

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.

LAC DU FLAMBEAU TRIBAL CODE

CHAPTER 95

INDUSTRIAL HEMP CONTROL ORDINANCE

SECTION 1. INTRODUCTION

1.1 Title.

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

1.2 Authority.

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

1.3 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, including CBD products containing no psychoactive effect, 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 Tribe’s best interests to enactment this ordinance governing Industrial Hemp Cultivation and sale of Industrial Hemp Products on the reservation. This Ordinance will increase the tribal governments 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 tribal government and the delivery of tribal government services.

1.4 Effective Date.

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

1.5 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.

1.6 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.

1.7 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of ordinances inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

1.8 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.

SECTION 2. DEFINITIONS

2.1 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.

- (a) "Applicant" means a Person who submits an application for a license under this Ordinance.
- (b) "Authority" means the Tribal Licensing and Regulatory Authority.
- (c) "Business" means a business incorporated under tribal law or Section 17 of the Indian Reorganization which is wholly-owned by the Tribe that 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.
- (d) "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.
- (e) "Cultivation" means the planting, growing, harvesting, and processing of Industrial Hemp.
- (f) "Distribution" means the wholesale distribution of Industrial Hemp or Industrial Hemp Products to other wholesale entities and to retail entities.
- (g) "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.

- (h) “Industrial Hemp” or “hemp” means the plant *Cannabis Sativa L.* and any part of such plant, whether growing or not, with a Delta-9 tetrahydrocannabinol (“THC”) concentration of not more than .3% on a dry weight basis, grown for agricultural industrial purposes.
- (i) “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.
- (j) “Licensee” means any Person who holds a license from the Authority as provided by this Ordinance.
- (k) “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.
- (l) “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.
- (m) “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.
- (n) “Reservation” means the area within the exterior boundaries of the Lac du Flambeau Indian Reservation.
- (o) “State” means the State of Wisconsin.
- (p) “Tribe” means the Lac du Flambeau Band of Lake Superior Chippewa Indians.
- (q) “Tribal Court” means the Lac du Flambeau Tribal Court.

- (r) “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.
- (s) “Tribal Member” means an enrolled member of the Lac du Flambeau Band of Lake Superior Chippewa Indians.

SECTION 3. LICENSING

3.1 Industrial Hemp Cultivation License Application.

- (a) 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.
- (b) 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 thirty (30) days prior to the expiration of the previous license. The application must include the following information:
 - (1) The name and business address of the applicant;
 - (2) The type of business entity, such as corporation, LLC, or partnership, and proof that the entity is incorporated under tribal law or is a section 17 corporation, and the name and address of the entity’s agent on the Lac Du Flambeau Reservation;
 - (3) The address and legal description (section, township, and range) in which any proposed Registered Land Area or Processing Area is located;
 - (4) The global positioning location coordinates taken at the approximate center of any proposed Registered Land Area;
 - (5) 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
 - (6) The Applicant’s signature accepting the license terms and conditions, including the following:
 - a. 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;

- b. 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.
 - c. That the Applicant is responsible to pay any fees established by the Authority as applicable to the licensed activities; and
 - d. 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 define 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.

3.2 Industrial Hemp Cultivation License.

- (a) 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 Sales License pursuant to this Ordinance.

- (b) 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.
- (c) 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.
- (d) The Business shall be required to meet all employment licensing requirements under Subsection 3.3 of this Ordinance.
- (e) The Business shall be required to meet all Industrial Hemp Cultivation Facility Operating Procedure requirements under this subsection 3.4 of this Ordinance.
- (f) 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.
- (g) The Authority may 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 may also 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.
- (h) 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.
- (i) Any Industrial Hemp plant material that is not harvested during the license period in which it was planted must be destroyed.
- (j) 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.

- (k) A license, provided by the Authority, must be posted by the Business in a conspicuous spot.

3.3 Industrial Hemp Cultivation Employee License.

- (a) All employees of a Business licensed under subsection 3.2 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.
- (b) The application for an Employee License shall include the following information:
 - (1) 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.
 - (2) Proof that the Applicant is at least twenty-one (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.
 - (3) A copy of the Applicant's valid State ID, Driver's License, Passport, Tribal ID, or Military ID, which includes photo of the Applicant.
 - (4) Documentation establishing that the applicant has never been convicted of any felony offense or within the past ten (10) years of a misdemeanor involving a drug related offense. For each conviction, the name and address of the court involved and the date and disposition. A conviction within the meaning of this subsection means a plea or verdict of guilty or a conviction following a plea of *nolo contendere*. If an applicant does have a drug related felony at any time or misdemeanor conviction in the past ten years, such an applicant is permitted to apply, but the Authority will consider the facts and circumstances of the offense and will make a determination if the applicant has been rehabilitated and has good moral character such that the issuance of a license will not endanger the public health, welfare, or safety of the Tribe.
 - (5) Currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and resident addresses, and driver's license numbers.
 - (6) The names, telephone numbers, email address and current physical address of at least three (3) references, including at least one (1) professional reference.

- (7) Written permission of the Applicant authorizing the Authority or its designee to seek verification of the information contained within the application.
- (8) 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.
- (9) 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.

- (c) Employee License Term, Renewals, and Fees.
 - (1) Unless otherwise suspended or revoked, an Employee License shall expire 1 year following its issuance. A person may re-apply for an Employee License for subsequent periods of 1 years.
 - (2) 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.
 - (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.
- (d) 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.
- (e) Grounds for Denial. The grounds for denial of an Employee License may be one or more of the following:

- (1) 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.
 - (2) The Applicant has been convicted of a felony or within the past ten (10) 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.
 - (3) A determination by the Authority that employment of the Applicant poses a threat to the public interest or to effective regulation under this Ordinance.
 - (4) The Applicant is under twenty-one (21) years of age.
 - (5) The required application processing fee has not been paid within a reasonable time.
- (f) Reconsideration of Denial.
- (1) 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 thirty (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 Employee License subject to such conditions as it deems reasonable under the circumstances to protect the public health, safety, and welfare of the Tribe and its 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.
- (g) Suspension of Employee License.
- (1) 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.
 - (2) The Authority shall notify, within 10 days following suspension or proposed revocation, 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 an Employee License. The decision of the Authority shall be final and not subject to judicial review.
- (h) Employee License Reinstatement.
- (1) 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.
 - (2) No person may petition for reinstatement until the expiration of at least one (1) year from the effective date of the revocation.
 - (3) The petitioner will have the burden of proving by clear and convincing evidence that:
 - a. The petitioner meets the criteria requirements of Ordinance;
 - b. The petitioner has reformed, rehabilitated or otherwise overcome the issue or issues underpinning the revocation; and
 - c. Permitting the petitioner to resume employment will not be detrimental to the integrity of the Tribe or to the public interest.

3.4 Industrial Hemp Registered Land Area Operating Procedures.

- (a) 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.
- (b) Each Licensee shall establish written operating procedures for Industrial Hemp Cultivation and Distribution. The operating procedures must include the minimum following information:
 - (1) The manner in which pesticide and other agricultural chemicals are to be applied during its cultivation process;
 - (2) The equipment and methods employed in the Cultivation of the Industrial Hemp;
 - (3) The manner in which the cultivated Industrial Hemp will be transported to a processing facility;
 - (4) The measures taken to minimize or offset energy use from the cultivation of Industrial Hemp;

- (5) The manner in which chemicals will be stored, used, and disposed of at the premises;
 - (6) The type and quantity of all effluent discharged into the Tribe's wastewater or storm-water systems;
 - (7) The hours and days of the week the Registered Land Area will be open;
 - (8) The number of Licensed Employees per shift who will be working at the Registered Land Area;
 - (9) 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
 - (10) Any other procedures required by the Authority.
- (c) Such procedures shall be submitted to the Authority sixty (60) days prior to beginning operation.
 - (d) A copy of all operating procedures must be maintained at every Registered Land Area.
 - (e) The use or consumption of Industrial Hemp Products shall be strictly prohibited at each Registered Land Area.
 - (f) 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.

3.5 Precaution and Specific Requirements.

- (a) Every Licensee shall take all reasonable measures and precautions to ensure that the following requirements are met:
 - (1) All processing of Industrial Hemp must take place in an enclosed, locked structure or building.
 - (2) 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.

- (3) 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.
 - (4) 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.
 - (5) 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.
 - (6) Adequate lighting shall be required in all areas where hemp is stored.
 - (7) 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.
 - (8) All buildings, fixtures, and other facilities shall be maintained in a sanitary condition.
 - (9) 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.
- (b) Registered Land Areas shall be subject to the following specific regulations:
- (1) 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.
 - (2) 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.
 - (3) The Processing Area shall occur within a self-contained structure that is adequately ventilated.
 - (4) The Processing Area shall comply with storm-water, wastewater and other requirements of the Tribe.

- (5) 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.
- (6) The plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water and 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.
- (7) 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.
- (8) 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.
- (9) 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.
- (10) Industrial Hemp that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

3.6 Recordkeeping and Reporting.

- (a) Licensee Recordkeeping and Reporting.
 - (1) Licensees must report any changes of contact information to the Authority in writing within fourteen (14) days of the change.
 - (2) Within fourteen 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.

- (3) At least fourteen (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 (7) days.
- (4) Within fourteen (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.
- (5) A Licensee 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 Authority upon request.

3.7 Sampling and Testing Procedures.

- (a) A Licensee must arrange for the testing of each Harvest Lot no more than twenty-eight (28) 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.
- (b) 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.
- (c) Compliance testing for Industrial Hemp and Industrial Hemp Products required by this Ordinance shall be conducted by accredited independent laboratories using post-decarboxylation or other similarly reliable testing method.
- (d) Except for samples collected by the Authority for compliance, inspection, and auditing purposes, all samples collected to determine compliance with these rules shall be collected by the Licensee, laboratory employees, or third-party contractors in accordance with procedures for statistical representation established by the Authority in consultation with relevant government, public health, and industry experts.
- (e) For each sample tested pursuant to this section, the Licensee shall obtain the testing laboratory a certificate of analysis that includes, at a minimum, the following information:
 - (1) General information identifying that the Industrial Hemp that is the subject of the certificate of analysis is the product of a sample tested by the independent testing laboratory;
 - (2) The date the Industrial Hemp was sampled, the date testing was performed, and methodology used to analyze the sample;

- (3) The THC concentration contained in the test sample; and
- (4) A statement indicating whether the sample contained a Delta-9 tetrahydrocannabinol (“THC”) concentration of not more than .3% on a dry weight basis.
- (f) The required number and size of samples shall be determined in accordance with Authority established procedures for statistical representation.
- (g) Nothing in this Section shall prevent a Licensee from voluntarily collecting samples and testing Hemp for quality assurance and research and development purposes.
- (h) A Licensee may apply to the Authority for retesting and/or resampling of any non-compliant Harvest Lot, which may be approved or denied at the Authority’s discretion.

3.8 Industrial Hemp Products Sales License.

- (a) Any Person desiring to import and sell Industrial Hemp Products within the exterior boundaries of the Lac du Flambeau Reservation is required to obtain Industrial Hemp Products Sales License from the Authority established pursuant to this Ordinance.
- (b) Each Applicant for an Industrial Hemp Products 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 thirty (30) days prior to the expiration of the previous license. The application must include the following information:
 - (1) The name and business address of the Applicant;
 - (2) 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;
 - (3) The address of the location and description of where the Industrial Hemp Products will be shipped to, stored, or sold from; and
 - (4) The Applicant’s signature accepting the license terms and conditions, including the following:
 - a. 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;

- b. That the Applicant is responsible to pay any fees established by the Authority as applicable to the licensed activities.
- (c) In addition to the completed application form, each Applicant must submit a nonrefundable application 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.
- (d) 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.
- (e) 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.
- (f) 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 a 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.
- (g) The Licensee may not sell Industrial Hemp Products that contain 0.3% or greater THC content.
- (h) 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 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.
- (i) 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.

- (j) 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.
- (k) 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 of 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.
- (l) 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.

3.9 Industrial Hemp Products Sales License Terms, Renewal, and Fees.

- (a) Unless otherwise suspended or revoked, an Industrial Hemp Products Sales License shall expire one (1) years following its issuance. A Licensee may re-apply for an Industrial Hemp Products Sales License for subsequent periods of one (1) years.
- (b) Every application for an Industrial Hemp Products Sales License or renewal shall be accompanied by a non-refundable license fee, as established by the Authority and approved by the Tribal Council.
- (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.

3.10 Grounds for Denial.

- (a) The grounds for denial of an Industrial Hemp Products Sales License may be one or more of the following:
 - (1) The Applicant, or its agent, has violated this Ordinance.
 - (2) 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 Sales License application.
 - (3) 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.

- (4) The Applicant, or its agent, is under twenty-one (21) years of age.
- (5) The required application or renewal fees have not been paid within a reasonable time.

3.11 Reconsideration of Denial.

- (a) An Applicant aggrieved by the decision of the Authority or its designee to deny an Industrial Hemp Products Sales License may seek reconsideration of such decision to the Tribal Council by filing a written petition for reconsideration with the Tribal Chairperson within thirty (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 Industrial Hemp Products Sales License subject to such conditions as it deems reasonable under the circumstances to protect the public health, safety, and welfare of the Tribe and its members or it may deny the issuance of the Industrial Hemp Products 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.

3.12 Suspension of Industrial Hemp Products Sales License.

- (a) If, after the issuance of an Industrial Hemp Products 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.
- (b) The Authority shall notify 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 the Industrial Hemp Products Sales License. The decision of the Authority shall be final and not subject to judicial review.

3.13 Industrial Hemp Products Sales License Reinstatement.

- (a) No person who has had an Industrial Hemp Products Sales 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 (1) year from the effective date of the revocation.

- (c) The petitioner will have the burden of proving by clear and convincing evidence that,
 - (1) The petitioner meets the criteria requirements of this Ordinance;
 - (2) The petitioner has reformed, rehabilitated or otherwise overcome the issue or issues underpinning the revocation;
 - (3) Permitting the petitioner to operate under an Industrial Hemp Products Sales License will not be detrimental to the integrity of the Tribe or to the public interest; and,
 - (4) The petitioner paid all fees required under this Ordinance.

SECTION 4. TRIBAL LICENSING AND REGULATORY AUTHORITY

4.1 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.

4.2 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:

- (a) 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.
- (b) 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.
- (c) 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.

- (d) 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 Industrial Hemp testing lab.
- (e) To accept, review, approve or disapprove any application for a license under this Ordinance, including conducting or arranging for background investigations of all applicants.
- (f) 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.
- (g) 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.
- (h) 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.
- (i) To adopt a schedule of fees to be charged for the processing Applications and 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.
- (j) To establish and maintain such bank accounts as may be necessary or convenient.
- (k) 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.

4.3 Investigations, Right of Entrance.

- (a) 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.

- (1) In undertaking such investigations, the Authority may request the assistance of federal or local law enforcement officials, legal counsel and/or other third parties.
- (2) 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 4.18 of this Ordinance.

(b) 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.

(c) 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.

4.4 Promulgation of Regulations.

- (a) The Authority may promulgate regulations as follows:
- (1) 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;
 - (2) 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;
 - (3) 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.
 - (4) 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;
 - (5) 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 4.16(b)(5). Upon promulgation of any regulation under exigent circumstances, within seven (7) days, the Authority will notify the Tribal Council of the promulgated regulation and the exigent circumstances.
- (b) After the comment period has expired:
- (1) If the proposed regulation is unopposed, the Authority shall promulgate and publish the proposed regulation by majority vote and it will be implemented;
 - (2) 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.

- (3) 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.
 - (4) If the Authority amends the proposed regulation, it will re-notify the Tribal Council and Licensees.
- (c) 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.
 - (d) 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.
 - (e) 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.

- (1) 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.
 - (2) 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.
 - (3) 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.
 - (4) 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 Section.
- (f) Only regulations promulgated by this procedure or promulgated by the Tribal Council will be enforceable.

4.5 Meetings.

Meetings of the Authority shall occur in the manner in Chapter 94 Section 4.10 of the Tribal Code.

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

- (a) For violations of this Ordinance or denial of an application, the Authority shall comply with Chapter 94 Section 4.18 of the Tribal Code's requirements for notice, opportunity to cure, due process, hearings, and examiner requirements.

4.7 Duties of the Authority.

- (a) 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.

- (b) The Authority shall review and either approve or deny all applications for licenses under this Ordinance.
- (c) The Authority may conduct investigations to ensure Licensee compliance with this Ordinance or to conduct proper due diligence in assessing an Applicant's application.
- (d) 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.
- (e) Authority Recordkeeping and Reporting:
 - (1) The Authority shall retain for a least three (3) 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.
 - (2) Within thirty (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:

- a. 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;
- b. a legal description of the Registered Land Area; and
- c. the copy of a license or other required authorization from the Authority.
- d. and the status of the Licensee's license and any changes to the status within thirty (30) days of receiving that information.

SECTION 5: RESTRICTIONS ON SALE AND PENALTIES.

5.1 Restrictions.

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

5.2 Enforcement and Penalties.

- (a) 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.
- (b) A person who commits a violation is subject to a forfeiture of:

- (1) Not more than \$500 if the person has not committed a previous violation within 12 months of the violation; or
 - (2) Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.
- (c) The Tribal Court shall suspend any license to a person for:
- (1) Not more than 3 days, if the Tribal Court finds that the person committed a violation within 12 months after committing one previous violation;
 - (2) Not less than 3 days nor more than 10 days, if the Tribal Court finds that the person committed a violation within 12 months after committing 2 other violations or
 - (3) 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 3 or more other violations.
- (d) 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.