

Lower Sioux Indian Community in the State of Minnesota
Cannabis Regulatory Ordinance

Chapter 1. General Provisions

Section 1.1. Purpose and Scope.

- A. This Ordinance regulates matters relating to cannabis, including but not limited to, the use, possession, cultivation, production, sale, and transport of cannabis products within the Community's Indian country.
- B. This Ordinance consolidates all regulatory responsibility related to cannabis in the Cannabis Regulatory Commission, an agency of the Community, in order to further the economic development and health, safety, and welfare goals of the Community.
- C. This Ordinance applies to the Community, Community members, Community businesses operating within the Community's Indian country, and visitors to the Community's Indian country who voluntarily consent to the jurisdiction of the Community by affirmative actions that establish such consent, including by patronizing a business regulated under this Ordinance.
- D. Nothing in this Ordinance shall be or be deemed to be a waiver of the Community's sovereign immunity.

Section 1.2. Definitions

- A. "Adult Use Cannabis Product" means marijuana flower, concentrate, and edibles that are cultivated, produced, distributed, and sold in compliance with this Ordinance. This includes Adult Use Cannabis Products that are acquired from a state licensed cannabis business or a cannabis business licensed by another Indian tribe in compliance with this Ordinance.
- B. "Adult Use Cannabis Flower" means the harvested flower, bud, leaves, and stems of a marijuana plant that is cultivated, processed, distributed, and sold in compliance with this Ordinance. This includes Adult Use Cannabis Flower that is acquired from a state licensed cannabis business or a cannabis business licensed by another Indian tribe. This also includes flowers, buds, leaves, and stems that have been packaged (including rolled in cigarette paper for ingestion by smoking ("preroll")) and prepared for use by cultivators, processors, and retailers licensed by the Community, a state, or other Indian tribe.
- C. "Adult Use Cannabis Edible" means any product that is intended to be eaten or consumed as a beverage by humans and contains Adult Use Cannabis Concentrate in combination with food ingredients that is produced, distributed, and sold in compliance with this Ordinance. This includes adult use cannabis edibles that are acquired from a state licensed cannabis business or a cannabis business licensed by another Indian tribe.
- D. "Adult Use Cannabis Concentrate" means: (1) the extracts and resins of a marijuana plant or flower; (2) the extracts or resins of a marijuana plant or flower that are refined to increase the presence of targeted cannabinoids; or (3) a product

that is produced by refining extracts or resins of a marijuana plant or flower and is intended to be consumed by combustion or vaporization of the product and inhalation of smoke, aerosol, or vapor from the product, and is produced, distributed, and sold in compliance with this Ordinance. This includes Adult Use Cannabis Concentrates that are acquired from a state licensed cannabis business or a cannabis business licensed by another Indian tribe.

- E. Cannabis Paraphernalia” means all equipment, products, and materials of any kind that are knowingly or intentionally used primarily in: (1) manufacturing or packaging Adult Use Cannabis Products; (2) ingesting, inhaling, or otherwise introducing Adult Use Cannabis Products into the human body; and (3) testing the strength, effectiveness, or purity of Adult Use Cannabis Products.
- F. “Hemp” means the plant Cannabis Sativa L. and any part of the plant, whether growing or not, including the plant's seeds, and all the plant's derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.
- G. "Marijuana" means all parts of the plant of any species of the genus cannabis, including all agronomical varieties, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. Marijuana does not include Hemp.
- H. “Immature Plant” means a female Hemp or Marijuana plant that has not flowered and does not have buds.
- I. “Mature Plant” means a Hemp or Marijuana plant that has flowered or has buds.

Section 1.3. Hemp Products.

The Hemp Code shall continue to apply to and govern the growing, brokering, handling, storage, processing, transportation, and marketing of Hemp. The Cannabis Regulatory Commission may promulgate regulations that are consistent with the Hemp Code and specific to the production and sale of Hemp products (including Hemp products that contain THC-acid (THC-A)), and in the absence of such regulations, the Community, its enterprises, or members may produce and sell Hemp products in compliance with the Hemp Code and applicable State law. The quantity limitations in Section 3.1.A in this Ordinance do not apply to hemp products.

Chapter 2. Cannabis Regulatory Commission

Section 2.1. Establishment; Purpose; Delegation of Authority.

- A. Establishment and Purpose.

- (i) The Cannabis Regulatory Commission (“Commission” or “Cannabis Commission”) is established as the civil regulatory agency of the Community having oversight of all cannabis related matters within the Community’s jurisdiction (except as provided in 2.1.B below or otherwise retained by Council), through Compact, Ordinance, Community Council Resolution, or otherwise. The Commission is an instrumentality of the Community government, sharing the Community’s sovereign immunity, and nothing in this Ordinance shall be or be deemed to be a waiver of the Commission’s sovereign immunity.
- (ii) The Commission comprises a Commission Director (“Director”) and a Board of Commissioners (“Board”). The Commission Director is the principal regulatory officer. The Board advises the Director, and as provided in this section, reviews, and approves or denies, recommendations by the Director for Commission actions.

B. Enforcement of Individual Use and Possession Provisions.

The Commission is not responsible for regulation of individual use, possession, and cultivation of marijuana, or for enforcement of such provisions in this Ordinance.

C. Delegation of Authority.

Subject to the retained authority provided in Section 2.1.D, the Community Council delegates to the Commission the following authority to:

- (i) promulgate regulations with respect to the provisions of this Ordinance, and to amend and repeal such regulations;
- (ii) hire staff or agents, delegate powers to such staff or agents, and to oversee such staff and agents;
- (iii) impose and administer fees and taxes on entities licensed under this Ordinance;
- (iv) sue in the Community Courts for civil regulatory violations of this Ordinance;
- (v) issue, suspend, and revoke licenses as provided in this Ordinance or regulations issued under this Ordinance;
- (vi) audit, inspect, and monitor entities licensed under this Ordinance in order to ensure compliance with this Ordinance and to assess the effectiveness of this Ordinance and regulations enacted under this Ordinance;
- (vii) investigate and aid in the prosecution of any suspicion of wrongdoing relating to cannabis activities and any suspected violation of this Ordinance, cooperate with law enforcement and regulators, and cooperate in the prosecution of offenders before any court of competent jurisdiction;
- (viii) enforce the requirements of this Ordinance and any Cannabis Commission regulations;
- (ix) exercise all powers incidental, convenient, or necessary to enable it to administer or carry out any of the provisions of this Ordinance;
- (x) carry out any other regulatory duties with respect to cannabis and cannabis activities as the Community Council shall direct.

D. Retained Authority of Community Council

No regulation, tax or fee, or license approved by the Commission shall be effective until adopted by the Community Council by resolution, or other adoption document signed by three Community Council members. The Commission shall submit any proposal to issue or repeal a regulation, issue or repeal a tax or fee, or to issue a license, to the Community Council Secretary. The proposed action shall become effective upon adoption by the Community Council, unless the proposal provides for a later effective date. In the absence of affirmative approval or veto by the Community Council, a proposed action shall be deemed denied sixty days after the date it was received by the Community Council from the Commission, without prejudice to resubmission by the Commission.

Section 2.2. Commission Director.

A. Appointment.

The Director shall be appointed by resolution of the Community Council. If the Director is removed, resigns, or retires, the Board of Commissioners shall appoint an alternative to take his/her place until such time as the Community Council can appoint a new Director.

B. Duties.

- (i) The Director shall develop and propose rules and regulations governing cannabis activities and operations licensed by the Community for review and approval by the Board.
- (ii) The Director may be present at any cannabis operation licensed under this Ordinance during all hours of operation and shall have immediate access to any and all areas of the cannabis operation for the purpose of ensuring compliance with the regulatory provisions of this Ordinance.
- (iii) The Director shall investigate reports of potential violations of this Ordinance and provide recommendations regarding enforcement actions to the Board.
- (iv) The Director shall review license applications and provide recommendations to the Board to grant or deny such applications.

Any authority expressly reserved to the Director may be delegated by the Director to Commission personnel under the Director's authority. The Director shall supervise other Commission employees in carrying out the purposes and provisions of this Ordinance.

Section 2.3. Board of Commissioners.

A. Appointment.

- (i) The Board shall consist of three (3) members, appointed by resolution of the Community Council.
- (ii) The Board members, following appointment, shall designate amongst themselves a Chair, Vice-Chair, and Secretary. The Chair shall preside over meetings of the Cannabis Commission and the Vice-Chair shall preside in absence of the Chair. The Secretary shall record in writing the minutes of all Cannabis meetings and all official actions taken by the Cannabis Commission.

B. Duties.

The Board shall supervise the activities of the Director and other Commission employees in carrying out the purposes and provisions of this Ordinance. The Board shall review

recommendations regarding enforcement actions, licensure decisions, and proposed rules and regulations submitted by the Director and approve, disprove, or modify the recommendations. The Commission may hire other employees as deemed necessary to carry out the purposes and provisions of this Ordinance.

Section 2.4. Director and Board Term, Qualifications, and Removal.

A. Term of Office.

Board members shall serve three-year terms, subject to the provisions in this subsection governing the initial terms of office. The initial term of the Board members shall be as follows: (i) one (1) member of the Board shall be appointed to a 2 year term; (ii) two (2) members of the Board and the Director shall be appointed to a three (3) year term. Following the first terms of office; all Board members shall serve for a three (3) year term, unless they resign or removed under this Ordinance.

B. Qualifications and Eligibility.

- (i) The following individuals may not serve as Board member or Director: members of the Community Council or Gaming Commission; members of the board of directors of any licensee or Community-owned enterprise that engages in any cannabis activity; employees of any licensee or Community-owned enterprise that engages in any cannabis activity; and, any employee in a management or supervisory position with the gaming enterprise.
- (ii) The Commission Director and Board members must pass a background check showing that they have not been convicted of a crime involving violence, fraud, felony theft, embezzlement, bribery or kickbacks, conversion, or, in the ten years preceding the application, of drug crimes (other than marijuana possession).
- (iii) Board members and the Commission Director must be age 21 years or older.
- (iv) At least one Board member must be an enrolled, qualified member of the Community residing within the State of Minnesota.

C. Waiver

A candidate not eligible to serve as a Commission Director or Board member under Section 2.4.B(ii) may apply to the Community Council for a waiver, which may be granted upon a showing that the applicant has taken responsibility for the past misconduct and is rehabilitated.

D. Removal

Cannabis Commissioners may only be removed from office before the expiration of their term of office by resolution of the Community Council for neglect of duty, malfeasance, misfeasance, nonfeasance, or other good cause shown, subject to providing the accused Commissioner at least ten (10) days' notice, opportunity to respond, and for a hearing before Community Council before such removal resolution is enacted. The Community Council may suspend the Commissioner during the notice period.

Section 2.5. Commission Employees and Agents.

The Director and Board may hire employees and agents as deemed necessary to facilitate the Commission's operation.

Section 2.6. Budget

On or before August 15 of each year, the Cannabis Commission shall provide to the Community Council a proposed budget and budget justification for the following fiscal year.

Section 2.7. Compensation

The Compensation of the Commission Director and Board of Commissioners shall be established by resolution of the Community Council.

Section 2.8. Meetings; Actions of the Commission.

A. Meetings.

- (i) The Board shall meet as frequently as necessary to discharge their duties, but in no case less frequently than once a quarter at a time and date to be determined by the Cannabis Commissioners.
- (ii) The Director or a Board member may call a special meeting of the Commission. Notice of special meetings shall be by email. Any or all of the Commission members may participate in any meeting by, or conduct the meeting through, use of any means of communication by which all individuals participating may simultaneously hear each other during the meeting.

B. Quorum

The Director and two (2) Board members shall constitute a quorum of the Cannabis Commission.

C. Commission Actions

Except with respect to carrying out duties expressly reserved to the authority and discretion of the Commission Director, or as otherwise provided in this Ordinance under Sections 4.5 and 4.6, actions of the Commission shall be undertaken as follows:

- (i) The Director shall submit recommended actions to the Board of Commissioners for approval.
- (ii) The Board shall consider the Director's recommendation and may approve it by an affirmative vote of at least two (2) Cannabis Commissioners.
- (iii) The Board may confer with the Director and approve a recommendation of the Director subject to modifications or conditions determined by the Board.
- (iv) Approval by the Board of the Director's recommendation constitutes an official act of the Commission, subject to submission to Council adoption under Section 2.1.D.
- (v) If the Board does not approve a recommendation of the Director, then such recommendation shall not be an act of the Commission.

D. Authority of Director When Board of Commissioners Not Constituted

Notwithstanding any other provision of this Ordinance, in the event there is a duly appointed and serving Director, but fewer than 2 duly appointed and serving Board members, then the Director shall be empowered, and have the sole authority, to exercise any and all powers of the Commission, until such time as there are 2 or more duly appointed and serving Board members. Any action by the Director under this provision shall be an action of the Commission under Section 2.8.C.

Section 2.9. Reports

Within 30 days of the end of each fiscal quarter, except the final fiscal quarter, the Commission shall provide to the Community Council a quarterly report summarizing its activities during the prior fiscal quarter and accounting for all receipts and disbursements. This annual report shall identify, without limitation, all licenses that the Cannabis Commission issued, suspended, or revoked; all license applications that the Cannabis Commission denied; all fees that the Cannabis Commission collected; all enforcement actions that the Cannabis Commission commenced; all sanctions that the Cannabis Commission imposed; and all dates on which any Cannabis Commission staff engaged in investigation of a licensee and the nature of the investigation. The Cannabis Commission may provide the Community Council with additional reports on a more frequent basis as the Cannabis Commission concludes is necessary and appropriate.

The quarterly report for the final fiscal quarter shall be provided to the Community Council within 60 days of the end of the fiscal year. In addition to the material otherwise required for the quarterly report, the final fiscal quarter report shall include a summary of such information for the complete fiscal year.

Chapter 3. Adult Possession and Use

Section 3.1. Possession by Adults Permitted.

- A. Adults age 21 years or older may:
- (i) possess or transport two (2) ounces or less of Adult Use Cannabis Flower in a public place;
 - (ii) possess two (2) pounds or less of Adult Use Cannabis Flower in the individual's private residence;
 - (iii) possess or transport eight (8) grams or less of Adult Use Cannabis Concentrate;
 - (iv) possess or transport Adult Use Cannabis Edible products with a combined total of 800 milligrams or less of tetrahydrocannabinol;
 - (v) use, possess, or transport cannabis paraphernalia.

- B. Circumstances in which Restrictions on Possession Permitted.

Notwithstanding the foregoing Section 3.1.A, adults may not possess cannabis in any location where cannabis possession is prohibited by the Community Council or a Community agency, and notice of such prohibition is posted or otherwise provided to persons subject to such prohibition.

Section 3.2. Adult Use Permitted.

- A. Subject to the limitations in Section 3.2.B, adults age 21 years or older may use Adult Use Cannabis Products in the following locations:
- (i) a private residence, including the individual's curtilage or yard;
 - (ii) on private property that is not generally accessible by the public, unless the individual is explicitly prohibited from consuming cannabis products on the property by the owner of the property;
 - (iii) on the premises of an establishment or event licensed to permit on-site consumption;

(iv) in public outdoor spaces.

B. An individual may not:

(i) use Adult Use Cannabis Products in a motor vehicle;

(ii) use Adult Use Cannabis Products in any Community government building;

(iii) use Adult Use Cannabis Products in a manner that involves the inhalation of smoke, aerosol, or vapor at any location where smoking is prohibited by law, regulation, or policy of the location, or in any location where the smoke, aerosol, or vapor could be inhaled by a minor;

(iv) use Adult Use Cannabis Products in any location where cannabis use is prohibited by the owner, manager, or other entity with authority over the location, and notice of such prohibition is posted or otherwise provided to persons subject to such prohibition;

(v) operate a motor vehicle or watercraft while under the influence of cannabis.

Section 3.3. Home Cultivation Permitted.

A. Cultivation Limits.

Up to eight cannabis plants, with no more than four being mature, flowering plants may be grown at a single residence, including the curtilage or yard, without a license to cultivate cannabis issued under this Chapter, provided that cultivation takes place at the primary residence of an individual 21 years of age or older and in an enclosed, locked space that is not open to public view.

B. Exception to the Possession Limits.

An adult age 21 years or older may lawfully possess in their residence all Adult Use Cannabis Flower cultivated in compliance with this Section, notwithstanding the limitations that would otherwise apply to possession in a residence.

Chapter 4. Licensing

Section 4.1. General Provisions.

A. Eligibility

The Commission may, subject to Community Council approval under Section 2.1.D, issue licenses to the Community and entities owned by the Community that are established under Community law.

An entity is owned by the Community for purposes of this Section if the Community (i) holds more than 50% of the total shares, membership, partnership, or similar ownership interest; or (ii) the Community and one or more other Indian tribe(s) collectively hold more than 50% of the total shares, membership, partnership, or similar ownership interest. The Community and, if applicable, other Indian tribe(s) may hold such interest directly or indirectly, through one or more other wholly-owned entities.

B. Term of License

A license issued under this Ordinance shall have a term of two years. The Commission shall establish by regulation the rules and procedures for renewal of a license.

C. Amendment of License Conditions

A license may permit the licensee to amend its operating procedures, and the Commission may impose advance notice or approval requirements on any such amendments, or on categories of amendment.

D. Grounds for Denial of Application by Commission

- (i) The Commission must deny any license application that:
 - a. is incomplete;
 - b. does not adequately provide for the safety and security of the business or surrounding Community;
 - c. does not adequately provide for compliance with this Ordinance or any applicable regulations;
- (ii) The Commission may deny any license application upon the Commission's determination that denial is in the best interest of the Community.

E. Effect of Denial of Application by Commission.

A denial by the Commission of a license application is final, and the applicant shall not have a right of appeal to the Community Council, Community Court, or any other body. Notwithstanding the foregoing provisions, the Commission shall, if it determines that the application deficiencies causing denial may be curable, make a good faith effort to explain the basis for denial and allow the applicant to submit a new or amended application, provided that no applicant may submit more than two applications in any 90-day period.

Section 4.2. Application for Cannabis Business License

A. Application Requirements

All applicants for a Cannabis Business License must submit the following information:

- (i) identification of directors (or equivalent office as applicable to the legal entity) and management employees;
- (ii) identify the license category or categories and any endorsements sought by the applicant;
- (iii) address and legal property description of the business;
 - a. The property description shall include information regarding proximity of the property to schools, government buildings, and residential areas;
- (iv) operating procedures (including the plans for compliance with inventory, safety testing, and security standards) applicable to the license category sought;
- (v) to the extent not included in (iii) and (iv):
 - a. a general description of the location or locations that the applicant plans to operate, including the planned square feet of planned space for cultivation, wholesaling, and retailing, as applicable;
 - b. a copy of the applicant's business plan showing the expected size of the business; anticipated growth; the methods of record keeping; the knowledge and experience

of the applicant and any officer, director, manager, and general partner of the business; the environmental plan; and other relevant financial and operational components;

- (vi) certification that the applicant will comply with the requirements of this Chapter relating to the ownership and operation of a cannabis business;
- (vii) identification of one or more controlling persons or managerial employees as agents who shall be responsible for dealing with the Commission on all matters; and,
- (viii) any other information that the Commission may require.

B. Fees

The Commission shall establish by rule the fees for applications and licenses under this Ordinance.

C. Background Check.

The Directors (or equivalent office as applicable to the legal entity) must pass a background check showing that they have not been convicted of a crime involving violence, fraud, felony theft, embezzlement, bribery or kickbacks, conversion, or, in the ten years preceding the application, of drug crimes (other than marijuana possession). Such individual may apply to the Commission for a waiver, which may be granted subject to Community Council approval under Section 2.1.D upon a showing that the applicant has taken responsibility for the past misconduct and is rehabilitated.

Section 4.3. Cannabis Business Licenses

A. The Commission may issue licenses for the following categories of cannabis business:

- (i) cultivation
- (ii) production and processing
- (iii) retail
- (iv) wholesale/distribution
- (v) transport
- (vi) on-site consumption
- (vii) event and temporary licenses
- (viii) Hemp-derived products – processing, distribution, and retail

B. Combination License.

The Commission may issue a single license with endorsements to operate any combination of the cannabis business categories provided in this Chapter.

C. Employee Licenses.

Before commencing employment in any cannabis business licensed under this Section, a person must obtain an Employee License. The Employee License application, fees, and process shall be established by the Commission, subject to the following minimum standards. To qualify for an Employee License, an applicant must:

- (i) pass a background check showing that they have not been convicted of a crime involving violence, fraud, felony theft, embezzlement, bribery or kickbacks, conversion, or, in the ten years preceding the application, of drug crimes (other than marijuana possession);
- (ii) certify that they will comply with this Ordinance and the license conditions of their employer;
- (iii) certify that they will comply with any other conditions that the Commission may impose; and,
- (iv) certify that they will comply with applicable laws of the Community and State.

D. Waivers of Employment Conditions.

An applicant not eligible for an Employee License under Section 4.2.C(i) may apply to the Commission for a waiver, which may be granted subject to Community Council approval under Section 2.1.D upon a showing that the applicant has taken responsibility for the past misconduct and is rehabilitated.

Section 4.4. Reciprocity for Tribal and State Licensees

A. Tribal Licensees.

A person holding, or operating under, a valid cannabis business license issued by an Indian tribe within the State may, subject to the Commission’s determination that the licensing procedures and conditions of the Indian tribe are adequate to ensure the safety and security of the cannabis business, engage in cannabis commerce with a business licensed under this Ordinance to the extent permitted under the issuing tribe’s license conditions without obtaining any additional license from the Community.

B. State Licensees.

A person holding, or operating under, a valid cannabis business license issued by the State of Minnesota may, subject to the Commission’s determination that the licensing procedures and conditions of the State are adequate to ensure the safety and security of the cannabis business, engage in cannabis commerce with a business licensed under this Ordinance to the extent permitted under a compact that is in effect between the Community and State without obtaining any additional license from the Community.

C. Notice of Reciprocity Findings.

The Commission shall provide notice to licensees under this Ordinance regarding any determinations that the licensing procedures and conditions of another Indian tribe or the State are adequate to ensure the safety and security of the cannabis business and that such licensees are permitted to engage in cannabis commerce with a business licensed under this Ordinance.

Section 4.5. Suspension, Revocation, and Other Enforcement Actions

A. Grounds for Enforcement Actions.

A license issued under this Ordinance may be suspended or revoked if the licensee, its employees, or agents:

- (i) violate of any provision of this Ordinance, any Cannabis Commission regulation, or license condition;

- (ii) make any false representation or statement to the Cannabis Commission;
- (iii) fail to submit any information or report to the Cannabis Commission or maintain any records that are required by this Ordinance, the Cannabis Commission regulations, the licensee's license, or that are necessary for Cannabis Commission staff to perform its duties;
- (iv) maintain any licensed premises in unhealthy, unsafe, insanitary, or insecure condition;
- (v) fail to maintain adequate security protocols to prevent the theft or other loss of cannabis items in the licensee's possession;
- (vi) misrepresent to any person the condition, quality, or content of any cannabis item in the possession of or transferred by the licensee;
- (vii) obstruct or impede the performance of the duties of the Cannabis Commission; or
- (viii) become ineligible to hold a license due to a change in circumstances such that the licensee or permittee has failed to meet the minimum requirements for a license.

B. Commencement of Enforcement Action

- (i) An enforcement action is commenced by the Director, or Commission agent, by submitting, in writing, an initiating report to the Cannabis Commission.
- (ii) The initiating report shall: (i) set forth allegations of the grounds for the enforcement action against the licensee who is the subject of the enforcement action with sufficient particularity such that the licensee has the ability to identify the grounds for the enforcement action and respond to the allegations; (ii) identify the evidence and information that are the grounds for determining that an enforcement action is justified; and (iii) identify the sanction or sanctions that are appropriate in light of the allegations against the licensee.

C. Notice of Enforcement Action

- (i) After receiving the initiating report, the Cannabis Commission shall provide written notice to the licensee of the enforcement action, which notice shall include the allegations and any sanctions proposed in the initiating report.
- (ii) The notice of enforcement action shall explain that the licensee has the right to respond to the allegations of the initiating report and shall identify the process that the licensee must follow to do so, including any fee that the licensee must pay.
- (iii) The notice must permit the licensee not less than ten (10) days to respond to the notice.

D. Hearing

- (i) Scheduling. If the licensee timely responds to the notice to challenge the allegations of and any sanctions proposed in the initiating report and pays any fee that the Cannabis Commission may establish for filing such a response, then the Cannabis Commission shall schedule a hearing, which hearing shall be held within thirty (30) days of the Cannabis Commission receiving the response from the licensee or permittee. The Cannabis

Commission shall provide the licensee with not less than ten (10) days written notice of the date and time when the hearing will be held.

- (ii) Prosecution. The Director or Commission agent who initiated the enforcement action may prosecute it at the hearing, or the Commission may appoint another Community official to conduct such prosecution. A Commissioner who conducts a prosecution shall not take part in the Commission's decision on the enforcement action.
- (iii) Procedure. The Commission may establish procedural rules for hearing by regulation or resolution, provided that such procedures give the subject of the enforcement action a fair opportunity to be represented by counsel, rebut the allegations against them, and present legal arguments and evidence.
- (iv) Evidence. At the hearing, the prosecuting official and any person who is the subject of the hearing shall have the right to subpoena evidence, compel witness attendance, and present relevant oral and written evidence.
- (v) Legal Standard for Commission Decisions. The Commission shall weigh the evidence, testimony, and exhibits and make its decision on the basis of a preponderance of the evidence and credibility of the witnesses.
- (vi) Issuance of Decision. The Cannabis Commission's decision shall be issued in writing within thirty (30) days of the hearing, and the decision shall include a statement of facts and a statement of legal authority on which the decision is based. Each decision shall be delivered to the party for whom the hearing was held and shall include information and instructions for appealing the decision.

E. Default

If the party who is the subject of the enforcement action does not respond to the notice, then the Commission may accept as true any allegations contained in the initiating report. It may then decide either to impose a sanction on the licensee based solely on the information presented in the initiating report, or to request or compel the submission of additional information and evidence to the Cannabis Commission, based on which the Cannabis Commission may decide whether to impose a sanction. The Cannabis Commission shall issue its decision in writing without unreasonable delay.

F. Sanctions

The Cannabis Commission has authority to impose any sanction or sanctions that it concludes are necessary and appropriate to punish wrongdoing, deter further violations of this Ordinance and the Cannabis Commission regulations, and protect the integrity of the regulatory system. Sanctions that the Cannabis Commission may impose include but are not limited to:

- (i) barring a licensee or certain of its employees or agents from accessing premises to which a license is appurtenant;
- (ii) suspension or revocation of a license;
- (iii) imposition of a fine; and
- (iv) requiring the licensee or employees of the licensee who are the subject of the enforcement action to complete a remedial action, such as completion of educational or training courses,

remediating an out-of-compliance condition on the licensed premises, or submission of reports or other information to the Cannabis Commission.

G. Appeal

- (i) Any decision of the Commission with respect to any applicant or licensee, except as otherwise provided in Section 4.1.E, may be appealed to the Community Court. Any such appeal must be filed within thirty (30) days after the decision of the Cannabis Commission is issued, unless a different time frame is otherwise specified or required by applicable Cannabis Commission regulations. After the filing of a notice of appeal, the Cannabis Commission shall prepare and submit to the Community Court within fifteen (15) days the administrative record of the relevant Cannabis Commission hearing.
- (ii) The parties to the appeal, the person appealing the decision of the Cannabis Commission and the respondent Cannabis Commission, shall have the opportunity to submit written arguments on the issues presented by the appeal and, at the discretion of the Community Court, participate in hearing or oral argument before the Community Court.
- (iii) The Community Court shall review the Cannabis Commission’s decisions de novo on questions of law and for clear error on questions of fact. The Community Court is authorized to reverse a decision made by the Cannabis Commission only where the Community Court finds that: (a) the Cannabis Commission’s decision was unreasonable, arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable law; (b) the Cannabis Commission exceeded its jurisdiction, authority, or limitations under applicable Community law; or (c) the Cannabis Commission’s decision is unsupported by substantial evidence or unwarranted by the facts presented, either orally or substantively.
- (iv) The Community Court’s rulings shall be subject to further appeal on the same basis as any other civil action in Community Court.

Section 4.6. Emergency Enforcement Actions

- A. A Commissioner, or authorized Commission agent, may, upon finding reason to believe that a licensee or employee of a licensee has engaged in conduct that would be grounds for sanction and which presents an imminent threat to the safety of the Community, suspend a license without notice or hearing for up to 72 hours.
- B. The Commission may authorize the extension of a suspension issued under 4.6(A) until completion of the hearing process, or satisfaction of conditions imposed by the Commission.

Chapter 5. Permitted Products and Safety Testing Requirements

Section 5.1. Permitted Products.

A cannabis business licensed under this Ordinance may, as applicable under its license category and license conditions, and in compliance with this Ordinance: cultivate, produce, distribute, transport, sell, purchase, or possess Adult Use Cannabis Flower, Adult Use Cannabis Products, Adult Use Cannabis Edibles, and Adult Use Cannabis Concentrate.

Section 5.2. Testing

A. Testing Required.

Adult Use Cannabis Products may only be sold at retail if a representative sample of each batch of cannabis products has been tested in compliance with this Section and meets the safety standards of this Chapter and any rules or regulations adopted under this Ordinance.

B. Testing Standards.

The following standards apply to safety testing:

- (i) Testing must be completed by a cannabis testing facility approved by the Commission or licensed by the State.
- (ii) The tested sample from each plant or product batch must be selected according to procedures approved by the Commission.
- (iii) Testing must be sufficient to determine the cannabinoid profile of the tested product and that the product contains no more than trace amounts (as determined under Section 5.2.C) of residual solvents, foreign material, microbiological contaminants, heavy metals, pesticide residue, and mycotoxins.

C. Testing for Contaminants.

The Commission shall by rule establish standards for allowable levels of contaminants in cannabis flower, cannabis products, artificially derived cannabinoids, lower-potency hemp edibles, or hemp-derived consumer products, and growing media.

Section 5.3. Dose or Serving Limits; Product Approval

A. Package and Serving Rules.

The Commission shall by rule establish standards setting the maximum THC content per serving of an Adult Use Cannabis Products and the number of servings per package, provided that such limits do not exceed 500 mg THC per package and 50 mg THC per serving.

B. Product Approval.

A licensee must obtain Commission approval for each type of Adult Use Cannabis Flower, Adult Use Cannabis Product, Adult Use Cannabis Edible, or Adult Use Cannabis Concentrate that it intends to manufacture or sell. The Commission shall by rule establish standards and procedures to apply for such approval, may provide by rule pre-approval of certain product types or descriptions, and may grant reciprocity approval to product types approved for sale by State regulators.

Chapter 6. Retail Packaging

Section 6.1. Packaging Requirements.

A. Retail Packaging – Adult Use Cannabis Flower, Adult Use Cannabis Products, Adult Use Cannabis Concentrate, and Adult Use Cannabis Edibles (other than Beverages)

Except as provided in subsection B, all Adult Use Cannabis Products sold to retail customers must be: prepackaged in packaging or a container that is child-resistant, tamper-evident, and opaque; or

placed at the point of sale in packaging or a container that is plain, child-resistant, tamper-evident, and opaque.

B. Retail Packaging – Adult Use Cannabis Edibles (Beverages).

The Commission may establish by rule alternative packaging requirements for Adult Use Edible Edibles intended to be consumed as a beverage.

Section 6.2. Labeling Requirements.

A. Adult Use Cannabis Flower.

All Adult Use Cannabis Flower sold to retail customers must have affixed on the packaging or container of the cannabis flower a label that contains at least the following information:

- (i) the net weight or volume of cannabis flower in the package or container;
- (ii) the batch number;
- (iii) the cannabinoid profile;
- (iv) a symbol approved by the Commission indicating that the package or container contains cannabis;
- (v) verification that the cannabis flower or hemp plant part was tested in compliance with this Ordinance and that the cannabis flower or hemp plant part complies with the applicable standards;
- (vi) the following statement: "Keep this product out of reach of children and pets."; and
- (vii) any other statements or information required by the Commission.

B. Adult Use Cannabis Concentrate and Edibles.

All Adult Use Cannabis Concentrates and Adult Use Cannabis Edibles (including beverages) sold to retail customers must have affixed on the packaging or container of the cannabis product a label that contains at least the following information:

- (i) the name and license number of the cannabis business that manufactured the cannabis concentrate, and, if different, the name and license number of the cannabis business that manufactured the product;
- (ii) the net weight or volume of the cannabis product in the package or container;
- (iii) the type of cannabis product;
- (iv) the batch number;
- (v) the serving size;
- (vi) the cannabinoid profile per serving and in total;
- (vii) a list of ingredients;
- (viii) a symbol approved by the Commission indicating that the package or container contains cannabis;
- (ix) a warning symbol approved by the Commission that:
 - a. is at least three-quarters of an inch tall and six-tenths of an inch wide;
 - b. is in a highly visible color;

- c. includes a visual element that is commonly understood to mean a person should stop;
 - d. indicates that the product is not for children; and
 - e. includes the phone number of a poison control service;
 - (x) verification that the cannabis product was tested in compliance with this Ordinance and that the cannabis product complies with the applicable standards;
 - (xi) the following statement: "Keep this product out of reach of children and pets."; and
 - (xii) any other statements or information required by the Commission.
- C. Hemp-Derived Products.

Hemp-derived products are subject to the requirements of this Chapter, except that the Commission may by rule establish alternative labeling requirements for Hemp-derived edibles, provided that those requirements provide consumers with information that is substantially similar to the information described in Section 6.2.A.

Chapter 7. Commercial Cultivation

Section 7.1. Permitted Activities.

- A. A cultivation facility may grow cannabis plants from seed or Immature Plant to Mature Plant, harvest cannabis flower from a Mature Plant, package and label Immature Plants and seedlings and cannabis flower for sale to other cannabis businesses, and perform other actions approved by the Commission.
- B. A cannabis cultivator that cultivates cannabis at an indoor facility may cultivate up to 100,000 square feet of plant canopy, and the Commission may increase the plant canopy limits by rule or license endorsement.
- C. A cultivation facility may acquire cannabis seed. It may also acquire Mature or Immature Plants from cannabis businesses licensed under this Ordinance, and insofar as permitted by applicable law or compact, from cannabis businesses licensed by other tribal governments or the State.
- D. A cultivation facility may acquire and use Cannabis Paraphernalia and other equipment or products that may be reasonably needed to carry out the activities permitted under its license.
- E. A cultivation facility may sell or transfer Adult Use Cannabis Flower, in bulk packaging or in packaging for retail sale that complies with Chapter 6 of this Ordinance, at wholesale to other cannabis businesses licensed under this Ordinance, and insofar as permitted by applicable law or compact, to cannabis businesses licensed by other tribal governments or the State.

Section 7.2. Facility and Operational Standards

- A. Facility Standards.

The following requirements apply to cultivation facilities:

- (i) Cultivation operations must be conducted within a structure that is kept in good repair and adequately ventilated, with odor-control measures for external venting. Outdoor cultivation

is permitted if the cultivation area is securely fenced, and cannabis plants are not visible from any publicly accessible area.

- (ii) Cultivation facilities must comply with storm-water, wastewater, and other requirements of the Community.
- (iii) Cultivation facilities must have and maintain a water supply sufficient for the operations and derived from a source that is a regulated water system. Private water supplies may be utilized if derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the facility's needs.
- (iv) Cultivation facilities must have and maintain plumbing of adequate size and design, installed and maintained to carry sufficient quantities of water and properly convey sewage and liquid disposable waste from the cultivation facility. There shall be no cross-connections between the potable and wastewater lines.
- (v) Cultivation facilities shall provide employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.
- (vi) Cultivation facilities must have and maintain hand-washing facilities that provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices. The hand-washing facilities must be located convenient to where operations are conducted that require employees to wash and/or sanitize their hands.
- (vii) Cultivation facilities must have and maintain screening or other protection against the entry of pests.

B. Operational Standards.

The following requirements apply to operations in a cultivation facility:

- (i) All cultivation operations must be conducted in a manner that does not adversely affect the health or safety of the employees, or the facility in which operations occur, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous because of the use or storage of materials, processes, products, or wastes.
- (ii) All persons working in direct contact with cannabis shall conform to hygienic practices while on duty, including but not limited to maintaining sufficient personal cleanliness.
- (iii) Any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with cannabis shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected.
- (iv) All buildings, fixtures, and other facilities shall be maintained in a safe and sanitary condition.
- (v) Cannabis shall be stored in a manner that prevents the growth of bacterial or fungal contaminants.
- (vi) Pesticide, herbicide, fertilizer, and any other chemicals used by the cultivation operation shall be identified, held, and stored in a manner that protects against contamination of cannabis, and in a manner that is in accordance with this Chapter and any applicable Community, State, or federal law, rule, or regulation.
- (vii) Cultivation operations, including the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of cannabis or cannabis

product, shall be conducted in accordance with sanitation measures adequate to ensure the safety of the employees and product.

- (viii) Waste shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests. Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination in areas where cannabis is exposed.

Section 7.3. Operating Procedures

A. Written Operating Procedures Required

Each cultivation facility shall establish written operating procedures for the cultivation of cannabis. At minimum, the operating procedures must provide for compliance with Section 7.2 and include the additional following information:

- (i) the equipment and methods employed in the cultivation of the cannabis;
- (ii) how the cultivated cannabis will be transported to a processing facility or distribution facility;
- (iii) the manner in which all pesticide and other agricultural chemicals, if any, are to be applied during its cultivation process;
- (iv) the measures taken to minimize or offset energy use from the cultivation of cannabis;
- (v) the manner in which chemicals will be stored and used at the premises;
- (vi) the type and quantity of all effluent discharged into the Community's wastewater or storm-water system;
- (vii) the hours and days of the week the cultivation facility will be open;
- (viii) the number of persons per shift who will be working at the cultivation facility;
- (ix) plans and procedures for compliance with the facility security requirements under this Ordinance;
- (x) plans and procedures for compliance with the safety testing requirements under this Ordinance;
- (xi) plans and procedures for compliance with the inventory requirements under this Ordinance; and
- (xii) any other information required by the Commission.

B. A copy of all operating procedures must be maintained at every cultivation facility.

Chapter 8. Commercial Processing

Section 8.1. Permitted Products and Activities.

- A. A processing facility may produce the following Adult Use Cannabis Concentrates:
 - (i) Water-Based Cannabis Concentrates;
 - (ii) Fat-Based Cannabis Concentrates;
 - (iii) Solvent-Based Cannabis Concentrate; and
 - (iv) Critical Fluid Extraction Cannabis Concentrates, provided the solvents used in this process only include N-Butane, Iso-Butane, Propane, Heptane, or Carbon Dioxide.
- B. A processing facility may produce Adult Use Cannabis Edibles containing the permitted concentrates.
- C. A processing facility may produce Adult Use Cannabis Products containing the permitted concentrates that are intended to be consumed by the inhalation of vapor.
- D. A processing facility may acquire and use Cannabis Paraphernalia and other equipment or products that may be reasonably needed to carry out the activities permitted under its license.
- E. A processing facility may acquire and receive Adult Use Cannabis Flower or Concentrate; make permitted products; package and label permitted products, and, transfer permitted products in bulk packaging or in packaging for retail sale that complies with Chapter 6 of this Ordinance, at wholesale to other cannabis businesses licensed under this Ordinance, and insofar as permitted by applicable law or compact, to cannabis businesses licensed by other tribal governments or the State.
- F. A processing facility may perform other actions approved by the Commission.

Section 8.2. Processing Facility Standards.

A. Processing Facility Standards

The following requirements apply to processing facilities:

- (i) Processing must be conducted within a structure that is kept in good repair and adequately ventilated, with odor-control measures for external venting.
- (ii) Processing facilities must comply with storm-water, wastewater, and other requirements of the Community.
- (iii) Processing facilities must have and maintain a water supply sufficient for the operations and derived from a source that is a regulated water system. Private water supplies may be utilized if derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the facility's needs.
- (iv) Processing facilities must have and maintain plumbing of adequate size and design, installed and maintained to carry sufficient quantities of water and properly convey sewage and liquid disposable waste from the cultivation facility. There shall be no cross-connections between the potable and wastewater lines.
- (v) Processing facilities shall provide employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.

- (vi) Processing facilities must have and maintain hand-washing facilities that provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices. The hand-washing facilities must be located convenient to where operations are conducted that require employees to wash and/or sanitize their hands.
 - (vii) The space in which any Adult Use Cannabis Concentrate is to be produced is to be a fully enclosed room and clearly designated.
 - (viii) All equipment used in the production of an Adult Use Cannabis Concentrate must be food-grade, and all counters and surface areas must be constructed in such a manner that it reduces the potential for the development of microbials and mold and can be easily cleaned.
 - (ix) The space in which Adult Use Cannabis Concentrate is produced must contain an emergency eye-wash station.
- B. Operational Standards

The following requirements apply to operations in a processing facility:

- (i) All processing operations must be conducted in a manner that does not adversely affect the health or safety of the employees, or the facility in which operations occur, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous because of the use or storage of materials, processes, products, or wastes.
- (ii) All persons working in direct contact with cannabis shall conform to hygienic practices while on duty, including but not limited to maintaining sufficient personal cleanliness.
- (iii) Any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with cannabis shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected.
- (iv) All buildings, fixtures, and other facilities shall be maintained in a safe and sanitary condition.
- (v) Cannabis shall be stored in a manner that prevents the growth of bacterial or fungal contaminants.
- (vi) All chemicals used by the processing operation shall be identified, held, and stored in a manner that protects against contamination of cannabis, and in a manner that is in accordance with this Chapter and any other applicable law, rule, or regulation.
- (vii) Processing operations shall be conducted in accordance with sanitation measures adequate to ensure the safety of the employees and product.
- (viii) Waste shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests. Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination in areas where cannabis is exposed.
- (ix) Ensure that all equipment, counters, and surfaces used in the production of an Adult Use Cannabis Concentrate are thoroughly cleaned after the completion of each production of an Adult Use Cannabis Concentrate.

- (x) For any extraction method that involves the use of solvents, pressurized gas or chemicals, or flammable materials, the processing facility must, as applicable to the extraction method:
- i. use a professional grade, closed-loop extraction system capable of recovering the solvent used;
 - ii. implement a fume hood and exhaust system;
 - iii. store flammable material in a storage-tank designed to hold flammable material that is outside of the room in which the Adult Use Cannabis Concentrates are to be produced;
 - iv. for a pressurized extraction system is utilized, ensure that every vessel in the system is rated to a minimum of nine hundred pounds per square inch;
 - v. store all flammable material used in the production in a storage-tank designed to hold flammable material and is outside of the room in which the Adult Use Cannabis Concentrates are to be produced;
 - vi. install and maintain a fire-suppression system in the room where extraction is conducted;
 - vii. install and maintain a hydro-carbon gas and carbon dioxide gas monitoring system;
 - viii. ensure that the room in which extraction is conducted is a spark-free environment;
 - ix. install and maintain an emergency shower;
 - x. ensure that all fluids used in the extraction process are food-grade and pure.

Section 8.3. Operating Procedures.

- A. Each processing facility shall establish written operating procedures for the processing of cannabis. The operating procedures must provide for compliance with Section 8.2 and include the minimum following information:
- (i) if the processing facility engages in cultivation and/or distribution operations, then all applicable provisions contained in Sections 7.2-7.3 and 9.2-9.3, respectively, of this Ordinance;
 - (ii) standard operating procedure for each method used to produce an Adult Use Cannabis Concentrate;
 - (iii) written quality control procedures designed to minimize any potential risks to employees or contamination of Adult Use Cannabis Products;
 - (iv) a standard operating procedure for each type of Adult Use Cannabis Concentrate to be produced that is designed to maximize employee safety and minimize potential contamination of products with residual solvents or microbes and mold;
 - (v) a comprehensive training manual that provides step-by-step instructions for each method used to produce an Adult Use Cannabis Concentrate. The training manual must include, but need not be limited to, all standard operating procedures, quality control procedures and safety procedures for each method of production, instructions on the appropriate use and maintenance of all equipment involved in each process, and any cleaning required to comply with all applicable sanitary rules;
 - (vi) procedures for adequate training prior to an individual engaging the production of an Adult Use Cannabis Concentrate. Adequate training must include, but need not be limited to, providing the appropriate employee or volunteer with the training manual and live, in-

person instruction detailing safety procedures for each method of production, instructions on the appropriate use and maintenance of all equipment involved in the process, and any cleaning required to maintain compliance with all applicable sanitary rules;

- (vii) procedures for maintaining clear and comprehensive records that document every phase of each step in the production of the Adult Use Cannabis Concentrate, which must include the name and license number of every employee or volunteer that worked on the production of that cannabis concentrate;
 - (viii) how the Adult Use Cannabis Concentrates will be transported from a processing facility to a distribution facility;
 - (ix) the procedure and documentation process for determining patient dosage including testing for the major active agents in the cannabis product (e.g., cannabinoids Tetrahydrocannabinol (THC), Cannabidiol (CBD) and Cannabinol (CBN)); and
 - (x) require standards for the processing of cannabis into food and other edibles by cooking, baking, infusing, or grinding sufficient to ensure that such edibles are free of contaminants and safe for human consumption.
- B. A copy of all operating procedures must be maintained at every processing facility.

Chapter 9. Retail Sale

Section 9.1. Permitted Activities.

- A. A licensed cannabis retailer may acquire for retail sale, in bulk packaging or in packaging for retail sale that complies with Chapter 6 of this Ordinance, Adult Use Cannabis Flower from a cannabis business licensed under this Ordinance, and insofar as permitted by applicable law or compact, acquired from a cannabis businesses licensed by other tribal governments or the State.
- B. A licensed cannabis retailer may acquire for retail sale, in packaging for retail sale that complies with Chapter 6 of this Ordinance, Adult Use Cannabis Products from a cannabis business licensed under this Ordinance, and insofar as permitted by applicable law or compact, acquired from a cannabis businesses licensed by other tribal governments or the State.
- C. A licensed cannabis retailer may package Adult Use Cannabis Flower for retail sale in compliance with Chapter 6 of this Ordinance.
- D. A licensed cannabis retailer may acquire and use Cannabis Paraphernalia and other equipment or products that may be reasonably needed to carry out the activities permitted under its license.
- E. A licensed cannabis retailer may acquire Cannabis Paraphernalia for retail sale.
- F. A licensed cannabis retailer may sell at retail Adult Use Cannabis Products and Paraphernalia to adults, but only if such products are packaged, labeled, and tested in compliance with this Ordinance.
- G. A licensed cannabis retailer may perform other actions approved by the Commission.
- H. A retailer may not:
 - (i) sell any Adult Use Cannabis Products to visibly intoxicated persons;

- (ii) knowingly sell any Adult Use Cannabis Products under circumstances that would permit the consumer to possess cannabis products in excess of the legal possession limits.

Section 9.2. Facility Standards

A. Facility Standards

- (i) A cannabis retail facility must have a designated retail area where customers are permitted. The retail area shall include the portion of the premises where samples of Adult Use Cannabis Flower and Adult Use Cannabis Products available for sale are displayed. All other Adult Use Cannabis Flower and Adult Use Cannabis Products in inventory must be stored in a secure storage area.
- (ii) A cannabis retail facility's designated retail area may include a drive-up window or similar structure for conducting sales to customers in motor vehicles, provided that such structure obscures any cannabis transaction from public view and such arrangement complies with Commission regulations on the safety and security measures required for conducting such sales.
- (iii) A cannabis retail facility must have a designated secured storage area or areas where Adult Use Cannabis Products, other than display sample, are stored. The secured storage area shall have ventilation, lighting, and climate control adequate to prevent mold or bacterial contamination of Adult Use Cannabis Products. The secured storage areas may not be open to the public.
- (iv) A cannabis retail facility must have a limited access area for receiving deliveries of Adult Use Cannabis Products.
- (v) A cannabis retail facility must have designated areas for handling cash transactions and equipment sufficient for securely storing cash within the facility.
- (vi) A cannabis retail facility must be maintained in a clean and sanitary condition, free from infestation by insects, rodents, or other pests.

B. Operational Standards

- (i) Transfer or sale of Adult Use Cannabis Product to retail customers may only be done in the retail area.
- (ii) Display samples are permitted in the retail area and may be opened for examination by customers.
- (iii) Drive-through sales may only be made if the customer provides a valid tribal-issued or government-issued identification and is provided with written notice of the laws prohibiting use of cannabis in a motor vehicle and driving while intoxicated.
- (iv) Deliveries must be made through the designated limited access area and may not be accepted through the public access areas.

Section 9.3. Operating Procedures

A. Each retail facility shall establish written operating procedures for the distribution of cannabis. The operating procedures must include the minimum following information:

- (i) if the retail facility engages in cultivation and/or processing operations, then all applicable provisions contained in Sections 7.2-7.3 and 8.2-8.3, respectively, of this Ordinance;

- (ii) if the retail facility packages Adult Use Cannabis Flower for retail sale, then a description of the operating procedures for such packaging that comply with Chapter 6 of this Ordinance;
 - (iii) a description of the age-verification process for consumers;
 - (iv) a description of measures implemented to prevent sale to intoxicated persons;
 - (v) internal controls and procedures for handling cash transactions;
 - (vi) a description of any consumer records acquisition and retention procedures;
 - (vii) the process for tracking cannabis quantities and inventory controls;
 - (viii) the procedure and documentation process for ensuring that all Adult Use Cannabis Flower and Adult Use Cannabis Products offered for sale comply with applicable safety, packaging, and labeling requirements.
- B. A copy of all operating procedures must be maintained at every retail facility.

Chapter 10. Transportation of Adult Use Cannabis Products

Section 10.1. Permitted Activities.

Subject to the conditions in this Chapter:

- A. A cannabis business licensed under this Ordinance may be endorsed for transportation of Adult Use Cannabis Products in compliance with this Section.
- B. A licensee may transport Adult Use Cannabis Products to and from other licensed cannabis businesses within the Community's Indian country.
- C. A licensee may transport Adult Use Cannabis Products to and from other licensed cannabis businesses located within the Indian country of another Minnesota Indian tribe, including transit through portions of the State that are not Indian country, so long as Minn. Stat. 3.9228, subd. 4(e), or equivalent authority, is in effect.
- D. A licensee may transport Adult Use Cannabis Products to and from State licensed cannabis businesses as permitted by a compact between the Community and State.
- E. A licensee may operate a storage facility for Adult Use Cannabis Products that are packaged for transport between licensed cannabis businesses.
- F. A licensee may perform other actions approved by the Commission.

Section 10.2. Equipment, Facility, and Operational Standards.

- A. Vehicles and Equipment.

Vehicles used for transportation of Adult Use Cannabis Products must:

- (i) be maintained according to industry standards for fleet vehicles and in good working order;
- (ii) not bear branding or other markings of a cannabis business;
- (iii) have a secure area for Adult Use Cannabis Products that is: (a) windowless; (b) lockable such that it cannot be accessed from the outside or by vehicle occupants; (c) climate controlled as necessary to ensure the good condition of Adult Use Cannabis Products in transit.
- (iv) have an alarm system and GPS tracking that can be remotely monitored.

- B. Storage Facilities.

Storage facilities must:

- (i) be secured and not open to the public;
- (ii) be within a structure that is kept in good repair and adequately ventilated, with odor-control measures for external venting;
- (iii) have designated areas for loading and unloading Adult Use Cannabis Products that are obstructed from public view or access;
- (iv) have ventilation, lighting, and climate control adequate to prevent mold or bacterial contamination of Adult Use Cannabis Products;
- (v) be maintained in a clean and sanitary condition, free from infestation by insects, rodents, or other pests; and
- (vi) not bear any exterior signage, or similar indicia, of cannabis business operations.

C. Transport Procedures.

- (i) Delivery and pick-up trips shall be scheduled to avoid any discernible pattern in route, sequence of stops, and time of pick-up or delivery.
- (ii) A copy of the transport license must be kept in the delivery vehicle at all times.
- (iii) Adult Use Cannabis Products may only be transported in retail packaging or in sealed containers.
- (iv) Each trip shall be staffed, at minimum, by a driver and one other employee of the cannabis business. Any trip involving the transport of Adult Use Cannabis Products with an aggregate retail value of \$50,000 or more shall also be staffed by a uniformed security guard. The \$50,000 threshold may be adjusted by the Commission under Section 2.1.C.
- (v) All Adult Use Cannabis Product deliveries must include a bill of lading.

Section 10.3. Operating Procedures.

A. Each licensee endorsed for transportation of Adult Use Cannabis Products shall establish written operating procedures for the transport of Adult Use Cannabis Products. The operating procedures must include procedures for compliance with Section 12.1 and the minimum following information:

- (i) standards and procedures for screening and evaluating shipping containers prior to transportation and upon delivery at the distribution facility;
- (ii) standards and procedures for securing shipping containers and monitoring that security while in transit;
- (iii) standards and procedures for allowing government officials to ensure and validate compliance with this program; and
- (iv) any other measures the Committee considers necessary to ensure the security and integrity of transporting Adult Use Cannabis Flower or Adult Use Cannabis Products.

Chapter 11. On-Site Consumption Establishment and Events

Section 11.1. Licensing On-site Consumption of Adult Use Cannabis Products

The Commission may promulgate rules and regulations, subject to the minimum requirements provided in Section 11.2, for the licensing on-site consumption of Adult Use Cannabis Products at permanent establishments and temporary licensing for events.

Section 11.2. Minimum Standards.

Any regulations promulgated by the Commission regarding on-site consumption of Adult Use Cannabis Products must provide that: (i) that under-age persons cannot access Adult Use Cannabis Products; (ii) Adult Use Cannabis Products may not be sold to visibly intoxicated persons; (iii) no outside Adult Use Cannabis Products may be used or possessed at the site; and (iv) entry to the site is controlled.

Chapter 12. Safety and Security

Section 12.1. Facility Security.

A cannabis business licensed under this Ordinance shall provide and maintain adequate security for its facilities, which shall include at a minimum the following:

- A. All employees shall be required to hold and properly display a current identification badge issued by the Commission at all times. Proper display of the badge shall consist of wearing the badge in a plainly visible manner, at or above the waist, and with the photo of the holder visible. The holder shall not alter, obscure, damage, or deface the badge in any manner.
- B. Security surveillance cameras shall be installed and maintained in good working condition to monitor the main entrance and exterior of all facilities and laboratories to discourage loitering, crime, illegal, or nuisance activities. Security video shall be maintained for a minimum of seventy-two (72) hours, or such other additional timeframe as the Commission may require.
- C. Professionally monitored robbery alarm and burglary alarm systems shall be installed and maintained in good working condition.
- D. Professionally monitored fire alarm and fire suppression systems shall be installed and maintained in good working condition.
- E. All points of ingress and egress shall have commercial-grade, nonresidential door locks.
- F. Firearms and other weapons are prohibited on the premises of any business licensed under this Ordinance, except that law enforcement and licensed security personnel may carry such firearms or other weapons as otherwise permitted by applicable law.

Section 12.2. Inventory

- A. Every cannabis business shall maintain an inventory control system.

- B. The inventory control system must be able to monitor and report information, including, without limitation:
 - (1) insofar as is practicable, the chain of custody and current whereabouts, in real time, of cannabis from the point that it is harvested at a cultivation facility until it is sold at a distribution facility and, if applicable, if it is processed at a facility for the production of cannabis products;
 - (2) a real time accounting of the total amount of product sold; and
 - (3) such other information as the Commission may require.
- C. Nothing in this section prohibits a cultivation facility, processing facility, or distribution facility from co-owning an inventory control system in cooperation with other facilities, or sharing the information obtained therefrom.

Chapter 13. Enforcement of Laws Relating to Individual Cannabis Possession and Use

Section 13.1. Authority.

The Lower Sioux Police Department shall have jurisdiction and authority to enforce the individual possession and use provisions of this Ordinance.

Section 13.2. Violation by Member.

A Community member who violates this Ordinance may be subject to a fine of \$250, which may be increased in increments of \$250 up to \$2,500 for multiple offenses within any 12-month period. This fine schedule may be amended by the Community Council once a year, and a complete fine schedule must be made available for public inspection by any person subject to this Ordinance. All fines collected under this Ordinance shall be payable directly to the Clerk of the Community Court. No officer of the Lower Sioux Police Department may accept payment of a fine under this Ordinance.

Section 13.3. Violation by Non-Member.

A non-Community member who violates this Ordinance may be removed from, and prohibited from re-entering, the Community's Indian country, or certain locations within the Community's Indian country for: (i) a first offense, 1 month; (ii) a subsequent offense, 3 months; and (iii) for more than 3 offenses, indefinitely. A non-member subject to this provision shall be offered the option of paying a fine, provided that have been cited two or fewer times, as an alternative to exclusion. The fine shall be \$250 for the first offense and \$1000 for subsequent offense. A non-member choosing the fine option shall pay the fine in full within 10 days of the citation.

Nothing in this Ordinance shall be interpreted to exclude non-member individuals who do not hold a license issued under this Ordinance from state criminal or civil jurisdiction relating to marijuana use or possession.

Section 13.4. Relation to Other Offenses and Penalties.

The penalties provided in this Ordinance shall be in addition to any penalties that may apply to the conduct under other applicable law.

Section 13.5. Authority & Form.

Civil citations may be issued by the Lower Sioux Police Department for violations of this Ordinance. Such citations will be in the form and have the effect of a summons and complaint. The Lower Sioux Police Department shall develop a ticket form for citations issued under this Ordinance. The Lower Sioux Police Department may seize any Adult Use Cannabis Product possessed in violation of this Ordinance at the time it issues a citation for such possession. Any such seized product shall be kept as evidence for associated civil proceedings, and returned to citation recipient if they are found not liable, and destroyed if the citation recipient is found liable. Each Community citation issued shall provide the following information:

- a. the time, date, and nature of the violation;
- b. the name of the person cited;
- c. the name or identification of the complainant; and
- d. information on how to respond to the citation.

Section 13.6. Process.

A. Procedure for Adjudication of Citation.

A copy of each citation issued pursuant to this Ordinance shall be promptly submitted to the Clerk of the Community Court with the court date noted on the citation. The recipient of the citation then has until the court date to respond. Where a specific civil penalty is established for a violation of this Ordinance, the recipient of the citation may mark the citation with an admission of liability and pay the associated fine or agree to the other civil remedy, in which case the recipient of the citation does not need to appear on the court date. The recipient of the citation has the option to deny liability and return it to the Community Court before the court date noted on the citation, and in this instance the recipient of the citation must appear at the Community Court on the court date noted on the citation. All trials will be before the judge without a jury. The failure of a recipient of a citation to respond to the citation within the specified time shall constitute an admission of liability and a waiver of the right to trial, unless the recipient of the citation can show that the failure to respond is due to circumstances beyond her or his control. If the recipient of the citation does not appear before the court if so required, the court in its discretion may impose civil remedies permitted under this Ordinance.

B. Appeals.

Appeals from the Community Court's decisions or orders shall be made to the Community Appellate Court pursuant to the Community Appellate Court Rules of Civil Procedure. The respondent shall have the right to an expedited hearing. The appeal shall be limited to a review of the proceedings of the Community Court and shall not be a de novo hearing.

C. Jurisdiction.

The Community Court shall have jurisdiction to enforce the provisions of this Ordinance and to impose the civil penalties provided for therein upon the presentation of a citation from the Lower Sioux Police Department. The prosecution of a complaint may be carried out by an officer of the Lower Sioux Police Department notwithstanding whether such person is an attorney and notwithstanding whether such person has been admitted to appear before the Community Court, or by a prosecutor assigned by the Community Council. If a fine levied by the Community Court under this Ordinance against an enrolled member of the Community is not paid within thirty (30) days, the Community Court shall have the authority to order garnishment of the member's per capita distributions for the amount of the fine. If the fine levied by the Community Court under this Ordinance against an enrolled member who is a minor is not paid within thirty (30) days, the Community Court shall have the authority to order the garnishment of the per capita distributions of the minor's parent or legal guardian for the amount of the fine, if such parent or legal guardian is an enrolled member of the Community.

Chapter 14. Audits and Compliance

Section 14.1. Financial Audit.

Each cannabis business shall cause to be prepared an annual financial statement using generally accepted accounting principles that are audited by an independent certified public accountant in conformity with generally accepted auditing standards.

Section 14.2. Health and Safety Audit.

Every cannabis business shall undergo an annual health and sanitary audit of any facility by an independent consultant. The scope of the audit may include, but is not limited to, whether each facility and laboratory is in compliance with the requirements set forth in this Ordinance and other applicable health, sanitary or food handling laws, rules and regulations. Failure to perform to the independent audit may result in suspension of operations until the completion of the independent audit and the implementation of any required remedial measures is made.

Chapter 15. Relationship to Controlled Substances Ordinance

Section 15.1. Amendment to Controlled Substances Ordinance.

The Community's Controlled Substance Ordinance shall be deemed amended as follows. For purposes of enforcing and applying the restrictions on use and possession of controlled substances in Chapter 3 of the Controlled Substances Ordinance, an Adult Use Cannabis Product is not a "controlled substance" under Section 1.3.G of the Controlled Substances Ordinance.

Chapter 16. Cannabis Business Revenues and Taxation

Section 16.1. Initial Sales Tax.

There is a tax imposed at the rate of 3% of gross receipts from retail sales made by a business subject to the licensure requirements of this Ordinance. The tax must be stated and charged separately from the sales price insofar as practicable and must be collected by the seller from the purchaser. The tax may be modified or rescinded under Sections 2.1.C-2.1.D of this Ordinance.

Section 16.2. Tax Collections Remitted Quarterly.

A cannabis business subject to licensure under this Ordinance shall remit to the Cannabis Revenue Fund, by the 21st day of each month, all taxes collected in the prior calendar month.

Section 16.3. Cannabis Revenue Fund.

The Cannabis Revenue Fund shall be established and maintained in an interest-bearing account that is separate from all other Community funds for the purpose of receiving, and holding until distributed, tax and fee collections under this Ordinance, and any business revenues that may be required to be remitted to the Community under the formation or governing documents of a business licensed under this Ordinance. The Fund shall be managed, allocated, and distributed according to a plan adopted by Community Council.

Chapter 17. Effective Date; Amendments; Severability

Section 17.1. Severability.

If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby.

Section 17.2. Amendment or Repeal.

The Community Council may amend or repeal this Ordinance as it deems necessary to protect the public health, safety and welfare of the Lower Sioux Indian Community. The provisions of this Ordinance may be amended or repealed by resolution of the Community Council.

Section 17.3. Effective Date.

The provisions of this Ordinance shall become effective immediately upon adoption by the Community Council.

Legislative History

- Adopted March 27, 2024 by Resolution 24-61
- Revised September 10, 2024 by Resolution 24-229
- Revised October 28, 2024 by Resolution 24-280