

### **§1201 Retail Packaging Requirements**

- (a) All marijuana product sold by a Licensee at a Marijuana Retail establishment must, at a minimum, meet the following packaging requirements:
1. The product must be in a sealed package;
  2. The product must be clearly labeled with the following information:
    - (A) The name and license number of the Licensee;
    - (B) Net weight in United States customary and metric units;
    - (C) Concentration of THC and CBD;
    - (D) Activation time expressed in words or through a pictogram;
    - (E) Batch number, identification tag, or label as is used to identify the product in the tracking system described in § 902 of this Ordinance;
    - (F) Name of the marijuana safety compliance facility that performed any test, any associated test batch number, and any test analysis date. The universal symbol for marijuana product published as provided by the Commission; and
    - (G) Any other information required by the Commission.

3. The product must be clearly labeled with a warning that states all the following:
  - (A) "For use by individuals 21 years of age or older only. Keep out of reach of children."
  - (B) "It is illegal to drive a motor vehicle while under the influence of marijuana."
  - (C) "National Poison Control Center 1-800-222-1222."
- (b) All marijuana edible product packaging shall comply with the following:
  1. No edible marijuana product package can be in a shape or labeled in a manner that would appeal to minors aged 17 years or younger. No edible marijuana product can be associated with or have cartoons, caricatures, toys, designs, shapes, labels, or packaging that would appeal to minors.
  2. No edible marijuana product can be easily confused with commercially sold candy. The use of the word candy or candies on the packaging or labeling is prohibited. No edible marijuana product can be in the distinct shape of a human, animal, or fruit or a shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings. Edible marijuana products that are geometric shapes and simply fruit flavored are permissible.
  3. An edible marijuana product must be in opaque, child-resistant packages or containers that have a child-resistant effectiveness level of not less than eighty-five percent as determined by applicable consumer products safety standards.
  4. An edible marijuana product containing more than one serving must be in a resealable package or container that have a child-resistant effectiveness level of not less than eighty-five percent as determined by applicable consumer products safety standards.
- (c) No Marijuana Processor may process, and no Marijuana Retailer may sell edible marijuana-infused candy in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marijuana.
- (d) No marijuana establishment may sell or otherwise transfer tobacco.

## **§1202 Maximum Concentration for Marijuana infused products**

A Licensee shall not sell or transfer products that exceed the maximum THC concentration level established by the Commission. The Commission shall publish a list of maximum THC concentration and serving size limits for all marijuana products.

## **§1203 Sale of Marijuana Product**

- (a) A marijuana retailer may sell or transfer a marijuana product to an individual 21 years of age or older if all of the following are met:
  - 1. The Licensee confirms that the customer presented his or her valid driver's license or government-issued identification card that bears a photographic image and he or she is 21 years of age or older.
  - 2. The Licensee determines, if completed, any transfer or sale will not exceed the purchasing limit prescribed in subsection (d) of this Section.
  - 3. The marijuana product to be sold or transferred under this Ordinance has been tested, labeled, and packaged in accordance with this Ordinance.
- (b) A Licensee shall enter all transactions, current inventory, and other information required by this Ordinance in the tracking system described in §902. The Licensee shall maintain appropriate records of all sales or transfers under this Ordinance and make them available to the Commission upon request.
- (c) A Licensee is not required to retain information from customers other than the following:
  - 1. Payment method;
  - 2. Amount of payment;
  - 3. Time of sale;
  - 4. Product quantity; and
  - 5. Other product descriptions.
- (d) A Licensee must ensure that all sales and transfers to an individual 21 years of age or older do not exceed 2.5 ounces of marijuana or 15 grams of marijuana concentrate in a single transaction.

## Chapter 13- Employees

### §1301 Employees

- (a) A Licensee shall comply with all of the following:
1. Not allow a person under 21 years of age to volunteer or work for the licensee;
  2. Train employees and have an employee training manual that includes, but is not limited to, employee safety procedures, employee guidelines, security protocol, and educational training, including, but not limited to, marijuana product information, dosage and purchasing limits if applicable, or educational materials. If applicable, the employee training manual shall include a responsible operations plan as specified in paragraph 3 of this subsection;
  3. Keep a responsible operations plan which shall include a detailed explanation of how employees will monitor and prevent underage access to the establishment, the illegal sale or distribution of marijuana or marijuana products within the establishment, and any other potential criminal activity on the premises, as applicable;
  4. Establish point of sale or transfer procedures for employees. The point of sale or transfer procedures must include, but are not limited to, training in dosage, marijuana product information, health or educational materials, point of sale training, purchasing limits, CBD and THC information, serving size, and consumption information including any warnings; and
  5. A Licensee shall ensure that employees handle marijuana product in compliance with the standards set by the Commission.
- (b) Prior to beginning employment with the Licensee an employee must:
- (c) Complete a criminal and financial history report on the form provided by the Commission and submit the form to the Commission.
- (d) Disclose any licenses or business interests relating to marijuana that the employee currently holds in any jurisdiction.
- (e) Submit a sworn statement that the employee:
7. Will submit to the jurisdiction of the Band and the Commission;
  8. Will abide by all applicable Tribal laws, regulations and policies;



9. Does not currently, and shall not have any relationship with any individual involved in an illegal drug market;
  10. Consents to any criminal and financial background investigation conducted by the Commission under this Ordinance;
  11. Consents to the Commission sharing the employee's information with any tribal, state, local, or federal agency for the purposes of enforcing compliance with this Ordinance and the laws of other jurisdictions; and
  12. Consents to provide and comply with any request for additional information, documentation, statements, attestations, or disclosures by the Commission to the extent such requests are required by law.
- (f) Provide any additional information, disclosure, statement, attestation, or other form requested by the Commission.
- (c) An employee shall not begin employment with the Licensee until he or she submit all required materials to the Commission and receives approval by the Commission to begin employment.

### **§1302 Transporters**

- (a) A Licensee must register each employee that the Licensee intends to authorize to transport marijuana or marijuana product as a "transporter" with the Commission.
- (b) The Licensee shall provide the following information for each transporter:
1. Name;
  2. Date of birth;
  3. Copy of a state-issued driver's license; and
  4. Any other information required by the Commission.

## **Subchapter 14- Taxation**

### **§1401 Taxation**

- (a) The Commission shall collect applicable taxes for all activities, entities, or licenses regulated by the Commission in compliance with this Ordinance, the 2004 Tax Agreement and amendments thereto between the Band and the State, any other binding Agreement between the State and the Band related to the growth, processing, sale, transport, or testing of marijuana products, or the GTBC.

- (b) The Commission shall remit to the Band all sales or other taxes required by Tribal law or Agreement between the State and Band to be shared with the State in accordance with the 2004 Tax Agreement or other agreement related to the growth, processing, sale, transport, or testing of marijuana products.