

**FORT BELKNAP INDIAN COMMUNITY  
INDUSTRIAL HEMP CODE**

**SECTION 1. POLICY AND PURPOSE**

Industrial Hemp is a valuable agricultural crop and commodity with many traditional and healing properties. The purposes of this Code are to:

- A. Provide a viable economic opportunity to eligible individuals and businesses.
- B. Regulate hemp and hemp products as an agricultural commodity, in compliance with applicable federal and FBIC laws and regulations.
- C. Promote the hemp industry, farmers, and businesses to grow, cultivate, handle, process, transport, and sell hemp and hemp products for commercial purposes.

**SECTION 2. SCOPE AND AUTHORITY**

- A. The Fort Belknap Indian Community shall have rulemaking, regulatory and taxing authority over the commerce of, including but not limited to the growth, cultivation, processing, marketing, production, and sale, of hemp and hemp products within its territorial boundaries by any persons.
- B. Nothing in this Act or in the license process indicates any guarantee by FBIC regarding the economic viability of any specific seed, growing method or hemp product.

**SECTION 3. INDUSTRIAL HEMP AS AN AGRICULTURE CROP.**

Industrial Hemp, as defined in Section 5, is considered an agricultural crop. Upon meeting the requirements of this Code, an individual may plant, grow, harvest, possess, process, sell, or buy Industrial Hemp.

**SECTION 4. JURISDICTION.**

- A. For purposes of this Code, FBIC includes all lands within the exterior boundaries of the Fort Belknap Indian Reservation, and Indian Country as defined by 18 U.S.C. § 1151 (a), (b), & (c) and including submarginal lands. The FBIC shall also have jurisdiction over E-commerce transactions emanating from or to the jurisdiction of the Fort Belknap Indian Community.
- B. Consensual relations among non-Indians, the FBIC, and enrolled members of the Gros Ventre and Assiniboine members of the FBIC. Any person who uses land anywhere within the exterior boundaries of the FBIC and any person who enters into agreements or understandings with the FBIC or its members and residents by commercial dealings, contracts, leases, licenses, permits, intergovernmental agreements, or other arrangements, commercial or otherwise, shall be deemed to have entered into a consensual relationship with the Fort Belknap Indian Community or its members subject to the jurisdiction of the Fort Belknap Indian Community.

## SECTION 5. DEFINITIONS

A. Acceptable Hemp THC Level *means* when a laboratory tests a sample, it must report the delta-9 tetrahydrocannabinol content concentration level on a dry weight basis and with a measurement of uncertainty. The acceptable hemp THC level for the purpose of compliance with the requirements of this Code is when the application of the measurement of uncertainty to the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less. (For example, if the reported delta- tetrahydrocannabinol content concentration level on a dry weight basis is 0.35% and the measurement of uncertainty is +/-0.06%, the measured delta-9 tetrahydrocannabinol content concentration level on a dry weight basis for this sample range from 0.29% to 0.41%. Because 0.3% is within the distribution or range, the sample is within the acceptable hemp THC level for the purpose of plan compliance).

This definition of “Acceptable Hemp THC Level” affects neither the statutory definition of hemp, 7 U.S.C. 1639o(1), in the 2018 Farm Bill nor the definition of “marihuana,” 21 U.S.C. 802(16), in the Controlled Substances Act.

B. Agriculture Office *means* the FBIC agency, commission, or department responsible for the oversight and implementation of this hemp code as assigned by the Fort Belknap Indian Community Council.

C. AMS Administrator *means* the administrator of the U.S. Department of Agriculture Agricultural Marketing Service from time to time.

D. Applicant *means* a person, or a person who is authorized to sign for a business entity, who submits an application to participate in the FBIC Industrial Hemp Program.

E. Commercial Sales *means* the sale of a product in the stream of commerce at retail, at wholesale, or on the internet.

F. Consumable Product *means* a Hemp Product intended for human or animal consumption.

G. Cultivate *means* to plant, water, grow, or harvest a plant or crop.

H. DEA *means* the U.S. Drug Enforcement Administration.

I. Fort Belknap Indian Community or “FBIC” *means* the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community.

J. Fort Belknap Indian Community Council or “FBICC” *means* the governing body of the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community.

K. GPS *means* global positioning system.

L. Grow Site has the same meaning as “Registered Land Area” as that term is defined in this Section, below.

M. Handle *means* to possess or store a Hemp Crop for any period of time on a premises owned, operated, or controlled by a Hemp Producer. “Handling” also includes possessing or storing a Hemp Crop

in a vehicle for any period of time other than during its actual transport from the premises of a Hemp Producer to the premises owned, operated, or controlled by another Hemp Producer. Handling does not include possession, storage, or transportation of Hemp Ingredients or Hemp Products.

N. Harvest Lot *means* a quantity of Hemp harvested in a distinct timeframe that is: (A) Cultivated in one contiguous production area within a Grow Site; or (B) Cultivated in a portion or portions of one contiguous production area within a Grow Site. Harvest Lot does not include a quantity of Hemp comprised of Hemp in noncontiguous production areas.

O. Harvest Lot Identifier *means* a unique identifier used by the Agriculture Office to identify the Harvest Lot.

P. 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 of not more than 0.3 percent on a dry weight basis, or as otherwise defined in federal law, whichever is more permissive.

Q. Hemp crop *means* one (1) or more unprocessed Hemp plants or plant parts.

R. Hemp Ingredient *means* all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers of any part of the Hemp plant included in the definition of “Hemp”.

S. Hemp Processor *means* any person processing, manufacturing, extracting, or producing Hemp Products.

T. Hemp Producer *means* any person growing, cultivating, handling or harvesting hemp, hemp crops, hemp seeds, or hemp propagules on the Fort Belknap Indian Reservation, and who is licensed by the Agriculture Office to Cultivate or Handle Hemp on the Fort Belknap Indian Reservation.

U. Hemp Product *means* a finished product with a THC concentration of not more than 0.3% on a dry weight basis containing Hemp or any chemical compounds derived from, or made by, processing a Hemp Crop, that is prepared in a form available for commercial sale. The term includes, but is not limited to, CBDs, consumables, cosmetics, personal care products, food intended for animal or human consumption, supplements, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more Hemp-derived cannabinoids such as cannabidiol.

V. Hemp Program *means* the cannabis regulatory framework established under this Code with respect to Hemp.

W. Hemp Seller *means* any person marketing, distribution, or selling, wholesale or retail, hemp or hemp-based products.

X. Industrial Hemp has the same meaning as “Hemp” as that term is defined in this Section, above.

Y. Key Participant *means* a sole proprietor, a partner in partnership, or a person with executive managerial control in a corporation, limited liability company or any other corporate entity. A person with executive managerial control includes persons 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.

Z. License *means* a permit issued by the FBIC Agriculture Office to an individual or business to grow, process, manufacture, distribute or transport hemp or hemp-based products. A valid license means that the license is unexpired, unsuspended, and unrevoked.

AA. Licensee *means* a Person who holds a current and valid License.

BB. Negligence, Negligent, or Negligently *means* failure to exercise the level of care that a reasonably prudent person would exercise in complying with the regulations set forth in this Code.

CC. Persons *means* all natural persons, corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association, or other form of legal business entity, (regardless of jurisdiction of incorporation) as well as tribal, federal, state or local government entities.

DD. Processing *means* converting any portion of a Hemp Crop into a Hemp Ingredient, Hemp Product, or other marketable form.

EE. Propagule *means* a plant or plant part that can be utilized to grow a new plant.

FF. Registered Land Area *means* a contiguous lot, parcel, or tract of land registered with the Agriculture Office and the FBIC Lands Department on which a Licensee Cultivates or Handles Hemp. A Registered Land Area may include land and buildings that are not used to Cultivate or Handle Hemp.

## **SECTION 6. ANNUAL LICENSE REQUIREMENTS**

A. GENERAL. Any person who would like to grow, cultivate, process, manufacture, produce, extract, market, distribute, or sell Hemp (including seeds and propagules) and Hemp Products within, or emanating from, the Fort Belknap Indian Community must obtain a FBIC business hemp license, annually, prior to any hemp activity. The Agriculture Office may choose to tailor licenses differently for Hemp Producers, Hemp Processors, and Hemp Sellers. However, each license application shall include, at a minimum, the following:

- 1) Any Person desiring to Cultivate or Handle Hemp at any location on the Fort Belknap Indian Reservation shall submit to the Agriculture Office annually a completed Hemp Producer license application.
- 2) The Applicant shall submit a signed, complete, accurate and legible application form provided by the FBIC Agricultural Office at least thirty (30) days prior to planting that includes the following information:
  - (i) full name, residential address on the Fort Belknap Indian Reservation, telephone number, and email address, if an email address is available;
  - (ii) if the Applicant represents a business entity, the full legal entity name of the business, the principal business location address on the Fort Belknap Indian Reservation, the full name of the Applicant who will have signing authority on behalf of the entity, title, and email address if an email address is available, of the person;

(iii) a completed criminal background check report for the Applicant on a form determined by the Agriculture Office, and a notarized attestation that Applicant does not have any disqualifying felony drug convictions pursuant to Subsection of this Code;

(a) Each Applicant is required to submit fingerprints to the Fort Belknap Law Enforcement or other law enforcement agency designated by the Agricultural Office, to obtain a current criminal history check, proof of which must be submitted as an attachment to the application for licensure. Applicants must also submit a notarized attestation that the Applicant does not have any felony conviction relating to a controlled substance under state, tribal, or federal law for the previous ten (10) years as required by the 2018 Farm Bill, unless the Applicant was already licensed as a Hemp Producer in this state prior to January 1, 2019 or an exception under Section 10.A.2) applies. The Agricultural Office shall review the criminal history report for each Applicant to determine whether the felony ban applies. When an Applicant is a business entity, the Applicant shall submit, and the Agricultural Office shall review a criminal history report for each Key Participant in the business. The Agricultural Office may determine the appropriate method for obtaining the criminal history report for Applicants under this Code;

(b) Any Applicant or Licensee must report any felony conviction relating to controlled substances under state, Tribal, or Federal law to the Department within five (5) business days of receiving notice of such conviction;

(c) Application fees shall not cover or include the cost of the criminal background checks. Applicants shall pay criminal background check fees directly to the FBIC Tribal Law Enforcement Department or other law enforcement agency designated by the FBIC.

(iv) an application fee as set forth below; and

(v) each Applicant shall submit a Grow Site registration application on a form provided by the Agriculture Office for each proposed Registered Land Area in which the Applicant intends to Cultivate or Handle Hemp. Information submitted to the Department must include, at a minimum:

(a) the street address and legal description of each field, greenhouse, building, or site where Hemp will be Cultivated or Handled;

(b) if Hemp is Cultivated or is intended to be Cultivated in a field:

(1) the GPS coordinates, to the extent practicable, provided in decimal of degrees and taken at the approximate center of the Grow Site;

(2) the number of square feet or acres of each Grow Site; and

(3) a map of the production area showing clear boundaries of the Grow Site;

(c) if Hemp is Cultivated or is intended to be Cultivated in a greenhouse or other building:

(1) the GPS coordinates, to the extent practicable, provided in decimal of degrees and taken at the approximate entrance of the greenhouse or other building composing the Grow Site;

(2) the approximate dimension or square feet of the greenhouse or other building composing the Grow Site; and

(3) a map of the production area showing clear boundaries of the Grow Site.

(d) The Department may approve an Applicant to Cultivate an acreage or square footage that is equal to, greater than, or less than the acreage or square footage stated in the application.

3) Consent for the Agriculture Office or its' designee to inspection, sampling and testing;

4) Consent to comply with any annual reporting requirements (See SEC. 11 Records and Reports);

5) Affirmation that all hemp and hemp products will have a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis within the Acceptable Hemp THC Level; and

6) Consent to the forfeiture and destruction of any hemp or hemp product with a with a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis that exceeds the Acceptable Hemp THC Level.

7) The Licensee is responsible for all individuals that will engage in the cultivation, or handling of hemp on its behalf.

8) The Agriculture Office shall assign each Hemp Producer a License identifier in a format prescribed by USDA.

B. NO LICENSE REQUIRED - Private Use. No license is required by any person within the jurisdiction of the Fort Belknap Indian Community for non-commercial personal possession or use of hemp or hemp products.

C. FEES. The Agriculture Office may charge reasonable fees, including but not limited to an application processing fee and the cost for criminal background checks.

1) The Department by rule shall set and collect fees, including license, application, renewal, and testing fees, in amounts that are reasonable and necessary to cover the costs of administering and enforcing the FBIC Hemp Program.

D. TAXATION. The Fort Belknap Indian Community may impose a tax upon the growing, manufacturing and selling of hemp and hemp products.

E. NO GRANDFATHER CLAUSE. Regardless of whether the person was already producing, processing or selling Hemp or Hemp Products prior to the passage of this Code, they must now apply for a license if required by this Code.

F. ACCESS. License holders must have the legal authority to grant access to the land or premises for inspection and sampling.

G. AGENTS. Licensee is responsible for all individuals that will engage with Hemp and Hemp Products on their behalf.

H. COMPLIANCE AND ENFORCEMENT.

1) Nothing in the Industrial Hemp Code authorizes any person to violate any Tribal or Federal laws or regulations related to Hemp.

2) Licenses cannot be assigned, sold, alienated, pledged, encumbered, or transferred to another Person, unless (i) first approved by the Agriculture Office in writing, and (ii) such assignment, sale, pledge, encumbrance, or transfer complies with the provisions of this Code. For purposes of this section, (i) an acquisition of a Licensee by another person or entity by means of any transaction or series of related transactions (including, without limitation, any reorganization, merger or consolidation) through which such Licensee sells at least 50% of its equity or ownership interests to another person or entity, or (ii) a sale of all or substantially all of the assets of a Licensee, shall be considered an assignment or transfer of a Licensee's License hereunder.

3) Licensees shall provide the Agriculture Office's inspector and sampling agent pursuant to Section 12 complete and unrestricted access during business hours to all Hemp, cannabis plants, parts, and seeds within a Registered Land Area, whether growing or harvested, and all land, buildings and other structures used for the Cultivation, Handling, and storage of Hemp and other cannabis plants, including all locations listed in a Licensee's License, and all documents and records pertaining to the Licensee's Hemp business.

4) It is unlawful to transfer or sell Hemp or a Hemp Product that exceeds the Acceptable Hemp THC Level.

5) A License modification is required if there is any change to the information submitted in a Licensee's application including, but not limited to, production, handling, cultivation, or storage of cannabis in a new location, or a change in the Key Participants producing under a License. A Licensee shall promptly notify the Agriculture Office in the event of any such change.

I. CONSUMABLE PRODUCT. Notwithstanding any other provision of law, the inclusion of Hemp as an ingredient in a Consumable Product shall not by itself render the product misbranded or adulterated.

## **SECTION 7. TRANSPORTATION.**

A. The Licensee or other person responsible for the transportation of Hemp must ensure the following documentation accompanies the Hemp at all times during transport:

- 1) A certified copy of the FBIC Hemp Producer license that corresponds to the Registered Land Area or processing from which the Hemp or Hemp Product originated;
- 2) A copy of the certified pre-harvest testing results that corresponds to the Harvest Lot in transit as identified by the Harvest Lot Identifier that accompanies the Hemp or Hemp Product;
- 3) Destination information;
- 4) Any other documentation that may be required by the Agriculture Office.

B. The 2018 Farm Bill, P.L. 115-334, Sec. 10112, and accompanying committee report language, explicitly prohibits state and tribal governments from interfering with the interstate transportation of hemp and hemp products. The FBIC shall provide reciprocity to other state and tribal licenses and testing certifications for Hemp and Hemp Products being transported through the Fort Belknap Indian Reservation. Any person who possesses Hemp or Hemp Products which will stay within the Fort Belknap Indian Reservation must apply for a FBIC license.

## **SECTION 8. INELIGIBLE FOR A LICENSE.**

A. RESTRICTIONS. Unless otherwise provided under this Code, the following individuals shall be ineligible for a license under this Code:

- 1) Any person who is not an enrolled member of the Gros Ventre or Assiniboine Tribes of the Fort Belknap Indian Community or a resident who lives within the territorial jurisdiction of the Fort Belknap Indian Reservation;
- 2) Any person under the age of 18;
- 3) Any person convicted of a felony relating to a controlled substance under FBIC, state or federal law, shall be ineligible to participate in the FBIC Hemp Program for a period of ten (10) years from the date of such felony conviction;
- 4) Any person who materially falsifies any information contained in their license application;
- 5) Any person who materially fails to comply with the FBIC license requirements; or
- 6) Any person that Negligently violates the Industrial Hemp law or regulations three (3) times in a five (5) year period shall have their License revoked and shall be ineligible to participate in FBIC Hemp Program for a period of five (5) years beginning on the date of the third violation.

B. ENTITIES/EMPLOYEES. Licensees cannot have primary employees or partners, including Key Participants and individuals with executive managerial control, within their hemp production who are convicted of a felony, relating to a controlled substance, within the past ten (10) years from the date of



the application of a License, under tribal, state or federal law. The Agriculture Office shall determine which partners and employees fall under this restriction.

- C. REVOCATION. A Licensee's License shall be immediately revoked in the event that a Licensee:
- 1) Pleads guilty to, or is convicted of, any felony related to a controlled substance;
  - 2) Makes any materially false statement with regard to the provisions of Code to the Agriculture Office;
  - 3) Commits any act of ineligibility under Sections 8.A.4), 5), or 6); or
  - 4) Is found to be growing cannabis exceeding the Acceptable Hemp THC Level with a Culpable Mental State Greater Than Negligence.

## **SECTION 9. APPEAL OF DENIAL OF LICENSE**

The FBIC Agriculture Office shall develop and make public a process to hear and decide appeals of denials and revocation of licenses.

## **SECTION 10. VIOLATIONS.<sup>1</sup>**

### **A. NEGLIGENT LICENSE VIOLATIONS.**

- 1) A hemp licensee has Negligently violated the FBIC license requirements if they Negligently (each, a "Negligent Violation"):
  - (i) Fail to provide a legal description of land on which the producer produces hemp or the location of the hemp related business;
  - (ii) Fail to obtain a license or other required authorization from the FBIC;
  - (iii) Produce Cannabis sativa L. with a delta-9 tetrahydrocannabinol concentration of more than the Acceptable Hemp THC Level on a dry weight basis;
  - (iv) Fail to comply with one of the other listed license requirements; or
- 2) Notwithstanding the provisions of Section 10.A.1), a Hemp Producer does not commit a Negligent Violation under this Section if such Hemp Producer (a) makes reasonable efforts to grow Hemp, and (b) the cannabis does not have a delta-9 tetrahydrocannabinol concentration of more than 0.5 percent on a dry weight basis. For purposes of this Section 10.A.2), the Agriculture Office shall determine whether a Hemp Producer has taken reasonable efforts to grow Hemp. Reasonable efforts involve taking necessary steps and precautions to produce Hemp, and may include without limitation using certified seed, using other seed that has reliably grown compliant plants, or engaging in other best practices.

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<sup>1</sup> The Agricultural Marketing Act of 1946 Section 297A subsection (e) is adopted by reference.

B. **CORRECTIVE ACTION PLAN.** To correct a Negligent Violation, a Licensee shall be subject to a corrective action plan, which shall include:

- 1) a reasonable date to correct the Negligent Violation;
- 2) requirement to report bi-annually to the Agriculture Office regarding their ongoing compliance for two (2) calendar years from the date of the Negligent Violation;
- 3) a requirement that the Licensee shall be subject to an inspection to determine if the applicable corrective action plan has been implemented as submitted.

C. **REPEAT NEGLIGENT VIOLATIONS.** A Licensee that Negligently violates this section three (3) times in a five (5) year period shall have its License revoked and shall be ineligible for a FBIC hemp license for a period of five (5) years beginning on the date of the third violation.

D. **POTENTIAL CRIMINAL LIABILITY.** A Licensee who Negligently violates this Code shall not be subject to any criminal enforcement action by a federal, state, or tribal government.

E. **OTHER VIOLATIONS:**

1) If the Agriculture Office determines that a Licensee on the Fort Belknap Indian Reservation has violated FBIC Hemp laws or regulations with a Culpable Mental State Greater than Negligence, the Agriculture Office shall immediately report the Licensee to:

- (i) the United States Attorney General; and
- (ii) the Fort Belknap Tribal Law Enforcement Department.

2) The provisions set forth in Section 10.A. through Section 10.D. above shall not apply to any violation set forth in this Section 10.E.

## **SECTION 11. RECORDS AND REPORTS**

A. **REPORTS.** The Agriculture Office may at its discretion require annual harvest, contact information, and disposal reports of Licensees, which may include information on: seed variety; field location; legal description of the land on which the Licensee will grow, produce, or Handle Hemp (including, to the extent practicable, geospatial location) agricultural techniques; production and sales; end use of product; contact information including full name, telephone number, license identifier, business address or principal business location address, federal employer identification number (to the extent applicable), title, and email address (if available) of Licensee or each Key Participant of a Licensee; disposal records of any non-conforming plants or plant material disposed of in accordance with Section 13, including the name and address of the Licensee, Licensee license number, location information for the lot subject to disposal, information on the disposal agent, date that such disposal was completed, and the total acreage disposed; annual information including total acreage of hemp planted, total harvested acreage, and, if applicable, total acreage disposed; and any other report information deemed necessary by the Agriculture Office to which the Licensee has consented in the license application. To the extent required, the Agricultural Office will report and share any such information to AMS, including pursuant to 7 C.F.R. § 990.3(a)(9), in order to support the information sharing requirements in 7 U.S.C. § 1639q(d).

B. RETENTION. The Agriculture Office shall maintain information on hemp licenses, license applications, reports provided to USDA under Section 11.D., and other relevant information regarding the Registered Land Area on every approved site which hemp is produced, including a legal description of the land, for a period of not less than 3 calendar years.

C. PRIVACY PROTECTIONS. Except as required by USDA reporting and to law enforcement, the Agriculture Office shall remove the following from any collected information: all personally identifiable information including: name; physical address; drivers' licenses; social security numbers; GPS coordinates; telephone numbers; email address. Such information shall be shielded by the Agriculture Office to the maximum extent permitted by law.

D. REPORTING TO USDA<sup>2</sup>.

1) Tribal Monthly USDA Producer and Disposal Report: On the first of each month, the Agricultural Office will submit to the USDA a report, in the format compatible with USDA's information sharing system, containing the following:

- (i) the time period covered by the report;
- (ii) if applicable, an indication that there were no changes during the time period;
- (iii) contact information for each Hemp Producer:
  - (a) if an individual then full name, license identifier, business address, telephone number, and email address (if available);
  - (b) if an entity then full name of entity, principle business location address, employer identification number, license identifier, and full name, title, and phone and email for each employee and investor who must submit a criminal history, including Key Participants;
- (iv) a legal description of each Hemp Producer's land, including to the extent practicable, geospatial location;
- (v) the acreage, or indoor square footage dedicated to the production of hemp for each Hemp Producer;
- (vi) the license number for each producer;
- (vii) the status or status change, and number of each Hemp Producer's License, including previously reported information and new information;
- (viii) if there have been any disposals that month, the report must also include:

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<sup>2</sup> 2018 Farm Bill State Plan Requirement #1 continued: "a practice to maintain relevant information regarding land on which hemp is produced in the State or territory of the Indian tribe, including a legal description of the land, for a period of not less than 3 calendar years[.]"

- (a) Name and address of the Hemp Producer;
- (b) Hemp Producer License number;
- (c) Location information (such as lot number, location type, and if practicable geospatial location) for the production area subject to disposal;
- (d) Information on the agent who handled the disposal;
- (e) Disposal completion date; and
- (f) Total acreage disposed.

2) Tribal Annual USDA Acreage Report: Annually, by December 15 of each year, the Agricultural Office shall report, in the format compatible with USDA's information sharing system, to the USDA the following:

- (i) Total planted acreage;
- (ii) Total harvested acreage; and
- (iii) Total acreage disposed.

3) Hemp Producer Report to FSA: In addition to providing it to the Agricultural Office, each Hemp Producer is responsible for submitting the following information to the FSA:

- (i) Street address, and to the extent practicable geospatial location, for each Harvest Lot or indoor growing facility where such producer grows hemp;
- (ii) Total acreage, or indoor square footage dedicated to hemp production; and
- (iii) License identifier number.

4) Hemp Producer Test Results Report: Each Hemp Producer will work with the DEA-registered laboratory that conducts the test of sample(s) of hemp crop collected in accordance with Section 12 from the Hemp Producer's lot(s) to ensure that the test results for all such sample(s) include information required under 7 C.F.R. § 990.70(d) and are reported to USDA.

#### E. LICENSEE RECORDKEEPING AND REPORTING.

- 1) Licensees must report any changes of contact information to the Agriculture Office in writing within fourteen (14) days of the change.
- 2) Planting Report: Within fourteen (14) days after planting any Hemp, each Hemp Producer shall submit, on a form provided by the Agriculture Office, a Planting Report that includes the

GPS coordinates and a map showing the location and actual acreage or square feet of Hemp planted.

3) Pre-Harvest Report: At least thirty (30) days prior to harvest, each Hemp Producer shall file a Harvest Report, on a form provided by the Agriculture Office that includes:

(i) a statement of intended disposition of its Hemp crop; and

(ii) the harvest date(s) and location of each variety of Hemp Cultivated within a Registered Land Area. A Hemp Producer must notify the Agriculture Office immediately of any changes in the reported harvest date(s) in excess of seven (7) days. A Hemp Producer is not required to document the removal of male Hemp plants on a Harvest Report provided that the male Hemp plants are destroyed or utilized on the Registered Land Area prior to filing a Harvest Report for the remaining Cannabis plants.

4) A Hemp Producer must retain all documentation of sampling and testing for at least three (3) years in a manner such that it can be readily provided to the Agriculture Office upon request.

## **SECTION 12. INSPECTIONS, SAMPLES, AND TESTING.**

A. INSPECTIONS. The Agriculture Office shall conduct annual inspections of, at a minimum, a random sample of Licensees to verify that hemp and hemp products and all Registered Land Areas comply with all requirements of the license issued and the provisions of this Code.

1) The inspections may be without prior notice and inspection visits may be conducted at any time during regular business hours.

2) Inspectors shall be granted unrestricted access to the Registered Land Area(s) and all adjacent areas under the Licensee's control.

3) All samples collected by the Agriculture Office shall become the property of the Agriculture Office and no compensation shall be owed by the Agriculture Office for such samples.

4) The Agriculture Office shall keep test results for all Hemp and Hemp Products tested for a minimum of three (3) years.

5) The inspections may be of all Licensees or of a blindly-selected random sample of Licensees.

6) No Hemp Producer shall be subject to more than one (1) inspection each twelve (12) month period.

7) The provisions set forth in Section 10 will apply to any Licensee found to be in violation of this Code following any inspection.

B. PROCEDURE FOR SAMPLING AND TESTING. The Agriculture Office will utilize the USDA Sampling Guidelines for Hemp Growing Facilities and the USDA Testing Guidelines for Identifying Delta-9 Tetrahydrocannabinol Concentration in Hemp, each as may be amended from time to time, for

purposes of establishing procedures both for effectively collecting samples and for testing the delta-9 tetrahydrocannabinol concentration levels of hemp produced on or sold from the Fort Belknap Reservation, using post-decarboxylation or other similarly reliable methods. The sampling methods used under this Section 11.B. must ensure that a representative sample is collected that represents a homogenous composition of the lot and must be sufficient at a confidence level of 95% that no more than 1% of plants would exceed the Acceptable Hemp THC level. The total THC concentration level shall be determined and reported on a dry weight basis, and the testing methodology shall consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THC-A) in hemp into THC and test results will measure total available THC derived from the sum of the THC and THC-A content. Permitted testing methodologies include, but are not limited to, gas or liquid chromatography with detection. The Agriculture Office may choose to contract for such collection and testing services. Testing and sampling of cannabis under this Code shall also be in accordance with the following:

- 1) A Hemp Producer must arrange for and ensure the sampling of a Harvest Lot no more than fifteen (15) days prior to harvest for the purpose of ensuring that the Harvest Lot does not exceed permissible THC concentration levels on a dry weight basis.
- 2) Compliance and safety testing for Hemp and Hemp Products required by these rules shall be conducted by a DEA-registered laboratory.
- 3) Representative samples collected from a Harvest Lot in accordance with this Section shall be delivered to and tested at a DEA-registered laboratory using a reliable methodology for delta-9 tetrahydrocannabinol testing. Any such analytical testing for purposes of detecting the concentration levels of THC shall comply with the standards set forth in 7 C.F.R. § 990.3(a)(3)(iii) and 7 C.F.R. § 990.25, including using procedures to adhere to standards of performance for detecting THC concentration and using a measurement of uncertainty.
- 4) A Hemp Producer shall not remove a Harvest Lot from a Registered Land Area that has not been sampled and tested for compliance in accordance with this Section.
- 5) Samples of hemp plant material from one Harvest Lot shall not be commingled with hemp plant material from other Harvest Lots.
- 6) Except for samples collected by the Agriculture Office for compliance inspection and auditing purposes, all samples collected to determine compliance with these rules shall be collected by an approved federal, state, local, or tribal law enforcement agency, or other federal, state, local, or tribal designated person. Such samples shall include the flower material from hemp crop for delta-9 tetrahydrocannabinol concentration testing purposes.
- 7) During a scheduled sample collection, the Hemp Producer or an authorized representative thereof shall be present at the growing site.
- 8) For any samples collected and tested by the Agriculture Office for inspection purposes a certificate of analysis shall be given to the Licensee for each test to accompany the licensee for transportation and other purposes and shall include the following information:
  - (i) General information identifying that the Hemp or Hemp Product that is the subject of the certificate of analysis is the product of a sample tested by the independent testing laboratory;

- (ii) the date the Hemp or Hemp Product was sampled, the date testing was performed, and methodology used to analyze the sample;
- (iii) the THC concentration contained in the test sample after the sample has been fully decarboxylated; and
- (iv) whether the sample contained a THC concentration that did not exceed the Acceptable Hemp THC Level.

9) The required number and size of samples shall be determined in accordance with the USDA Sampling Guidelines for Producers Hemp, as amended from time to time.

10) Any test of a representative sample resulting in higher than the Acceptable Hemp THC Level shall be conclusive evidence that the Harvested Lot represented by the sample is not in compliance with this Code. Harvested Lots tested and not certified by a DEA-registered laboratory at or below the Acceptable Hemp THC Level may not be further handled, processed, or enter the stream of commerce. Cannabis containing more than the Acceptable Hemp THC Level is prohibited to be transferred or sold, and must be disposed of in accordance with Section 13.

11) Nothing in this section shall prevent a Hemp Producer from voluntarily collecting samples and testing Hemp and Hemp Product for quality assurance and research and development purposes. The test results from voluntary tests performed by the Hemp Producer shall not be sufficient to evidence compliance with these rules.

12) A Hemp Producer may apply to the Agriculture Office for retesting and/or resampling of any non-compliant Harvest Lot, which may be approved or denied at the Agriculture Office's discretion.

C. OWNERSHIP OF SAMPLES. All samples collected by the Agriculture Office for testing and inspections shall become the property of the FBIC Agriculture Office and no compensation shall be owed by the Office for such samples.

D. TEST ABOVE THE ACCEPTABLE THC LEVEL. The Agriculture Office shall promptly notify the AMS Administrator of any occurrence of cannabis plants or plant material that do not meet the definition of Hemp and will attach disposal records demonstrating the appropriate disposal of all of those plants and materials in the Harvested Lot from which the representative samples were taken.

### **SECTION 13. PROCEDURE FOR DISPOSAL OF NON-COMPLIANT PLANTS AND HEMP PRODUCTS**

A. Hemp licensees shall have fourteen (14) calendar days from the date of notification of test results higher than the Acceptable Hemp THC Level to contact the Agriculture Office in writing and coordinate a method for destruction of such Hemp crop in accordance with this Section. Cannabis that test higher than the Acceptable Hemp THC Level shall constitute marijuana, a schedule I controlled substance under the Controlled Substances Act (21 U.S.C. §§ 801 *et seq.*) (the "CSA") and must be disposed of by the Hemp Producer in compliance with this section and subsequent regulations, including disposal regulations under the CSA, and DEA regulations, including 21 C.F.R. §§ 1317.15, 1317.90, and 1317.95.

B. All harvested hemp cultivated within the same lot as the hemp sample that tests higher than the Acceptable Hemp THC Level shall be promptly disposed of by the Hemp Producer in accordance with this Section.

C. Hemp subject to destruction pursuant to this Section shall not be removed unless authorized by the Agriculture Office.

D. The Hemp Producer shall provide any and all evidence requested to verify disposal to the satisfaction of the Agriculture Office, including information related to:

- 1) The name and address of the Hemp Producer;
- 2) The Hemp Producer's license or authorization identifier;
- 3) Location information, including lot number, location type, and geospatial location (to the extent practicable) for the Harvest Lot subject to disposal;
- 4) Information on the agent handling the disposal;
- 5) Disposal completion date; and
- 6) Total acreage disposed.

#### **SECTION 14. LOCATION; RESTRICTIONS**

A. Any establishments which sell retail CBD products shall not be within 100 feet of a school or other location primarily populated by minors.

B. Licensees must ensure hemp grows are completed segregated from any other crops.

C. A Licensee shall not allow unsupervised access to hemp plots and manufacturing facilities.

D. A Licensee cannot employ or partner with any person, within their hemp business, convicted of a felony relating to a controlled substance under tribal, state or federal law, or who would otherwise be ineligible from participating in the FBIC Hemp Program in accordance with this Code.

#### **SECTION 15. LAND USE RESTRICTIONS AND SITE MODIFICATION**

A. A Licensee shall not Cultivate Hemp on any site not listed in a Agriculture Office - approved Grow Site registration.

B. A Licensee shall not Cultivate Hemp in any structure that is used for residential purposes.



C. Any Licensee that wishes to alter its Registered Land Area shall, before altering the Registered Land Area, submit to the Agriculture Office an updated legal description, GPS location, and map specifying the proposed alterations on a form determined by the Department. No modifications to the Registered Land Area may be made without prior written approval from the Agriculture Office.

D. No Registered Land Area may be included in more than one (1) Grow Site registration at the same time, and no Hemp plant shall be included in more than one (1) Grow Site registration simultaneously.

#### **SECTION 16. AMENDMENT**

This Code may be amended by the Fort Belknap Indian Community Council.

#### **SECTION 17. SEVERABILITY**

Any provision of this Code or part thereof or its application to any person in any circumstance declared invalid, shall be severed from the Code and the remaining provisions or applications of this Code shall remain in effect and enforceable.

#### **SECTION 18. SOVEREIGN IMMUNITY**

Nothing in this Code can or shall be construed as a waiver of the sovereign immunity of the Fort Belknap Indian Community nor any FBIC entity or enterprise that enjoys the sovereign immunity of the Fort Belknap Indian Community and/or the FBIC Council.

CERTIFICATION

THE FORT BELKNAP AGRICULTURE OFFICE

Hemp Program Certification

by Fort Belknap Indian Community, President Andy Werk, Jr.

on behalf of the

Fort Belknap Director of Agriculture Office

Pursuant to Section 297B(a)(2)(A)(vii) of the Agriculture Improvement Act of 2018 and 7 C.F.R. § 990.3(a)(8), I certify that the Fort Belknap Agriculture Office has the resources and personnel necessary to carry out each of the practices and procedures identified in Section 297B(a)(2) of the Act, 7 C.F.R. §§ 990.3(a)(1)-(7), and this Code. The Fort Belknap Agriculture Office will be established, funded and staffed by the Fort Belknap Indian Community. The Fort Belknap Agriculture Office will send the USDA Secretary a copy of the tribal resolution forming the Fort Belknap Agriculture Office including the staffing and operational budget. Tribal laws allow the Fort Belknap Indian Community to raise fees as needed to pay for the costs incurred by the Fort Belknap Agriculture Office.

Date: December 2, 2019

Respectfully,

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Andy Werk Jr., President

Fort Belknap Indian Community