



Cahuilla Band of Indians

52701 CA-Highway 371 Anza, California 92539

CAHUILLA BAND OF INDIANS

Industrial Hemp Production Plan

Submitted for USDA Approval Sept 9, 2021

Approved: _____, 2021



CAHUILLA BAND OF INDIANS Industrial Hemp Production Plan

The Cahuilla Band of Indians (“Tribe”) is a federally recognized Indian tribe with jurisdiction over the Cahuilla Indian Reservation (“Reservation”) in California. Through this Plan and pursuant to the Agriculture Improvement Act of 2018 (“Farm Bill”), the Tribe hereby assumes primary regulatory authority over the production of hemp on the Reservation.

This Plan contains two parts. Upon approval of the Plan, the Tribe will adopt the Cahuilla Band of Indians Industrial Hemp Ordinance (“Hemp Ordinance”), attached herein as Appendix A. This Ordinance clarifies that, under Tribal law, the production of hemp on the Reservation is legal only pursuant to a license issued by the Tribe. It also establishes eligibility requirements for licensure and penalties for violations of the conditions of the Hemp Ordinance or the terms and conditions of the license itself. The remainder of this document (“implementing regulations”) contains requirements and conditions the Tribe will place on issuance of licenses, as well as procedures for administration and regulation of hemp licensees. Read together, the provisions of the Hemp Ordinance and implementing regulations contain, at a minimum:

- (1) A practice to maintain relevant information regarding land on which hemp is produced on the Reservation, including a legal description of the land, for a period of not less than three calendar years;
- (2) A procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol (“THC”) concentration levels of hemp produced on the Reservation;
- (3) A procedure for the effective disposal of plants, whether growing or not, that are produced in violation of the Farm Bill and products derived from those plants;
- (4) A procedure to comply with enforcement as set forth in the Farm Bill;
- (5) A procedure for conducting annual inspections of, at a minimum, a random sample of licensees to verify that hemp is not produced in violation of the Farm Bill;
- (6) A procedure for submitting the information required by the Farm Bill, as applicable, to the USDA not more than 30 days after the date on which the information is received; and
- (7) A certification that the Tribe has the resources and personnel to carry out the practices and procedures described above.



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ARTICLE I

Definitions

For purposes of this Plan, all terms defined in § 101 of the Hemp Ordinance shall have the meanings defined therein. In addition, the following terms have the following meanings:

- (a) “Corrective action plan” means a plan established by the Tribe to correct a negligent violation or non-compliance with this Plan.
- (b) “DEA” means the United States Drug Enforcement Administration.
- (c) “Decarboxylated” means the completion of the chemical reaction that converts THC-acid (“THC-A”) into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-A.
- (d) “Decarboxylation” means the removal or elimination of carboxyl group from a molecule or organic compound.
- (e) “Dry weight basis” means the ratio of the amount of moisture in a sample to the amount of dry solid in a sample. A basis for expressing the percentage of a chemical in a substance after removing the moisture from the substance. Percentage of THC on a dry weight basis means the percentage of THC, by weight, in a cannabis item (plant, extract, or other derivative), after excluding moisture from the item.
- (f) “FSA” means the USDA Farm Service Agency.
- (g) “Key participant” means a person with executive managerial control, such as a chief executive officer, chief operating officer, and chief financial officer. This definition does not include non-executive managers such as farm, field, or shift managers or a member of leadership of the Tribal government acting in their capacity as Tribal leader.
- (h) “Lot” means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout the area.
- (i) “Phytocannabinoid” means cannabinoid chemical compounds found in the cannabis plant, two of which are delta-9 THC and cannabidiol (“CBD”).
- (j) “Postdecarboxylation” means in the context of testing methodologies for THC concentration levels in hemp a value determined after the process of decarboxylation that determines the total potential delta-9 THC content derived from the sum of the THC and THC-A content and reported on a dry weight basis. The postdecarboxylation value of THC can be calculated by using a chromatograph technique using heat, gas chromatography, through which THC-A is



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converted from its acid form to its neutral form, THC. Thus, this test calculates the total potential THC in a given sample. The postdecarboxylation value of THC can also be calculated by using a high-performance liquid chromatograph technique, which keeps the THC-A intact, and requires a conversion calculation of that THC-A to calculate the total potential THC in a given sample.

- (k) “USDA” means the United States Department of Agriculture.
- (l) “Variety” means a subdivision of a species that is uniform, in the sense that the variations in essential and distinctive characteristics are describable, stable, in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity if reproduced or reconstituted as required by the different categories of varieties, and distinct, in the sense that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other publicly known varieties.

ARTICLE II **Information Sharing**

- (a) The Tribe will collect, maintain, and report to the USDA relevant, real-time information for each producer licensed or authorized to produce hemp on the Reservation. This information shall include:
 - (1) The full name of the licensed producer, the principal business location address, telephone number, email address, license or authorization identifier, and, if the producer is a business, the full name, title, email address (if available) of each key participant, and the employment identification number (EIN) of the entity;
 - (2) A legal description of the land on which the licensee will produce hemp on the Reservation, including, to the extent practicable, its geospatial location; and
 - (3) The status and number of the licensee’s license and authorization.
- (b) All licensees must report hemp crop acreage to the Farm Service Agency (FSA) and shall provide, at a minimum, the following information:
 - (1) The total acreage dedicated to the production of hemp, or greenhouse or indoor square footage dedicated to the production of hemp;
 - (2) Street address and, to the extent practicable, the geospatial location(s) of each lot; and
 - (3) License or authorization identifier.



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- (c) The Tribe will submit, or cause others to submit, as appropriate, all federally-required reports in the appropriate manner, on time, and using USDA-approved forms where provided and as amended. These reports will include:
- (1) FSA-578 Crop Acreage Report to the FSA (annual) by the licensee;
 - (2) AMS-23 State and Tribal Hemp Producer Report to USDA/AMS (first business day of each month);
 - (3) Laboratory Tests Results Report to USDA (within 30 days after the information is received) by testing laboratory;
 - (4) AMS-24 State and Tribal Hemp Disposal Report to USDA/AMS (first business day of each month); and
 - (5) AMS-25 State and Tribal Hemp Annual Report to USDA/AMS (December 15 of each year).

ARTICLE III

Sampling

- (a) The Tribe will designate one or more sampling agents to select and collect hemp material for sampling. Sampling agents shall be trained using USDA, State, or Tribal training procedures, and the Tribe will maintain information, available to producers, about trained sampling agents.
- (b) The Tribe will conduct annual inspections of, at a minimum, a random sample of licensees to verify that hemp is not produced in violation of federal law or this Plan. Notwithstanding whether a lot has been sampled pursuant to an annual inspection, all lots must undergo pre-harvest sampling. Licensees shall provide to sampling agents complete and unrestricted access during business hours to all hemp and other cannabis plants, to areas where hemp is grown and stored, and to all land, buildings, and other structures used for the cultivation, handling, and storage of all hemp and other cannabis plants, and all locations listed in the license.
- (c) A licensee shall not harvest any crop prior to pre-harvest samples being taken. The licensee shall harvest the crop not more than 30 days following the date of sample collection. If the licensee fails to complete the harvest within 30 days of sample collection, a secondary sample of the lot shall be required to be submitted for testing. The cost of all testing shall be paid by the licensee.



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- (d) Hemp plants and the material selected for sampling pursuant to an annual inspection or pre-harvest sampling shall be determined by the Tribe, not the licensee. All samples of hemp material taken pursuant to this Plan are property of the Tribe and are non-returnable.
- (e) The selection of hemp for sampling, and the collection of samples, shall be conducted according to the USDA's Sampling Guidelines for Hemp Growing Facilities, as amended, incorporated into this plan by reference.
- (f) Samples shall be obtained from the flowering tops of plants when flowering tops are present, and shall be approximately five to eight inches in length from the "main stem" (that includes the leaves and flowers), "terminal bud" (that occurs at the end of a stem), or "central cola" (cut stem that could develop into a bud) of the flowering top of the plant.
- (g) The licensee or an authorized representative shall be present during sample collection.
- (h) The Tribe will notify the licensee within 30 days of sampling of the status of the testing and eligibility of the harvested materials to leave the Reservation and/or move into market. Any licensee may request additional testing at its own cost if it is believed that the original delta-9 THC concentration level test results were in error.
- (i) Harvested lots of hemp plants shall not be commingled with other harvested lots or other material without prior written permission from the Tribe. Floral materials harvested for phytocannabinoid extraction shall not be moved beyond the processor, or commingled, or extracted, until the Tribe has notified the licensee that the material is eligible to leave the Reservation and/or move into market.

ARTICLE IV **Testing**

- (a) The Tribe will submit sample material for testing to a DEA-registered lab using testing methodology able to accurately identify whether the sample contains a delta-9 THC content concentration level that exceeds the acceptable hemp THC level. The procedure must include a validated testing methodology that uses postdecarboxylation or other similarly reliable methods. The testing methodology must consider the potential conversion of THC-A in hemp into THC and the test result measures total available THC derived from the sum of the THC and THC-A content. Testing methodologies meeting the requirements of this Section include gas or liquid chromatography with detection. The total THC concentration level shall be determined and reported by dry weight basis.
- (b) Analytical testing for purposes of detecting the concentration levels of THC shall meet the following standards:
 - (1) Laboratory quality assurance must ensure the validity and reliability of test results;



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- (2) Analytical method selection, validation, and verification must ensure that the testing method used is appropriate (fit for purpose), and that the laboratory can successfully perform the testing;
 - (3) The demonstration of testing validity must ensure consistent, accurate analytical performance;
 - (4) Method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of these Regulations; and
 - (5) An effective disposal procedure for hemp plants that are produced that do not meet the requirements of these Regulations.
 - (6) Sample preparation of pre- or post-harvest samples shall require grinding of sample to ensure homogeneity of plant material prior to testing.
- (c) Measurement of uncertainty must be estimated and reported with test results. Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty.
- (d) Any test of a representative sample resulting in higher than the acceptable hemp THC level shall be conclusive evidence that the lot represented by the sample is not in compliance with this Plan. All harvested material from a lot found to be non-compliant must be segregated from other harvested lots and, all leaf and floral material from that lot must be destroyed or remediated pursuant to Article V of this Plan. Lots tested and not certified by the DEA-registered lab at or below the acceptable hemp THC level may not be further handled, processed, or enter the stream of commerce.
- (e) The Tribe shall ensure that laboratories performing testing under this Plan shall report the test results for all samples tested to USDA. The test results report shall contain the following information for each sample tested:
- (1) Producer's license or authorization identifier.
 - (2) Name of producer.
 - (3) Business address of producer.
 - (4) Lot identification number for the sample.
 - (5) Name and DEA registration number of laboratory.



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- (6) Date of test and report.
- (7) Identification of a retest.
- (8) Test result.

ARTICLE V

Disposal or Remediation of Non-Compliant Material

- (a) The licensee will destroy or remediate, at its own cost, any hemp from the harvest of a lot determined not to be in compliance with this Plan, hemp located in an area that is not licensed under this Plan, or hemp that is not properly accounted for in required reporting to the Tribe or the USDA.
- (b) Non-compliant hemp plants may be remediated by separating and destroying non-compliant flowers, while retaining stalks, leaves, and seeds.
- (c) Non-compliant hemp plants may be remediated by shredding the entire hemp plant to create biomass. All flowers, buds, trichomes, leaves, stalks, seed, and all plant parts from a lot should be chopped or shredded in such a way as to create a homogenous, uniform blend of the lot called biomass. Lots should be kept separate and not be combined during this process.
- (d) Remediated hemp material shall be resampled and retested to ensure THC concentration below the acceptable hemp THC level before it may enter the stream of commerce. Any biomass that tests above the acceptable THC concentration level is non-compliant hemp and must be destroyed.
- (e) So long as the method chosen is in compliance with the Controlled Substances Act and DEA regulations, the Tribe may use any method to ensure destruction of non-compliant hemp including, but not limited to, performing any one or combination of the following on-farm activities: plowing under, mulching/composting, disking, bush mowing, deep burial, and burning.
- (f) The Tribe shall provide for in-person verification of the successful disposal or remediation of non-compliant hemp. Alternately, the Tribe may allow, at its sole discretion, licensees to provide proof of successful disposal or remediation through pictures, videos, or other means.

ARTICLE VI



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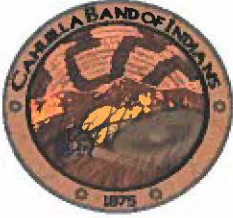
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Corrective Action Plans

- (a) Licensees found to have a negligent violation as defined in § 601 of the Hemp Ordinance will be subject to a corrective action plan. The Tribe will consider the entire harvest from a distinct lot in determining whether a licensee has negligently violated the acceptable hemp THC level pursuant to § 601(d)(3) of the Hemp Ordinance. If an individual or entity produces hemp without a license, this will be considered one violation per season of unauthorized production.
- (b) If the Tribe determines that a negligent violation has occurred, the Tribe will issue a Notice of Violation. This Notice of Violation will include a corrective action plan, which shall include, at a minimum:
 - (1) A reasonable date by which the hemp licensee shall correct the negligent violation;
 - (2) Steps to correct each negligent violation; and
 - (3) A requirement that the licensee shall periodically report to the Tribe on compliance with this Plan for a period of not less than the next two calendar years from the date of the negligent violation.
- (c) The Tribe must conduct inspections to determine if corrective action plans have been implemented as issued. If a subsequent violation occurs while a corrective action plan is in place, the Tribe shall issue a new corrective action plan with a heightened level of quality control, staff training, and quantifiable action measures.

ARTICLE VII **Additional Provisions**

- (a) Tribal regulation of hemp on the Reservation is necessary to protect the health, security, and general welfare of the Tribe and its members. In order to further these goals, the Tribe has adopted this Plan which shall be liberally construed to fulfill the purposes for which it has been adopted.
- (b) The regulations and penalties imposed by this Plan extend to any person within the Tribe's jurisdiction, whether a licensee or not.
- (c) Nothing in this Plan shall be construed to limit the jurisdiction of the Tribe, and nothing herein shall limit or constitute a waiver of the sovereign immunity of the Tribe or its officers, instrumentalities, employees, elected officials, and agents, or authorize any form of prospective waiver of such sovereign immunity.



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- (d) In the event that any phrase, provision, part, paragraph, subsection, or section of this Plan is found by a court of competent jurisdiction to violate the laws of the Tribe or any federal law, such phrase, provision, part, paragraph, subsection or section shall be considered to stand alone and be deleted from this Plan. The entirety of the balance of this Plan shall remain in full and binding force and effect.

ARTICLE VIII **Certification**

The Cahuilla Band of Indians hereby certifies that it has the resources and personnel required to carry out its responsibilities under this Plan.

Submitted for USDA Approval this Sept 9, 2021.

Daniel Salgado Sr.
Tribal Council Chairman
Cahuilla Band of Indians

APPENDIX A
CAHUILLA BAND OF INDIANS
INDUSTRIAL HEMP ORDINANCE

Chapter 1. Definitions

Sec. 101. Findings and Purpose.

- (a) The Agriculture Improvement Act of 2018, Pub. L. 115-334, also known as the 2018 Farm Bill, authorizes tribes to assume primary regulation of the production and processing of hemp in their territories, subject to United States Department of Agriculture regulations and tribal law.
- (b) The General Council finds that the authorization of hemp production and processing on the Cahuilla Indian Reservation will promote economic growth and the development of tribal land and agriculture capacity.
- (c) The General Council finds that the production of hemp must be regulated consistent with federal law and with the promotion of the public health and welfare on the Cahuilla Indian Reservation.

Sec. 102. Definitions.

- (a) “Acceptable hemp THC level” means a reported delta-9 tetrahydrocannabinol (“THC”) content concentration level on a dry weight basis with a measurement of uncertainty that produces a distribution or range that includes 0.3% or less. For example, if the reported delta-9 THC content concentration level on a dry weight basis is .35% and the measurement of uncertainty is +/- 0.06%, the measured delta-9 THC content concentration level on a dry weight basis for this sample ranges from 0.29% to 0.41%. Because 0.3% is within the distribution or range, the sample is within the acceptable hemp THC level.
- (b) “Certified seed” means seed that is recognized by the Commission as having been certified by a recognized organization as producing industrial hemp containing no more than 0.3% THC on a dry-weight basis.
- (c) “Commission” means the Hemp Commission of the Cahuilla Band of Indians responsible for the administration and enforcement of this Ordinance.
- (d) “Industrial hemp” or “hemp” means the plant *Cannabis sativa* L. and any part of that

plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration on a dry weight basis of not more than the acceptable hemp THC level.

(e) “Key participant” means a person with executive managerial control, such as a chief executive officer, chief operating officer, and chief financial officer. This definition does not include non-executive managers such as farm, field, or shift managers or a member of leadership of the Tribal government acting in their capacity as Tribal leader.

(f) “Licensee” means a person or entity that has been issued a hemp license by the Commission pursuant to this Ordinance.

(g) “Reservation” means the Cahuilla Indian Reservation.

(h) “Tribe” means the Cahuilla Band of Indians.

Chapter 2. Hemp Commission

Sec. 201. Establishment of Hemp Commission.

(a) There shall be established the Hemp Commission comprised of a minimum of three Commissioners appointed by the General Council. To be eligible for appointment as a Commissioner, a person must satisfy the following minimum qualifications: (i) a high school or GED diploma, (ii) three years of business, government administration or regulatory experience, (iii) must not have been convicted of a felony, and (iv) must not have a personal interest in an entity engaged in the hemp industry as described in Section 201(c) below. The Tribal Council may establish additional qualifications. The Tribal Council shall cause a background investigation to be conducted on a person considered for appointment as a Commissioner. In order to stagger the terms, the initial term of one Commissioner will be two years, the initial term of a second Commissioner will be three years, and the initial term of the third Commissioner will be four years. Thereafter, each Commissioner shall serve a term of four years and until a successor is appointed. The General Council may remove a Commissioner with or without cause prior to the end of the Commissioner’s four-year term.

(b) The Commission shall be responsible for the administration and enforcement of this Ordinance, including:

- (1) Reviewing applications and issuing licenses regarding growing and handling industrial hemp on the Reservation;

- (2) Conducting (or causing to be conducted) the sampling, testing, and inspection of industrial hemp plants, fields, and industrial hemp handling facilities, including places where industrial hemp is grown, stored or handled;
- (3) Conducting (or causing to be conducted) record audits of industrial hemp Licensees;
- (4) Promulgating regulations and issuing forms consistent with this Ordinance that are subject to the approval of the Tribal Council;
- (5) Advising the Tribal Council and General Council and making recommendations pertaining to industrial hemp growth and handling, the enforcement of this Ordinance, and annual budgets required to accomplish the purposes of this Ordinance;
- (6) Setting an application fee for industrial hemp licenses; and
- (7) Providing a periodic report, no less than annually, to the Tribal Council on the Commission's activities in implementing this Ordinance.

(c) Each Commissioner may not have or voluntarily acquire during his or her term any personal interest, as hereinafter defined, whether direct or indirect, in any entity engaged in the hemp industry, including producing, cultivating, handling, processing, or storing hemp on the Reservation. For purposes of this Section, "personal interest" shall mean private ownership or participation in the operation of any entity engaged in the hemp industry on the Reservation. Employment by any entity owned by the Tribe, its agencies, institutions or by any other person having such an interest, or deriving per capita economic benefit from an entity on the same basis as all other adult members of the Tribe shall not be deemed a prohibited personal interest.

(d) The Commission shall fulfill its duties under this Ordinance in accordance with bylaws approved by the Tribal Council.

Chapter 3. Authorization of Industrial Hemp under Tribal law

Sec. 301. Authorization.

(a) The Tribe has determined that the growing and production of cannabis, including synthetic manufacturing, on the Reservation, except as approved by the Tribe, is a detriment to the health, welfare, and economic security of the Tribe and its members.

- (b) Any person or entity producing or intending to produce hemp on the Reservation must have a valid license issued by the Commission pursuant to this Ordinance prior to producing, cultivating, handling, processing, or storing hemp on the Reservation. A valid license means the license is unexpired, unsuspended, and unrevoked. Any person who does not hold a valid license from the Commission shall not produce, cultivate, handle, process, or store hemp on the Reservation.
- (c) No person or entity shall be eligible to receive a hemp license pursuant to this Ordinance except a Tribal corporation wholly-owned by the Tribe or a person or entity holding a lease of tribal land approved by the Secretary of Interior under 25 U.S.C. § 415 or by the Tribe pursuant to authority under 25 U.S.C. § 415(h).
- (d) A license under this Ordinance shall be site-specific, and shall authorize industrial hemp production only at the locations specified in the license application and approved by the Commission.
- (e) The Commission shall have the authority to place any conditions the Commission deems prudent or necessary on the issuance of a license pursuant to this Ordinance.
- (f) The Commission shall have the right to deny a license for any reason.
- (g) An application for an industrial hemp license must include:
- (1) the name, address, phone number, email address, and, if the applicant is a business entity, the employment identification number (EIN) of the applicant;
 - (2) the name, address, phone number and email address of key participants in the entity applying for the license;
 - (3) if the applicant intends to use the services of any person or entity as a contractor for growing or handling the industrial hemp, the name, address, phone number and email address of the contractor and, if the contractor is an entity, the key participants in entity;
 - (4) a legal description, the global positioning system (GPS) coordinates if practicable, and a map of the land where the applicant seeks to grow or store the hemp, or both;
 - (5) the acreage dedicated to the production of industrial hemp, or greenhouse or indoor space square footage dedicated to the production of industrial hemp;

(6) proof that the applicant has the legal authority to use the fields for which the application is sought; and

(7) written consent from each person or entity listed in response to subsections (1) – (3) of this Section 201(g) to criminal background checks, along with each such person’s (i) full name, (ii) social security number, (iii) any and all other names used and addresses resided at for the past ten (10) years, and (iv) certification by each such person that they have not been convicted of any drug-related state, federal, or tribal felony within the last 10 years, unless that person was growing hemp lawfully under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before that date..

(h) The Commission may impose a fee to cover the cost of licensing, administration, regulation, background checks, or other related costs. A license application shall not be complete until the full amount of the licensing fee has been remitted to the Commission.

Chapter 4. Licensing and Renewal

Sec. 401. Licensing.

(a) Upon receipt of an application to grow or handle industrial hemp, the Commission will cause to be conducted a criminal background investigation regarding federal, state and tribal convictions with respect to each person for whom a criminal background investigation is required.

(b) No application shall be granted if the applicant, or if the applicant is an entity, any key participant, has been convicted of a drug-related state, federal, or tribal felony within the last 10 years, unless that key participant was growing hemp lawfully under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before that date.

(c) No application shall be granted if the application is incomplete, if an applicant has submitted any false or misleading statement on the application, or if the applicant has failed to demonstrate to the satisfaction of the Commission that it will comply with the provisions of this Ordinance and the conditions of licensure, and will ensure the integrity of the hemp crop at all times.

(d) If an application meets the requirements of this Ordinance, the Commission may, in the Commission’s discretion, grant a license to the applicant. Any license granted under this Ordinance shall be issued a number consistent with USDA format for license numbers and shall state on its face that “This license is granted under Tribal law, and the

granting of this license is not intended as a guarantee regarding the potential application or enforcement of federal or state laws with respect to the licensee or any person doing business with the licensee. The licensee remains fully responsible for compliance with any federal or state laws regarding industrial hemp to the extent those laws are applicable, and the Tribe shall not be responsible for any non-compliance by the licensee or others with respect to such other laws.”

(e) Licenses may not be transferred to any other person or entity.

(f) Unless provided otherwise on a license issued by the Commission, licenses are valid for the calendar year in which they are issued and expire on December 31 of each year.

(g) Licenses may be renewed annually, provided that all information provided on the original application must be updated for any license renewal, and the renewal request must meet all the requirements of this Ordinance. The Commission may impose a license renewal fee.

Chapter 5. Continuing Obligations of Licensees

Sec. 501. Record-Keeping and Reporting.

(a) Licensed growers shall keep records of the following: (1) name and address of supplier of certified seed; (2) the amount of seed received; and (3) the date the seed was received. All licensees must also keep records of all production of industrial hemp and of all test results, including test results regarding tests performed on the licensee’s behalf. All records shall be maintained by licensees for at least three (3) years, and shall be maintained at the licensee’s principal place of business on the Reservation. All records shall be made available for inspection by the Tribe’s inspectors, auditors, or their representatives during reasonable business hours.

(b) Licensees must immediately notify the Commission of any loss or theft of industrial hemp or industrial hemp seed.

(c) Within ten (10) days, a licensee must notify the Commission of a change of the licensee’s address.

(d) Licensed growers must notify the Commission of an intent to change the location of the land area on which the licensee conducts industrial hemp cultivation, storage or both, by submitting an updated legal description, GPS coordinates, and map specifying the proposed alteration. Upon receipt of the notice of intent to alter the land area, the

Commission will notify the licensee whether it may cultivate or store industrial hemp on the altered land area.

(e) Within thirty (30) days of an intended harvest, licensed growers must notify the Commission of the harvest date to provide the Commission with time to cause test samples to be taken prior to harvest.

(f) All reports and records required to be submitted to the Commission or USDA pursuant hereto which include confidential data or business information, including but not limited to information constituting a trade secret or disclosing a trade position, financial condition, or business operations of the licensee or its customers, shall be received by, and at all times kept in the custody and control of, one or more employees of the Tribe or USDA or their representatives. Confidential data or business information may be shared with applicable federal, state, tribal, or local law enforcement or their designee in compliance with the Agricultural Marketing Act of 1946, as amended.

Sec. 502. Access and Testing.

(a) All industrial hemp grown on the Reservation shall be subject to testing for THC levels using sampling and testing methods and procedures established by the Commission and included as conditions of a hemp license. Hemp crops may not be harvested prior to samples being taken.

(b) The Commission shall be authorized to enter and shall be provided unrestricted access to industrial hemp fields or handling facilities in order to inspect and take a representative sample of the crop without notice at any time, including during the growing, harvesting, and processing phases.

(c) The Commission shall provide a copy of all hemp test results to the licensee.

(d) If test results show that a representative sample of a hemp lot contains more than the acceptable hemp THC level, the Commission shall cause all leaf and floral material from that lot to be destroyed.

Chapter 6. Violations, Sanctions for Noncompliance

Sec. 601. Violations; Penalties

(a) Except as authorized by this Ordinance, it is unlawful for any person to cultivate, grow, handle, manufacture, distribute, or possess with the intent to cultivate, grow, handle, manufacture, or distribute, industrial hemp.

(b) A licensee that commits a negligent violation of this Ordinance shall be subject to a corrective action plan, but shall not as a result of that violation be subject to any criminal enforcement action.

(c) Any person who commits three negligent violations of this Ordinance or any USDA-approved state, tribal, or federal hemp plan in a five-year period shall be ineligible to receive a license or grow, handle, transport, produce, or sell industrial hemp under this Ordinance for a period of 5 years beginning on the date of the third violation, provided that a maximum of one negligent violation per growing season shall apply toward this eligibility bar.

(d) “Negligent violation of this Ordinance” means:

- (1) Failure to provide a legal description of the land on which a producer produces hemp;
- (2) Failure to obtain a license or other required authorization under this Ordinance;
- (3) Production of cannabis with a delta-9 tetrahydrocannabinol content concentration level on a dry weight basis exceeding the acceptable hemp THC level. Hemp producers do not commit a negligent violation under this paragraph (d)(3) if they make reasonable efforts to grow hemp and the cannabis (marijuana) does not have a delta-9 tetrahydrocannabinol concentration of more than one percent on a dry weight basis.; or
- (4) Any other violation of this Ordinance or the terms and conditions of a licensee’s hemp license with a culpable mental state of negligence.

(e) If the Commission determines that a person has violated Tribal law related to hemp with a culpable mental state greater than negligence, the Commission shall immediately report the person to the U.S. Attorney General and the chief law enforcement officer authorized by the Tribe to respond to such matters, if applicable.

(f) In addition to the penalties provided for in subsections (b)-(e) of this section, the Commission may revoke or suspend a license of a licensee that:

- (1) violates any provision of this Ordinance or the terms and conditions of the hemp license;

- (2) engages in fraud or deception when applying for a license or submits false information on a license application; or
 - (3) fails to cooperate with a Tribal official, auditor, or other authorized representative seeking to conduct an inspection or investigation, obtain a representative sample, or audit records pursuant to this Ordinance and the terms or conditions of the hemp license.
- (g) The Commission shall cause any hemp grown or products produced in violation of this Ordinance to be destroyed. The cost of disposal and clean-up shall be levied against any person or entity that violates this Ordinance.
- (h) The Commission may deny a license application or suspend or revoke a license pursuant to Sections 401 or 601(f) or order the destruction of hemp or hemp products pursuant to Section 601(g) after providing the licensee or other person subject to such action written notice of the basis for such action and the opportunity to request a hearing before the Commission to challenge such action, provided such request is made within ten business days of the notice of the proposed action. If the Commission receives no timely request for a hearing, the proposed action shall become effective and final. Upon receipt of a timely request, the Commission shall schedule a hearing. At a hearing pursuant this Section 601(h), the applicant, licensee or affected person shall have the opportunity to appear and present arguments and information to the Commission and inquire into the basis for the proposed action. Following a hearing the Commission shall issue a written decision on the matter, and the decision shall be final.

Chapter 7. Miscellaneous

Sec. 701. Sovereign Immunity.

Nothing in this Ordinance is intended to waive the sovereign immunity of the Tribe, its officers, employees, or agents, and this Ordinance shall not be so construed. In executing the provisions of this Ordinance, tribal officers, employees, and agents are acting in their official capacities in the exercise of the Tribe's inherent authority to protect and regulate the use of Reservation lands and provide for the public welfare on the Reservation; thus, any action against any of them would directly impact the Tribe's ability to exercise its sovereign powers, and they are cloaked with the Tribe's immunity from suit.

Sec. 702. Repealer.

If any provision of this Ordinance conflicts with any other applicable law, code, ordinance, rule or regulation, the provisions of this Ordinance shall prevail, and to that extent, any conflicting provision of another applicable law, code, ordinance, rule or regulation hereby is repealed.

Sec. 703. Severability.

If any provision of this Ordinance, or its application to any person or entity, is held to be invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected and shall remain in full force and effect.