

RESOLUTION NO. 272(24)

ACCEPTANCE OF TRIBAL REFERENDUM FOR AMENDMENTS TO LAC DU FLAMBEAU  
TRIBAL CODE CHAPTER 95 INDUSTRIAL HEMP CONTROL ORDINANCE

- WHEREAS,** the Lac du Flambeau Band of Lake Superior Chippewa Indians is a signatory to treaties with the United States of America in 1837 (7 Stat., 536; Proclamation, June 15, 1838), 1842 (7 Stat., 591; Proclamation, March 23, 1843), and 1854 (10 Stats., 1109; Proclamation January 10, 1855); and
- WHEREAS,** the Lac du Flambeau Band of Lake Superior Chippewa Indians (the "Tribe"), is a recognized Indian Tribe organized pursuant to Section 16 of the Indian Reorganized Act of June 18, 1934, 24 U.S.C. 5123 *et seq.*; and
- WHEREAS,** pursuant to Article III, Section 1 of the Lac du Flambeau Constitution and Bylaws ("Constitution and Bylaws"), the governing body of the Tribe is the Tribal Council; and
- WHEREAS,** pursuant to Article I, Section 2 of the Constitution "the jurisdiction of the Tribe shall extend to all the land and water areas within the territory of the Band, and further, for the purpose of exercising and regulating the exercise of rights to hunt, fish, trap, gather wild rice and other usual rights of occupancy, such jurisdiction shall extend to all lands and waters described in treaties to which the Band was a party, which treaties provide for such rights."; and
- WHEREAS,** the Tribal Council has the duty under Article VI, Section 1(a) to protect and preserve tribal property, and to protect and promote the general welfare of the Tribe; and
- WHEREAS,** the Tribal Council has the authority under Article VI, Section 1(i) to promulgate ordinances governing activities within the Reservation boundaries subject to popular referendum of the Tribe; and
- WHEREAS,** a Tribal Referendum was held on August 27, 2024; and
- WHEREAS,** the following question was put forth and voted on by the voting membership of the Tribe:
- "Do you approve of the revised Chapter 95 Industrial Hemp Control Ordinance?"**
- and;
- WHEREAS,** with 89 total voters and zero spoiled votes, the outcome was as follows:
- YES 86      NO 3
- and;
- WHEREAS,** the Tribal Council wishes to accept the Certification of the Tribal Referendum Election Results for August 27, 2024 and publish the updated Chapter 95; now, therefore be it

**RESOLVED,** by this Council, in Regular Session assembled, hereby accepts the August 27, 2024 Tribal Referendum Election Results regarding revisions to Tribal Code, Chapter 95, Industrial Hemp Control Ordinance; further

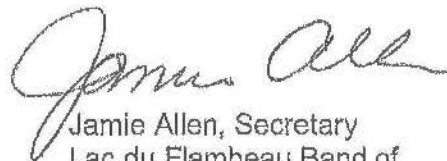
**RESOLVED,** ballots shall be destroyed after September 27, 2024; further

**RESOLVED,** the Tribal Council Secretary and Lac du Flambeau Tribal Court Clerk have authority to take all necessary steps to publish Tribal Code, Chapter 95, Industrial Hemp Control Ordinance, where Tribal laws are normally published and accessible to the public; further

**RESOLVED,** by this Council, that this Resolution shall become effective as of the date and time of its passage and approval by the Tribal Council.

#### CERTIFICATION

I, the undersigned, as Secretary of the Lac du Flambeau Band of Lake Superior Chippewa Indians, a tribal government operating under a Constitution adopted pursuant to Section 16 of the Indian Reorganization Act, 25 U.S.C., § 5123, do hereby certify that the Tribal Council of the Tribe is composed of twelve members, of whom ten constituting a quorum, were present at a Special Meeting, duly called, noticed, convened, and held on the 4th day of September, 2024, and that the foregoing resolution was duly adopted at said meeting by an affirmative vote of nine members (P. Zimmerman, N. Poupart, G. Thompson, J. Allen, J. Bauman Sr., L. St. Germaine, P. Pouart, J. Poupart, R. Allen), none against, none abstaining, and that the said resolution has not been rescinded or amended in any way.



Jamie Allen, Secretary  
Lac du Flambeau Band of  
Lake Superior Chippewa Indians

LAC DU FLAMBEAU TRIBAL CODE

CHAPTER 95

INDUSTRIAL HEMP CONTROL ORDINANCE

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#### HISTORY NOTE:

#### Current Ordinance:

Adopted June 25, 2019, Resolution No. 231(19)  
Enacted by referendum July 2, 2019.

On August 27, 2024, various revisions to Chapter 95 were approved via Tribal Referendum Election, the results of which were accepted by Tribal Council via Resolution No. 272(24).

LAC DU FLAMBEAU TRIBAL CODE

CHAPTER 95

INDUSTRIAL HEMP CONTROL ORDINANCE

ARTICLE 1. INTRODUCTION

95.101 Title.

This Ordinance shall be known as the “Industrial Hemp Control Ordinance.”

95.102 Authority.

This Ordinance is enacted pursuant to Article VI, Sections (a) and (n) of the Tribal Constitution.

95.103 Purpose.

The purpose of this Ordinance is to regulate and control the Cultivation of Industrial Hemp and the sale of Industrial Hemp Products on the Lac du Flambeau Indian Reservation. Given the State of Wisconsin’s decision to regulate Industrial Hemp, the descheduling of Hemp under the Federal Controlled Substance Act, and the enactment of the 2018 Farm Bill, the Tribal Council finds that it is in the Tribe’s best interests to enact this Ordinance governing Industrial Hemp Cultivation and the sale of Industrial Hemp Products on the Reservation. This Ordinance will increase the Tribal government’s ability to control Industrial Hemp Cultivation and sales within the Reservation, and at the same time will provide an important source of revenue for the continued operation and strengthening of the Tribal government and the delivery of Tribal government services.

95.104 Effective Date.

Adopted by referendum vote on July 2, 2019, effective immediately.

95.105 Interpretation.

The provisions of this Ordinance shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other Tribal Council power or authority.

95.106 Severability and Non-liability.

If any section, provision, or portion of this Ordinance is found unconstitutional or invalid by the Tribal Court, the remainder of this Ordinance shall not be affected thereby. The Tribe asserts that there is no liability on the part of the Lac du Flambeau Band of Lake Superior Chippewa Indians, its agencies, or employees for damages that may occur as a result of reliance upon or conformance with this Ordinance.

95.107        Repealer.

All other Tribal ordinances or parts of ordinances inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

95.108        Sovereign Immunity.

Nothing in this Ordinance is intended to nor shall be construed as a waiver of the Tribe's sovereign immunity. Any waiver of the Tribe's immunity to comply with any provision of this Ordinance must be approved and authorized by the Tribal Council at a duly called meeting.

ARTICLE 2. DEFINITIONS

95.201        Definitions.

For the purposes of this Ordinance, the following definitions shall be used. Words used in present tense include the future; the singular includes the plural; and the plural includes the singular. The word "shall" is mandatory and the word "may" is permissive.

- (1) "Acceptable Hemp THC Level" means when the application of the measurement of uncertainty to the reported total 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 total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis is 0.35% and the measurement of uncertainty is +/- 0.06%, the measured total delta-9 tetrahydrocannabinol 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 for the purpose of plan compliance with this code and applicable state and federal law.
- (2) "Applicant" means a Person who submits an application for a license under this Ordinance.
- (3) "Authority" means the Tribal Licensing and Regulatory Authority.
- (4) "Business" means a business incorporated under Tribal law or Section 17 of the Indian Reorganization Act which is wholly-owned by the Tribe and is licensed by the Tribe for sole purposes of carrying out all aspects of Industrial Hemp Cultivation and Distribution in compliance with this Ordinance.
- (5) "Cannabidiol" or "CBD" is one of at least 113 active cannabinoids identified in *Cannabis sativa L.* CBD can be extracted from Industrial Hemp. Cannabidiol is recognized for use in the treatment of certain legitimate medical conditions and possesses no psychoactive effect.

- (6) "Cultivation" means the planting, growing, and harvesting of Industrial Hemp.
- (7) "Distribution" or "Distribute" means the wholesale distribution of Industrial Hemp or Industrial Hemp Products to other wholesale entities and to retail entities.
- (8) "Harvest Lot" means a quantity of Industrial Hemp, of the same variety, harvested in a distinct timeframe that is: (1) Cultivated in one contiguous production area within a Registered Land Area; or (2) Cultivated in a portion or portions of one contiguous production area within a Registered Land Area. Harvest Lot does not include a quantity of Industrial Hemp comprised of Hemp grown in noncontiguous production areas.
- (9) "Industrial Hemp" or "Hemp" means the plant species *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 total delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis.
- (10) "Industrial Hemp Products" means all products made from Industrial Hemp (as defined in this Ordinance) including, but not limited to: cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed cake, seed meal, seed oil, CBD oil, and certified seed for Cultivation if the seeds originate from Industrial Hemp varieties.
- (11) "Licensee" means any Person who holds a license from the Authority as provided by this Ordinance.
- (12) "Person" means a natural person, corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association, or other form of legal business entity.
- (13) "Processing Area" means any area, building, plant, or facility registered with and approved by the Authority in which Industrial Hemp is made into a marketable Industrial Hemp Product.
- (14) "Registered Land Area" means a contiguous land area where Industrial Hemp is cultivated, including agricultural land, greenhouses, Processing Areas, and storage areas registered with the Authority as a condition of licensing, on which a Licensee will conduct licensed activities. A Registered Land Area may include more than one field, greenhouse, Processing Area, or storage area so long as those fields, greenhouses, Processing Areas, or storage areas are at the same physical address.
- (15) "Reservation" means the area within the exterior boundaries of the Lac du Flambeau Indian Reservation.
- (16) "State" means the State of Wisconsin.



- (17) "Tribe" means the Lac du Flambeau Band of Lake Superior Chippewa Indians.
- (18) "Tribal Court" means the Lac du Flambeau Tribal Court.
- (19) "Tribal Council" means the Lac du Flambeau Chippewa Tribal Council, the governing body of the Tribe elected pursuant to the Tribe's Constitution and Bylaws.
- (20) "Tribal Member" means an enrolled member of the Lac du Flambeau Band of Lake Superior Chippewa Indians.

### ARTICLE 3. LICENSING

#### 95.301 Industrial Hemp Cultivation License Application.

- (1) Any Business desiring to engage in Industrial Hemp Cultivation and Distribution shall obtain an Industrial Hemp Cultivation License to Cultivate and Distribute Industrial Hemp and Industrial Hemp Products before engaging in such activities. The Applicant must hold a current Industrial Hemp Cultivation License during the duration of engaging in Industrial Hemp Cultivation and Distribution.
- (2) Each Applicant for an Industrial Hemp Cultivation License shall submit a signed, complete, accurate, and legible application on a form provided by the Authority. To maintain continuous licensing, an Applicant must submit an application for a renewal license at least 30 days prior to the expiration of the previous license. The application must include the following information:
  - (a) The full name, residential address, telephone number, and email address, if an email address is available, of Person submitting application; and
  - (b) Business name, EIN Number, names of all Persons with a financial interest in the Business, type of Business entity (such as a corporation, Section 17 corporation, partnership, sole proprietor, etc.), Business address, Business email address, phone number, and Business website address, and address of entity's agent on the Lac du Flambeau Reservation; and
  - (c) Documentation showing either a valid tenancy, ownership, or other legal interest showing possession of the property in which any proposed Registered Land Area or Processing Area is located;
  - (d) Street address, location ID, legal description, and/or global positioning location coordinates taken at the approximate center of any proposed Registered Land Area or Processing Area; and

- (e) Where available, geospatial location as identified by the USDA Farm Service Agency for each proposed Registered Land Area or Processing Area; and
- (f) A map of the proposed Registered Land Area, showing the boundaries and dimensions of the proposed Registered Land Area in acres or square feet, and the proposed location of any variety of Industrial Hemp crop to be grown in the Registered Land Area(s); and
- (g) Documentation establishing membership in the Tribe, if applicable; and
- (h) Information regarding any other Registered Land Area(s) or Processing Area(s) that is licensed in any other jurisdiction owned in whole or in part by any Person with a Financial Interest in the Applicant and/or Business, including any violations, citations, or license revocations of any other Hemp license in any other jurisdiction; and
- (i) Criminal History Report and consent authorizing the Authority to conduct a criminal background check on the Applicant and anyone with a Financial Interest in the Business; and
- (j) Licensing fees, which the Authority shall reasonably set and collect to cover the costs of licensing and regulation. Failure to pay the fees will result in denial of an application; and
- (k) A business plan and/or operations plan shall be included with the application at a minimum providing the following information:
  - i The description of the land used for the licensed activities; and
  - ii A brief description of the Hemp activities; and
  - iii The anticipated or actual number of employees and the name of the project manager if not the same as Applicant's Signing Authority; and
  - iv A description of seed, certified seed, variety, or propagule to be used for production and the planned seed source or source of propagules; and
  - v The number of anticipated Hemp plants under production; and
  - vi A list of all pesticides and other chemicals proposed for use; and
  - vii Identification of all Persons with a Financial Interest in the Hemp Business; and
  - viii A statement of previous farming experience, if any.

- (l) Any person convicted of a felony relating to a controlled substance under state or federal law shall be ineligible, during the ten year period following the date of the conviction to receive a license to produce or process Hemp, unless that person was convicted of a felony related to the lawful production of Hemp under the 2014 Farm Bill and the conviction occurred before December 20, 2018.
  - (m) No later than 15 days from submission of an application, the Authority shall notify the Applicant if additional information is needed. Applicants that fail to provide additional information to the Authority within 30 days of any request for additional information shall be automatically denied. Applicants that are denied for failure to provide additional information may reapply to the Authority without prejudice.
  - (n) Applications shall be approved, conditionally approved or denied by the Authority within 30 days of submission. The Authority shall notify Applicants by letter or email whether the application has been approved, conditionally approved or denied.
  - (o) The Applicant's signature accepting the license terms and conditions, including the following:
    - i That the Applicant agrees to allow the Authority to inspect and sample any Industrial Hemp, or inspect any Registered Land Area(s), facilities, and records required of the Licensee under the terms of each license;
    - ii All aspects of Industrial Hemp Cultivation and Distribution activities shall be conducted by the Business and/or its subcontractors and in compliance with this Ordinance and other applicable law.
    - iii That the Applicant is responsible to pay any fees established by the Authority as applicable to the licensed activities; and
    - iv That the Applicant or any member of the Applicant's Business occupying a leadership position has not been convicted of any felony related to the possession, production, sale, or distribution of a controlled substance, as defined by federal or state law in any form in the United States or any other country, or convicted of any crime involving fraud within ten years of the date of the application.
- (3) In addition to the completed application form, each Applicant must submit a nonrefundable application fee. The fee will be set by the Tribal Licensing and Regulatory Authority subject to approval by the Tribal Council. If the application fee does not accompany the application, the application will be deemed incomplete.

- (4) An application may be deemed incomplete if the Applicant does not include information sufficient for the Authority to make a determination about the nature and scope of the Applicant's proposed uses or activities.
- (5) The Authority shall deny an application where the Applicant seeks to conduct activities or uses outside the scope of this Ordinance; where the Applicant has not met a material requirement identified in the application requirements; or where the Applicant proposes a use or activity in conflict with Tribal or federal law. An application may be denied should the application contain goals or information that the Authority could reasonably conclude would be out of conformance with Tribal or federal laws.
- (6) Associations, corporations, and other Business entities employing persons in leadership positions with prior felony drug conviction(s) within ten years of applying for a license are not eligible for the license.

95.302 Industrial Hemp Cultivation License.

- (1) A Business must obtain an Industrial Hemp Cultivation License prior to planting or Cultivating or Distributing Industrial Hemp or Industrial Hemp Products within the Reservation. An Industrial Hemp Cultivation Licensee may Distribute Industrial Hemp or Industrial Hemp Products under this license. Provided that any Industrial Hemp or Industrial Hemp Products the Business sells within the Reservation must be sold only to entities who have an Industrial Hemp Products Processing and Sales License pursuant to this Ordinance.
- (2) A fit for commerce certificate issued by the Authority must be obtained by the Licensee prior to transporting any Industrial Hemp from the Licensee's Registered Land Area.
- (3) The Business shall be organized and licensed under Tribal law or under Section 17 of the Indian Reorganization Act to be eligible to receive an Industrial Hemp Cultivation License.
- (4) The Business shall be required to meet all employment licensing requirements under section 95.303 of this Ordinance.
- (5) The Business shall be required to meet all Industrial Hemp Registered Land Area Operating Procedure requirements under section 95.304 of this Ordinance.
- (6) The Business shall remit an annual licensing fee to the Authority. The Authority shall keep accurate records of all such receipts and shall be subject to distribution by the Tribal Council in accordance with its usual appropriation procedures for governmental and social services. The fee will be set by the Authority subject to approval by the Tribal Council.
- (7) The Authority will inspect a Licensee's operations, and must have unrestricted access to all Industrial Hemp plants, plant parts, grain, seeds, and Industrial Hemp

Products within a Registered Land Area or Processing Area, whether growing or not, and all land and facilities used by a Licensee for the growing and storage of Industrial Hemp, pesticide storage or housing, and all documents and records pertaining to the Licensee's Industrial Hemp Business operations. The Authority will test Industrial Hemp plants, plant parts, grain, seeds, and Industrial Hemp Products within a Registered Land Area, whether growing or not, to ensure compliance with this Ordinance.

- (8) All licenses are valid for one year from date of issuance and may be renewed in successive years. Each annual renewal shall require the payment of application renewal fees, license renewal fees, and a new criminal background check.
- (9) Any Industrial Hemp plant material that is not harvested during the license period in which it was planted must be destroyed, except for specific waivers with prior approval granted by the Authority.
- (10) Any licensed Business that wishes to change the Registered Land Area(s) after issuance of the license, must submit to the Authority for approval an updated address, legal description, global positioning system location, and map specifying the proposed changes to the Registered Land Area(s), pay fees and obtain the Authority's approval documented as an amendment to the license. The Authority may deny the requested change for good cause. The fee to change the Registered Land Area(s) after issuance of the license will be set by the Tribal Licensing and Regulatory Authority subject to approval by the Tribal Council. Upon approval by the Authority, the Licensee has an affirmative obligation to disclose the new location of the Registered Land Area to the local USDA Farm Service Agency Office.
- (11) A license, provided by the Authority, must be posted by the Business in a conspicuous spot.
- (12) Grounds for Denial. The grounds for denial of Cultivation License may be one or more of the following:
  - (a) The Applicant has violated this Ordinance or the Authority is not able to make a finding of good moral character.
  - (b) The Applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for an Employee License.
  - (c) The Applicant has been convicted of a felony or within the past ten years of a misdemeanor involving a marijuana related offense. A conviction within the meaning of this subsection means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
  - (d) The Applicant is under 21 years of age.

- (e) The required application processing fee has not been paid within a reasonable time.

95.303

Industrial Hemp Cultivation Employee License.

- (1) All employees of a Business licensed under section 95.302 shall be required to obtain by application from the Authority an Employee License as a prerequisite to such employment within the exterior boundaries of the Reservation.
- (2) The application for an Employee License shall include the following information:
  - (a) The full legal first, middle and last name (including maiden name), physical address, mailing address, telephone number, email address, copy of original social security number, and date of birth of the Applicant.
  - (b) Proof that the Applicant is at least 21 years of age through copy of valid state issued ID or driver's license, United States passport, federally recognized Tribal ID, and/or military ID.
  - (c) A copy of the Applicant's valid state ID, driver's license, United States passport, Tribal ID, or military ID, which includes photo of the Applicant.
  - (d) A nationwide criminal history report and consent authorizing the Authority to conduct a criminal background report on the Applicant and anyone with a financial interest in the Business; and
  - (e) Currently and for the previous five years: business and employment positions held, ownership interests in those businesses, business and resident addresses, and driver's license numbers.
  - (f) The names, telephone numbers, email addresses and current physical addresses of at least three references, including at least one professional reference.
  - (g) Written permission of the Applicant authorizing the Authority or its designee to seek verification of the information contained within the application.
  - (h) A statement in writing that the Applicant certifies under penalty of perjury that all information contained in the application is true and correct; and any other information the Authority deems relevant.
  - (i) The Employee License that is issued to the Applicant shall include the following printed statement and the Applicant to acknowledge the following warning:

CAUTION: Federal and Tribal laws on the cultivation of marijuana and possession of marijuana and marijuana products

may differ. In the absence of a federal license, federal law prohibits the cultivation and possession of marijuana and marijuana products even pursuant to a Tribal license. If you are in violation of federal law, you may be prosecuted in federal court, imprisoned, required to pay a fine and restitution and your real property deemed related to the cultivation or violation may be forfeited. A Tribal license is not a defense to a federal prosecution and forfeiture.

- (3) Employee License Term, Renewals, and Fees.
  - (a) Unless otherwise suspended or revoked, an Employee License shall expire one year following its issuance. A person may re-apply for an Employee License for subsequent periods of one year.
  - (b) The first application for an Employee License shall be accompanied by a non-refundable processing fee, as established by the Authority and approved by the Tribal Council. There is no fee for renewal.
  - (c) All license fees shall be remitted to the Authority, who shall keep accurate records of all such receipts, and shall be subject to distribution by the Tribal Council in accordance with its usual appropriation procedures for governmental and social services.
- (4) Industrial Hemp Employee Eligibility Determination. The Authority or its designee shall review an Applicant's prior activities, criminal record, if any, and reputation, habits, and associations to make a finding concerning the eligibility for employment in a Cultivation facility, Distribution facility, or processing facility.
- (5) Grounds for Denial. The grounds for denial of an Employee License may be one or more of the following:
  - (a) The Applicant has violated this Ordinance or the Authority is not able to make a finding of good moral character.
  - (b) The Applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for an Employee License.
  - (c) The Applicant has been convicted of a felony or within the past ten years of a misdemeanor involving a marijuana related offense. A conviction within the meaning of this subsection means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
  - (d) A determination by the Authority that employment of the Applicant poses a threat to the public interest or to effective regulation under this Ordinance.

- (e) The Applicant is under 21 years of age.
  - (f) The required application processing fee has not been paid within a reasonable time.
- (6) Reconsideration of Denial.
- (a) An Applicant who has been denied an Employee License may seek reconsideration of the Authority's decision to the Tribal Council by filing a written petition for reconsideration with the Tribal Chairperson within 30 business days of service of the written notice of decision. If a petition for reconsideration is not filed within such time, the decision shall be final.
  - (b) Following review of the petition for reconsideration, the Tribal Council may issue the Employee License subject to such conditions as it deems reasonable under the circumstances to protect the public health, safety, and welfare of the Tribal Members or it may deny the issuance of the Employee License for any of the grounds specified in this Ordinance. The decision of the Tribal Council shall be final and not subject to judicial review.
- (7) Suspension of Employee License.
- (a) If, after the issuance of an Employee License, the Authority receives reliable information indicating that an employee is not eligible for employment under this Ordinance, the Authority shall suspend such license and shall notify in writing the Licensee of the suspension and the proposed revocation.
  - (b) The Authority shall notify, within ten days following suspension or proposed revocation, the Licensee of a time and a place for a hearing on the proposed revocation of the license.
  - (c) After a revocation hearing, the Authority shall decide to revoke or to reinstate an Employee License. The decision of the Authority shall be final and not subject to judicial review.
- (8) Employee License Reinstatement.
- (a) No person who has had an Employee License revoked may have the license restored unless the Authority orders restoration after the filing of a petition for reinstatement.
  - (b) No person may petition for reinstatement until the expiration of at least one year from the effective date of the revocation.
  - (c) The petitioner will have the burden of proving by clear and convincing evidence that:



- i The petitioner meets the criteria requirements of this Ordinance;
- ii The petitioner has reformed, rehabilitated or otherwise overcome the issue or issues underpinning the revocation; and
- iii Permitting the petitioner to resume employment will not be detrimental to the integrity of the Tribe or to the public interest.

95.304

Industrial Hemp Registered Land Area Operating Procedures.

- (1) All Registered Land Areas shall be located on the Reservation and shall be subject to the jurisdiction of Tribal law enforcement and the Tribal Court.
- (2) Each Licensee shall establish written operating procedures for Industrial Hemp Cultivation and Distribution. The operating procedures must include the minimum following information:
  - (a) The manner in which pesticide and other agricultural chemicals are to be applied during its Cultivation process;
  - (b) The equipment and methods employed in the Cultivation of the Industrial Hemp;
  - (c) The manner in which the Cultivated Industrial Hemp will be transported to a processing facility;
  - (d) The measures taken to minimize or offset energy use from the Cultivation of Industrial Hemp;
  - (e) The manner in which chemicals will be stored, used, and disposed of at the premises;
  - (f) The type and quantity of all effluent discharged into the Tribe's wastewater or stormwater systems;
  - (g) The hours and days of the week the Registered Land Area will be open;
  - (h) The number of Licensed Employees per shift who will be working at the Registered Land Area;
  - (i) The security measures that will be employed at the Registered Land Area, including but not limited to licensed and uniformed guards, lighting, alarms, surveillance, and automatic law enforcement notification; and
  - (j) Any other procedures required by the Authority.
- (3) Such procedures shall be submitted to the Authority 60 days prior to beginning operation.

- (4) A copy of all operating procedures must be maintained at every Registered Land Area.
- (5) The use or consumption of Industrial Hemp Products shall be strictly prohibited at each Registered Land Area.
- (6) A Licensee may not treat or otherwise adulterate Industrial Hemp with any chemical or other compound whatsoever to alter its color, appearance, weight, or smell.

95.305 Precaution and Specific Requirements.

- (1) Every Licensee shall take all reasonable measures and precautions to ensure that the following requirements are met:
  - (a) All processing of Industrial Hemp must take place in an enclosed, locked structure or building.
  - (b) Any employee 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 Industrial Hemp shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected.
  - (c) All employees working in direct contact with Industrial Hemp shall conform to hygienic practices while on duty, including but not limited to, maintaining sufficient personal cleanliness.
  - (d) 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 Industrial Hemp is exposed.
  - (e) All floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
  - (f) Adequate lighting shall be required in all areas where Hemp is stored.
  - (g) Adequate screening or other protection against the entry of pests shall be made. Rubbish 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.
  - (h) All buildings, fixtures, and other facilities shall be maintained in a sanitary condition.

- (i) Pesticide chemicals shall be identified, used, held, and stored in a manner that protects against contamination of Industrial Hemp, and in a manner that is in accordance with this Ordinance and any applicable Tribal, state, or federal law, rule, or regulation.
- (2) Registered Land Areas shall be subject to the following specific regulations:
- (a) The display or sale of paraphernalia employed in the use or consumption of Industrial Hemp Products or any implement that may be used to administer, use, inhale, consume, smoke or ingest Industrial Hemp Products is prohibited at the Registered Land Area.
  - (b) The Cultivation of Industrial Hemp shall not adversely affect the health or safety of the employees, or the facility in which it is cultivated or processed, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes.
  - (c) The Processing Area shall occur within a self-contained structure that is adequately ventilated.
  - (d) The Processing Area shall comply with stormwater, wastewater and other requirements of the Tribe.
  - (e) The water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the Registered Land Area's needs.
  - (f) The plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water that shall properly convey sewage and liquid disposable waste from the Cultivation facility. There shall be no cross-connections between the potable and waste water lines.
  - (g) All operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Industrial Hemp and Industrial Hemp Products shall be conducted in accordance with adequate sanitation principles.
  - (h) Every Licensee shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and in good repair located within the Registered Land Area.
  - (i) All hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing

facilities shall be located in the Cultivation facility and where good sanitary practices require employees to wash and/or sanitize their hands and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices.

- (j) Industrial Hemp that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

95.306 Recordkeeping and Reporting.

(1) Licensee Recordkeeping and Reporting.

- (a) Licensees must report any changes of contact information to the Authority in writing within 14 days of the change.
- (b) Within 14 days after the planting of any Industrial Hemp, the Licensee shall submit, on a form provided by the Authority, a planting report that includes the GPS coordinates and a map showing the actual location and acreage of Industrial Hemp planted within the Registered Land Area.
- (c) At least 14 days prior to harvest, each Licensee shall submit a pre-harvest notification, on a form provided by the Authority that includes the projected harvest date(s) and location(s) of the Industrial Hemp Cultivated within a Registered Land Area. A Licensee must notify the Authority immediately of any changes in the reported harvest date(s) in excess of seven days.
- (d) Within 14 days post-harvest, each Licensee shall submit a post-harvest report, on a form provided by the Authority that includes the actual harvest date(s) and location(s) of each Industrial Hemp harvested within a Registered Land Area.
- (e) A Licensee must retain all documentation of sampling and testing for at least three years in a manner such that it can be readily provided to the Authority upon request.

95.307 Sampling and Testing Procedures.

- (1) A Licensee must arrange for the testing of each Harvest Lot no more than 30 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) A Licensee 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.
- (3) All Licensees shall be subject to mandatory sampling and testing of any Hemp prior to harvest. The procedures for sampling shall be as follows:

- (a) Licensed Producers shall contact the Authority to arrange for a date and time for sampling of the Hemp produced on the Lot at least 30 days prior to harvest;
- (b) Sampling must occur within 30 days prior to harvest of any *Cannabis sativa L.*;
- (c) The Authority shall have unrestricted access to the lot;
- (d) A staff person designated by the Authority, who has received USDA training, shall collect a representative sample of *Cannabis sativa L.* flower material from the Registered Land Area that represents a homogeneous composition of the lot and transport it to an independent DEA certified laboratory or other laboratory allowable under federal law and approved by the Authority;
- (e) Current Licensed Producers may not act as sampling agents and may not collect their own samples.
- (f) Sampling techniques shall ensure that a representative sample of flower material is collected representing a homogenous composition of the lot;
- (g) The sampling agent shall visually estimate the average height, appearance, approximate density, conditions of the plants, and the degree of maturity of the inflorescence;
- (h) The sampling agency or designated individual shall collect samples using the Standard Sampling Method found in the USDA's Sampling Guidelines for Hemp;
- (i) Samples from flowering tops of plants shall be approximately five to eight inches in length from the main stem, which includes the leaves and flowers, terminal bud that occurs at the end of the stem, or the central cola;
- (j) The Authority sampling procedures ensure, with a 95% level of confidence, that no more than 1% of the *Cannabis sativa L.* sampled from the Registered Land Area will fail to meet the definition of Hemp under this Ordinance;
- (k) The number of plants sampled shall be based on the size of the growing area of the lot as follows:
  - i For lots of less than one acre, including greenhouses, a minimum of one plant shall be used to form a sample;
  - ii For lots one acre to ten acres, including greenhouses, the number of samples is one sample per acre; and

- iii Any lot larger than ten acres, including greenhouses, shall follow the Sampling Guidelines for Hemp as explained in section 7 of the Sampling Guidelines for Hemp, found at: <https://www.ams.usda.gov/rules-regulations/hemp/information-laboratories/lab-testing-guidelines>
  - (l) During a scheduled sample collection, the Licensed Producer or their authorized representative shall be present during the sampling;
  - (m) Samples of plant material from one strain shall not be commingled with plant material from any other strain; and
  - (n) A Licensed Producer shall not harvest the *Cannabis sativa L.* on the Registered Land Area prior to sampling
  - (o) Every lot and every producer must be sampled and tested.
- (4) The procedures for testing *Cannabis sativa L.* shall be as follows:
- (a) Analytical testing for total Delta-9-THC concentration levels will use post-decarboxylation as approved by the USDA;
  - (b) The total Delta-9-THC concentration level shall be determined and reported on a dry weight basis;
  - (c) Testing will be performed by an independent DEA certified laboratory or other laboratory allowable under federal law and approved by the Authority. Testing methodology shall include gas or liquid chromatography with detection. All test results must include total THC (THC-A + Delta-9-THC) or the calculation to determine total THC. The Authority is responsible for ensuring that the laboratory's standards of performance for detecting total Delta-9- THC concentration levels, including the conversion of THCA to THC, are consistent with 7 C.F.R. § 990.25; and the following standards, to the satisfaction of the Authority:
    - i Laboratory quality assurance must ensure the validity and reliability of test results;
    - ii 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;
    - iii Any demonstration of testing validity must ensure consistent, accurate analytical performance;
    - iv Laboratory measurement of uncertainty must be estimated and reported with Test Result Reports. Laboratories shall use appropriate, validated methods and procedures for all testing

activities, and shall evaluate and report to the Authority their measurement of uncertainty in test results.

- (d) Laboratory testing must result in the production of a Test Result Report consistent with the requirements of this Ordinance; and,
  - (e) All test results shall be reported to the Authority, the Licensee, and directly to the USDA through the online Hemp eManagement Platform (“HeMP Platform”).
  - (f) All test results shall be reported directly to the USDA through the online HeMP platform.
- (5) Any test of a representative sample of *Cannabis sativa L.* under this subchapter that fails to meet the definition of Hemp shall be evidence that the lot represented by the sample is not in compliance with this Ordinance and shall be disposed of in accordance with the provisions of section 95.305 of this Ordinance.
- (6) Licensees shall be responsible for fees associated with sampling and testing, including lab fees. The Authority may charge a reasonable hourly fee for any individual(s) designated by the Authority to conduct the sampling, for actual drive time, mileage, inspection sampling time and any other administrative costs. All fees shall be paid within 30 calendar days of any invoice received from the Authority.
- (7) Nothing in this section shall prevent a Licensee from voluntarily collecting samples and testing Hemp for quality assurance and research and development purposes.
- (8) A Licensee may apply to the Authority for retesting and/or resampling of any non-compliant *Cannabis sativa L.*, provided the lots of Hemp have not been harvested, no later than five days from notification of test results Hemp which may be approved or denied at the Authority's sole discretion.

95.308 Industrial Hemp Products Processing and Sales License.

- (1) Any Person desiring to process, and/or sell Industrial Hemp Products within the exterior boundaries of the Lac du Flambeau Reservation is required to obtain an Industrial Hemp Products Processing and Sales License from the Authority established pursuant to this Ordinance. Any person desiring to import Industrial Hemp Products within the exterior boundaries of the Lac du Flambeau Reservation is required to confirm with all applicable Tribal, state, and federal laws.
- (2) Each Applicant for an Industrial Hemp Products Processing and Sales License shall submit a signed, complete, accurate, and legible application on a form provided by the Authority. To maintain continuous licensing, an Applicant must

submit an application for a renewal license at least 30 days prior to the expiration of the previous license. The application must include the following information:

- (a) The name and Business address of the Applicant;
  - (b) For corporate Applicants, the type of Business entity, such as corporation, LLC, or partnership, the state or country where the Business is incorporated, and the name and address of the Applicant's agent on the Lac du Flambeau Reservation;
  - (c) The address of the location and description of where the Industrial Hemp Products will be shipped to, stored, or sold from; and
  - (d) The Applicant's signature accepting the license terms and conditions, including the following:
    - i That the Applicant agrees to allow the Authority to inspect and sample any Industrial Hemp Products, or inspect any lands, buildings, facilities, and records required of the Licensee under the terms of each license;
    - ii That the Applicant is responsible to pay any fees established by the Authority as applicable to the licensed activities.
- (3) In addition to the completed application form, each Applicant must submit a nonrefundable application fee set by the Authority and approved by the Tribal Council. If the application fee does not accompany the application, the application will be deemed incomplete.
- (4) An application may be deemed incomplete if the Applicant does not include information sufficient for the Authority to make a determination about the nature and scope of the Applicant's proposed uses or activities.
- (5) The Authority shall deny an application where the Applicant seeks to conduct activities or uses outside the scope of this Ordinance; where the Applicant has not met a material requirement identified in the application requirements; or where the Applicant proposes a use or activity in conflict with Tribal or federal law. An application may be denied should the application contain goals or information that the Authority could reasonably conclude would be out of conformance with Tribal or federal laws.
- (6) The Licensee shall be required to keep receipts, certificates, or other documents from the Business that the Licensee has obtained Industrial Hemp Products from, that certify that the seller is licensed under state or Tribal laws and that the Industrial Hemp Products sold to the Licensee do not contain more than 0.3% or greater THC content.



- (7) The Licensee may not sell Industrial Hemp Products that contain 0.3% or greater THC content.
- (8) The Authority may inspect a Licensee's operations and must have unrestricted access to all Industrial Hemp Products located at the place of Business described in the application, and all land and facilities used by the Licensee's storage of Industrial Hemp Products. Further, the Authority must have access to all documents and records pertaining to the Licensee's Industrial Hemp Products Business operations. The Authority may also test Industrial Hemp Products in the possession of the Licensee to ensure compliance with this Ordinance.
- (9) The Business shall remit an annual licensing fee to the Authority, which shall keep accurate records of all such receipts, and shall be subject to distribution by the Tribal Council in accordance with its usual appropriation procedures for governmental and social services. The Authority shall set the fee with the approval of the Tribal Council.
- (10) All licenses are valid for one year from date of issuance and may be renewed in successive years. Each annual renewal shall require the payment of application renewal fees and license renewal fees.
- (11) Any Licensee that wishes to change the location of their Business indicated and described in their application(s) after issuance of the license, must submit to the Authority for approval an updated Business address and description, pay a fee set by the Authority, and obtain the Authority's approval documented as an amendment to the license. The Authority may deny the requested change for good cause.
- (12) A sign, provided by the Authority, must be posted by Licensee stating that the Licensee is licensed to sell Industrial Hemp Products. The Licensee must post such signs in a conspicuous place at the place of Business described in the application.

95.309 Industrial Hemp Products Processing and Sales License Terms, Renewal, and Fees.

- (1) Unless otherwise suspended or revoked, an Industrial Hemp Products Processing and Sales License shall expire one year following its issuance. A Licensee may re-apply for an Industrial Hemp Products Processing and Sales License for subsequent periods of one year.
- (2) Every application for an Industrial Hemp Products Processing and Sales License or renewal shall be accompanied by a non-refundable license fee, as established by the Authority and approved by the Tribal Council.
- (3) All license fees shall be remitted to the Authority, who shall keep accurate records of all such receipts, and shall be subject to distribution by the Tribal Council in

accordance with its usual appropriation procedures for governmental and social services.

95.310 Grounds for Denial.

- (1) The grounds for denial of an Industrial Hemp Products Processing and Sales License may be one or more of the following:
  - (a) The Applicant, or its agent, has violated this Ordinance.
  - (b) The Applicant, or its agent, has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in their Industrial Hemp Products Processing and Sales License application.
  - (c) A determination by the Authority that the Applicant poses a threat to the public interest or to the effective regulation of Industrial Hemp and Industrial Hemp Products.
  - (d) The Applicant, or its agent, is under 21 years of age.
  - (e) The required application or renewal fees have not been paid within a reasonable time.

95.311 Reconsideration of Denial.

- (1) An Applicant aggrieved by the decision of the Authority or its designee to deny an Industrial Hemp Products Processing and Sales License may seek reconsideration of such decision to the Tribal Council by filing a written petition for reconsideration with the Tribal Chairperson within 30 business days of service of the written notice of decision. If a petition for reconsideration is not filed within such time, the decision shall be final.
- (2) Following review of the petition for reconsideration, the Tribal Council may issue the Industrial Hemp Products Processing and Sales License subject to such conditions as it deems reasonable under the circumstances to protect the public health, safety, and welfare of the Tribal Members or it may deny the issuance of the Industrial Hemp Products Processing and Sales License for any of the grounds specified in this Ordinance. The decision of the Tribal Council shall be final and not subject to judicial review.

95.312 Suspension of Industrial Hemp Products Processing and Sales License.

- (1) If, after the issuance of an Industrial Hemp Products Processing and Sales License, the Authority receives reliable information indicating that a Licensee is not eligible for such license under this Ordinance, the Authority shall suspend such license and shall notify in writing the Licensee of the suspension and the proposed revocation.

- (2) The Authority shall notify the Licensee of a time and a place for a hearing on the proposed revocation of the license.
- (3) After a revocation hearing, the Authority shall decide to revoke or to reinstate the Industrial Hemp Products Processing and Sales License. The decision of the Authority shall be final and not subject to judicial review.

95.313 Industrial Hemp Products Processing and Sales License Reinstatement.

- (1) No person who has had an Industrial Hemp Products Processing and Sales License revoked may have the license restored unless the Authority orders restoration after the filing of a petition for reinstatement.
- (2) No person may petition for reinstatement until the expiration of at least one year from the effective date of the revocation.
- (3) The petitioner will have the burden of proving by clear and convincing evidence that,
  - i The petitioner meets the criteria requirements of this Ordinance;
  - ii The petitioner has reformed, rehabilitated or otherwise overcome the issue or issues underpinning the revocation;
  - iii Permitting the petitioner to operate under an Industrial Hemp Products Processing and Sales License will not be detrimental to the integrity of the Tribe or to the public interest; and,
  - iv The petitioner paid all fees required under this Ordinance.

ARTICLE 4. TRIBAL LICENSING AND REGULATORY AUTHORITY

95.401 Tribal Licensing and Regulatory Authority.

The Tribal Licensing and Regulatory Authority (“Authority”), created under Chapter 94 of the Tribal Code, shall be responsible for all licensing and regulatory duties and obligations provided for in this Ordinance. Chapter 94, Section 4, of the Tribal Code shall govern the Authority’s power, duties, and obligations unless specifically enumerated otherwise under this Ordinance.

95.402 Powers of the Authority.

The Authority has the power and responsibility to discharge all duties imposed by law and this Ordinance, including but not limited to:

- (1) To promulgate, adopt, and enforce regulations and rules furthering the purpose and provisions of this Ordinance; provided that such regulations shall take effect only upon approval of the Tribal Council.
- (2) To examine or inspect or cause to be examined or inspected, by its agents, employees or subcontractors, each Licensee's Industrial Hemp crops, facilities, place of Business, Industrial Hemp Products, equipment, and the books, records, papers, vouchers, accounts, and documents to ensure compliance with the law and this Ordinance.
- (3) To make or cause to be made reasonable investigations of any Licensee as it deems necessary to ensure compliance with this Ordinance or any order of the Authority, to determine whether any Licensee has engaged, is engaging or is about to engage in any act in violation of this Ordinance or any order of the Authority; or to aid in adopting rules or regulations pursuant to this Ordinance.
- (4) Upon prior explicit resolution and approval of the Tribal Council, to employ such advisors as it may deem necessary. Advisors may include, but are not limited to, lawyers, accountants, law enforcement specialists, Industrial Hemp/agriculture specialists, or an Industrial Hemp testing lab.
- (5) To accept, review, approve or disapprove any application for a license under this Ordinance, including conducting or arranging for background investigations of all Applicants.
- (6) To examine under oath, either orally or in writing, in hearings or otherwise, any Licensee, or agent, officer or employee of any Licensee, or any other witness with respect to any matters related to this Ordinance and to compel by subpoena the attendance of witnesses and the production of any books, records, and papers with respect thereto. Upon refusal to appear or produce, the Authority may apply to the Tribal Court, or any other court of competent jurisdiction, to compel appearance or production.
- (7) To discipline any Licensee engaging or participating in Industrial Hemp Cultivation, Distribution, or Sales of Industrial Hemp Products in violation of this Ordinance by ordering immediate compliance, issuing fines and sanctions, and suspending or revoking any license pursuant to the hearings and due process.
- (8) To arbitrate, compromise, negotiate or settle any dispute to which it is a party relating to the Authority's authorized activities, subject to any approval that may be required by the Tribal Council.
- (9) To adopt a schedule of fees to be charged for the processing of Applications and the issuance and renewal of Licenses, including fees or charges associated with conducting background checks; for reasonable examinations of Licensees; and, for services rendered relating to transcripts and the furnishing or certifying of copies of proceedings, files, and records and to impose the forgoing fees as applicable.

- (10) To establish and maintain such bank accounts as may be necessary or convenient.
- (11) To make such findings as may be necessary to implement the Authority's duties and powers, with such findings to be given deference as the legally binding findings of a governmental entity.

95.403 Investigations, Right of Entrance.

(1) Investigations.

The Authority, upon petition, complaint or upon its own initiative or whenever it may deem it necessary in the performance of its duties or the exercise of its powers, may investigate and examine the operation and premises of any Licensee or Person engaging or suspected to be engaging in Industrial Hemp Cultivation or Industrial Hemp Sales within its jurisdiction.

- (a) In undertaking such investigations, the Authority may request the assistance of federal or local law enforcement officials, legal counsel and/or other third parties.
- (b) In conducting such investigation, the Authority shall make no order or final decision without affording any affected party notice and a hearing pursuant to Section 95.406 of this Ordinance.

(2) Right of Entrance.

The Authority and duly authorized employees or Agents of the Authority, during regular business hours, may reasonably enter upon any Tribal premises of any Licensee, or Person engaging in or suspected to be engaging in Industrial Hemp Cultivation or Industrial Hemp Sales for the purpose of making inspections and examining the accounts, books, papers and documents of any such Licensee, or Person.

(3) Aid to Entry.

The staff of the Licensee, or Person engaging in or suspected to be engaging in Industrial Hemp Cultivation or Industrial Hemp Sales shall facilitate such inspection or examinations by giving every reasonable aid to the Authority and to any properly authorized officer or employee.

95.404 Promulgation of Regulations.

(1) The Authority may promulgate regulations as follows:

- (a) The Tribal Council, the Authority, or any Licensee may request the promulgation of a regulation by submitting a written request and draft of the proposed regulation to the Authority;

- (b) Within 30 days, the Authority will review the request and proposed regulation to ensure it does not conflict with this Ordinance or any applicable law;
  - (c) If the proposed regulation conflicts with this Ordinance or any applicable law, the Authority may revise the proposed regulation to conform to this Ordinance or other applicable law or return the proposal with an explanation of any nonconformity to the submitting Person for further review.
  - (d) If the proposed regulation does not conflict with this Ordinance or any applicable law, the Authority will notify the Tribal Council, the submitting Person, and any Licensees that may be affected by the proposed regulation by means reasonably calculated to inform the Tribal Council and all affected Persons;
  - (e) After notice is sent, unless exigent circumstances exist, the Authority will allow at least 30 days for the Tribal Council and any affected Persons to submit written comments on the proposed regulation that support, oppose, or suggest amendments to the proposed regulation. When exigent circumstances exist, the Authority may promulgate a regulation without a comment period, and any Licensee or Person affected may protest the regulation by following the procedure detailed in 95.406. Upon promulgation of any regulation under exigent circumstances, within seven days, the Authority will notify the Tribal Council of the promulgated regulation and the exigent circumstances.
- (2) After the comment period has expired:
- (a) If the proposed regulation is unopposed, the Authority shall promulgate and publish the proposed regulation by majority vote and it will be implemented;
  - (b) If the proposed regulation is opposed or amendments are proposed, the Authority may either decline to promulgate the regulation or abandon the proposed regulation, amend the proposed regulation, or conduct a hearing on the proposed regulation to allow interested parties to advocate on the proposal.
  - (c) If the Authority declines to promulgate the proposed regulation, it will notify the Tribal Council and all affected Persons or conduct a hearing on the proposed regulations for additional input to determine whether to promulgate and implement the proposed regulation.
  - (d) If the Authority amends the proposed regulation, it will re-notify the Tribal Council and Licensees.

- (3) Within 30 days after the Authority promulgates or declines to promulgate a regulation, a Licensee may request a Tribal Council review of the Authority's decision.
- (4) A Licensee may submit a written request for a Tribal Council review to the Authority. The written request must detail the basis for the Tribal Council review.
- (5) Tribal Council Review.

Within 30 days after the Authority promulgates or declines to promulgate a regulation, a Licensee may request a Tribal Council review of the Authority's decision.

- (a) A Licensee may submit a written request for a Tribal Council review to the Authority. The written request must detail the basis for the Tribal Council review.
  - (b) The Authority will forward to the Tribal Council the written request for review, the proposed regulation at issue, a written explanation of the bases for the Authority's decision to promulgate or not to promulgate the proposed regulation, and an agenda request to appear before the Tribal Council. The Authority will send copies of this submission to the Licensee requesting the Tribal Council review.
  - (c) The Tribal Council may accept or deny the request to review the Authority's decision. If the Tribal Council declines the request to review the Authority's decision, the Authority's decision on the proposed regulation is final. If the Tribal Council grants the request to review the Authority's decision, the Tribal Council may proceed to review the Authority's decision in any manner it deems appropriate.
  - (d) The Tribal Council may promulgate or rescind any regulation at any time by majority vote. The Tribal Council is in no way bound by this Article.
- (6) Only regulations promulgated by this procedure or promulgated by the Tribal Council will be enforceable.

95.405 Meetings.

The Authority shall have the power to conduct and oversee the conduct for any meetings or hearings held by the Authority in accordance with this Ordinance or further directive of the Tribal Council.

95.406 Notice and Opportunity to Cure; Due Process; Notice; Hearings; Examiner.

For a violation of this Ordinance or denial of an Application, the Authority shall provide notice and the opportunity for a hearing comporting with notions of due process if it is to utilize any of

its enforcement capabilities in the administration of its powers and duties hereunder. At the discretion of the Authority, the Authority may provide a reasonable opportunity to cure before it initiates any enforcement action. If emergency enforcement action is taken based upon a showing of exigent circumstances or good cause, and the Authority shall provide notice and an opportunity to be heard within 14 days of the occurrence of such enforcement action to allow an aggrieved party an opportunity to object to the enforcement action.

- (1) Upon receipt of any notice of violation, a Licensee may request a stay of any enforcement action to allow time to cure or to work with the Authority towards a voluntary resolution.
- (2) No Hearing, Voluntary Resolution. Whenever it shall appear to the satisfaction of the Authority that all of the interested parties involved in any dispute or concern have agreed concerning the matter at hand, the Authority may dismiss an enforcement action or approve resolution of the issue, as appropriate, without a hearing.
- (3) Notice of Hearing. A written notice shall set forth, with specificity, the issues to be resolved and the date and time at which a hearing shall be conducted.
- (4) Hearing.
  - (a) Except as determined by the Authority, a hearing should be scheduled up to 30 business days after the notice of hearing is delivered.
  - (b) At the hearing, the affected parties shall be provided the opportunity to present oral or written evidence. An affected party shall have an opportunity to cross-examine opposing witnesses, and to present any other evidence as to why a denial, suspension, or revocation order should not be issued.
  - (c) Hearings shall be open to all people interested therein as determined by the Authority.
  - (d) The hearing shall be governed in all respects in accordance with Tribal law and Authority regulations. Any suspension or revocation decision of the Authority after hearing may be appealed in accordance with the provisions of Section 94.420(7).
- (5) Examiner. The Authority's Agent(s) shall act as examiner for the purpose of any hearing, or the Authority may appoint an examiner qualified in the law or possessing knowledge or expertise in the subject matter of the hearing for the purpose of conducting any hearing. Any such appointment shall constitute a delegation to such examiner of the powers of the Authority under this Ordinance with respect to any such hearing.
- (6) Decision. The Authority shall issue a written decision to all affected parties within 30 days after the hearing.



- (7) Appeals. Affected parties may appeal an Authority determination by filing a written appeal to the Tribal Court within 14 business days of receiving the Authority's final written decision.

95.407 Duties of the Authority.

- (1) Report to the Tribal Council.

The Authority shall file reports with the Tribal Council summarizing reports received from each Licensee, investigations undertaken, Licensee violations and other activities undertaken by the Authority to keep the Tribal Council fully informed as to the status of the Authority's activities. The Authority shall define by regulation, subject to the approval of the Tribal Council, the schedule for the submission of such reports.

- (2) The Authority shall review and either approve or deny all applications for licenses under this Ordinance.
- (3) The Authority may conduct investigations to ensure Licensee compliance with this Ordinance or to conduct proper due diligence in assessing an Applicant's application.
- (4) The Authority, or its agents, shall conduct testing of a Licensee's Industrial Hemp or Industrial Hemp Products annually to ensure that any Industrial Hemp or Industrial Hemp Product does not contain 0.3% or greater THC content, using a post-decarboxylation or other similarly reliable testing method.
- (5) Authority Recordkeeping and Reporting:
  - (a) The Authority shall retain for a least three business years, all information required to be collected under this Ordinance, including a Licensee's Application and related documents, background check, and physical address, legal description, and GIS coordinates of the Licensee's Registered Land Area or Processing Area approved by the Authority.
  - (b) Within 30 days after the date the information is received, the Authority shall submit to the U.S. Secretary of Agriculture the following information for each Industrial Hemp Cultivation Licensee licensed by the Tribe:
    - i Contact information for each Licensee, including the legal entity name, full name of all authorized representatives, the street address of each Registered Land Area, the Business telephone number, and email address of each Licensee;
    - ii A legal description of the Registered Land Area; and
    - iii The copy of a license or other required authorization from the Authority.

- iv And the status of the Licensee's license and any changes to the status within 30 days of receiving that information.

ARTICLE 5: RESTRICTIONS ON SALE AND PENALTIES.

95.501 Restrictions.

- (1) No retailer, direct marketer, manufacturer, distributor, agent, employee, or independent contractor of a retailer, direct marketer, manufacturer, or distributor may sell or provide for nominal or no consideration Industrial Hemp Products to any person under 18 years of age.
- (2) No retailer, direct marketer, manufacturer, distributor, agent, employee, or independent contractor of a retailer, direct marketer, manufacturer, or distributor may sell or provide for nominal or no consideration Industrial Hemp Products by way of vending machine anywhere on the Lac du Flambeau Reservation.
- (3) A retailer shall post a sign in areas within his or her premises where Industrial Hemp Products are sold to consumers stating that the sale of any Industrial Hemp Products to a person under 18 years of age is unlawful under Lac du Flambeau Tribal Law.
- (4) No retailer may sell Industrial Hemp Products on the Lac du Flambeau Reservation in a form other than a package or container on which a stamp or seal approved by the Authority is affixed.

95.502 Enforcement and Penalties.

- (1) Any violation of this Ordinance is subject to administrative, civil, or criminal penalties, in addition to being subject to other remedies provided by law, including but not limited to injunctive relief, revocation of any License subject to this Ordinance, and fines.
- (2) A Person who commits a violation is subject to a forfeiture of:
  - (a) Not more than \$500 if the Person has not committed a previous violation within 12 months of the violation; or
  - (b) Not less than \$200 nor more than \$500 if the Person has committed a previous violation within 12 months of the violation.
- (3) The Tribal Court shall suspend any license to a Person for:

- (a) Not more than three days, if the Tribal Court finds that the Person committed a violation within 12 months after committing one previous violation;
  - (b) Not less than three days nor more than ten days, if the Tribal Court finds that the Person committed a violation within 12 months after committing two other violations or
  - (c) Not less than 15 days nor more than 30 days, if the Tribal Court finds that the Person committed the violation within 12 months after committing three or more other violations.
- (4) The possession, use, and consumption of Industrial Hemp Products, on the Lac du Flambeau Indian Reservation, that have been licensed and approved by the Tribe, are permitted to the fullest extent of Tribal law.

