



HO-CHUNK NATION CODE (HCC)
TITLE 7-CULTURE AND NATURAL RESOURCES
SECTION 6-HEMP CODE

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CHAPTER I- GENERAL PROVISIONS

1. Authority.

- a. Article IV, Section 2 of the Constitution authorizes the Legislative Branch to make laws and appropriate funds in accordance with Article V.
- b. Article V, Section 2(a) of the Constitution grants the Legislature the power to make the las, including codes, ordinances, resolutions, and statutes.
- c. Article V, Section 2(e) of the Constitution authorizes the Legislative Branch to raise revenue, including the power to levy and collect taxes and license fees.
- d. Article V, Section 2(h) of the Constitution grants the Legislature the power to enact all laws prohibiting and regulating conduct and imposing penalties upon all persons within the jurisdiction of the Nation.
- e. Article V, Section 2(i) of the Constitution grants the Legislature to negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals.
- f. Article V, Section 2(l) of the Constitution authorizes the Legislative Branch to enact laws to manage, lease, permit, or otherwise deal with the Nation’s lands, interest in lands or other assets.
- g. Article V, Section 2(q) of the Constitution grants the Legislature the power to issue charters of incorporation, to charter corporations and other organizations for economic or other purposes, and to regulate their activities.
- h. Article V, Section 2(s) of the Constitution authorizes the Legislative Branch to promote public health, education, charity, and such other services as may contribute to the social advancement of the Ho-Chunk Nation.

- i. Article V, Section 2(t) of the Constitution grants the Legislature the power to enact laws governing law enforcement on lands within the jurisdiction of the Nation.
- j. Article V, Section 2(x) of the Constitution authorizes the Legislative Branch the power to enact any other laws, ordinances, resolutions, and statutes necessary to exercise its legislative powers delegated by the General Council pursuant to Article III including but not limited to the foregoing list of powers.
- k. This code is further enacted pursuant to Agricultural Improvement Act of 2018, Pub. L. 115-334, December 20, 2018, 132 Stat. 4490 (“Farm Bill”) and the Final Rule for the establishment of a domestic hemp production program issued by the U.S. Department of Agriculture (“USDA”) on August 20, 2020.

2. Policy and Purpose.

- a. The Ho-Chunk Nation (hereinafter “HCN” or the “Tribe”) finds that Hemp is a valuable agricultural crop and commodity and that through proper regulation, Hemp can be put to its highest and best use. HCN further finds that Hemp Production can provide jobs and revenue for essential governmental programs and services in the long-term benefit of the Tribes and its members.
- b. The Tribe further finds that tribal regulation of the possession, cultivation, processing and distribution of Hemp on tribal land is necessary to protect the health, security, and general welfare of the Tribal community. In furtherance of the Tribe’s inherent authority and the regulatory objectives set forth under the Farm Bill and the Final Rule, the Tribe finds that persons engaged in commercial dealings, leases, licenses, easements, right-of-way, or other arrangements or activities related to Hemp with the exterior boundaries of the territory have voluntarily and explicitly consented to the jurisdiction of the Tribe and are subject to regulation by the Tribe.
- c. The purpose of this Hemp code (the “code”) is to:
 - i. Promote the production of Hemp on tribal land and the development of new commercial markets for Tribal enterprises through the sale of Hemp products;
 - ii. Establish a regulatory framework for Tribal Hemp production which maximizes opportunities for the growth of the Hemp industry on tribal lands consistent with tribal and federal law;
 - iii. Enable the Tribes, its licensees, and affiliated institutions of higher education, to conduct research regarding the production of Hemp on tribal lands; and
 - iv. Ensure that Hemp production on tribal land causes minimal impacts to the environment, human health and safety, and is consistent with tribal laws and customs.

3. Scope.

- a. This code shall govern the licensing of hemp production, cultivation, processing, distribution and research of Hemp on tribal land, and serves as the “tribal plan” described in the Agricultural Improvement Act of 2018, Pub. L. 115-334, December 20, 2018, 132 Stat. 4490 (“Farm Bill”).
- b. The regulations and penalties imposed by this code extend to any person engaged in activities related in any way, directly or indirectly, to Hemp production on tribal land, whether licensed or not.
- c. In order to further these goals, this code shall be liberally construed to fulfill the purposes for which it has been adopted.

4. Definitions.

- a. “Acceptable Hemp THC level” refers to the interpretation of laboratory test results for delta-9 tetrahydrocannabinol content concentration level applying measurements for uncertainty as provided for in the FR. When a laboratory tests a sample pursuant to this code, it must report the delta-9 tetrahydrocannabinol content concentration level on a dry weight basis and the measurement of uncertainty. The Acceptable Hemp THC level for the purpose of compliance with this code and applicable State and Federal law is when the application of the measurement of uncertainty to the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less. For example, if the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis is 0.35% and the measurement of uncertainty is +/- 0.06%, the measured delta-9 tetrahydrocannabinol content concentration level on a dry weight basis for this sample 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.
- b. “Applicant” means the Ho-Chunk Nation or an individual, who is authorized to sign for a business entity, who submits an application to participate in the Hemp program.
- c. “Certified seed” means seed acquired from a certified seed dealer, that has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity and identity of the seed certified.
- d. “Code” refers to this Hemp code.
- e. “Commercial sales” means the sale of a product in the stream of commerce at retail or at wholesale, including sales on the internet.
- f. “Commission” means the Ho-Chunk Nation Hemp Control Commission.
- g. “Consumable product” means a Hemp product intended for human or animal consumption.
- h. “Cultivate” means to plant, water, grow, or harvest a plant or crop.
- i. “Farm Bill” refers to the Agricultural Improvement Act of 2018, Pub. L. 115-334 (Dec. 20, 2018).

- j. “Final Rule” means the Final Rule for establishment of a domestic hemp production program issued by the U.S. Department of Agriculture (“USDA”) on March 22, 2021.
- k. “Director” means the Director of the Ho-Chunk Nation Hemp Control Commission.
- l. “GPS” means global positioning system.
- m. “Grow site” means a contiguous lot, parcel, or tract of land registered with the Tribes on which a Hemp grower cultivates Hemp. A grow site may include land and buildings that are not used to cultivate Hemp.
- n. “Harvest Lot” means a quantity of Hemp, of the same variety, harvested in a distinct timeframe that is: (1) Cultivated in one contiguous production area within a grow site; or (2) cultivated in a portion or portions of one contiguous production area within a grow site. Harvest lot does not include a quantity of Hemp comprised of Hemp grown in noncontiguous production areas.
- o. “Harvest Lot Identifier” means a unique identifier used by the Tribes to identify the harvest lot.
- p. “Hemp” means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.
- q. “Hemp crop” means one (1) or more unprocessed Hemp plants or plant parts.
- r. “Hemp grower” means a person licensed by the Tribes to cultivate Hemp on tribal land.
- s. “Hemp ingredient” means all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers of any part of the Hemp plant included in the definition of “Hemp.”
- t. “Hemp product” means a finished product with an Acceptable Hemp THC level that is derived from, or made by, processing a Hemp crop, and that is prepared in a form available for commercial sale. The term includes, but is not limited to cosmetics, personal care products, consumable products, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more Hemp ingredients such as cannabidiol.
- u. “Hemp program” means the Hemp production program carried out under this Hemp code.
- v. “Institution of higher education” has the meaning assigned to it by 20 U.S.C. § 1001 and shall expressly include tribal institutions.
- w. “Intended for consumption” means intended for a human or animal to ingest, inhale, topically apply to the skin or hair, or otherwise absorb into the body.
- x. “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, including HCN farms, as well as a state or local government entity.

- y. "Process" means to convert any portion of a Hemp crop into a Hemp ingredient, Hemp product, or other marketable form.
- z. "Territory" means the territory of the HCN shall include all lands held by the Nation or the people, or by the United States for the benefit of the nation or the People, lands leased by the HCN and any additional lands acquired by the Nation or by the United States for the benefit of the Nation or the People, including but not limited to air, water, surface, subsurface, natural resources and any interest therein, notwithstanding the issuance of any patent or right-of-way in fee or otherwise, by the governments of the United States or the HCN, existing or in the future.
- aa. "Tribal land" means all lands subject to the Tribes' jurisdiction, including but not limited to any land on the Territory to which the United States holds legal title in trust for the Tribes, or for any particular Indian; or owned by a particular Indian or by the Tribes subject to a restriction against alienation imposed by the United States.
- bb. "Tribes" means the Ho-Chunk Nation.
- cc. "THC" means tetrahydrocannabinol and has the same meaning as delta-9 tetrahydrocannabinol.
- dd. "Variety" means a group of plants or an individual plant that exhibits distinctive observable physical characteristic(s) or has a distinct genetic composition.

5. Compliance and Exemption.

- a. Nothing in this code authorizes any person to violate any tribal or federal law or regulation.
- b. No employee of a Hemp grower shall be subject to prosecution or civil penalty in Tribal Court for cultivation, production, or distribution of Hemp in accordance with this code and federal law.

CHAPTER II- HEMP PROGRAM

6. General.

- a. Any Person engaging in activities related to Hemp within the Tribes' jurisdiction, including, but not limited to, growing, processing, handling, transporting, or storing Hemp, shall only do so pursuant to a valid license issued under this code.
- b. All persons conducting or engaged in activities related to Hemp on tribal land shall abide by the license requirements provided for under the Tribes' business and professions code.
- c. Nothing in this code limits, modifies, or waives the need for a person to obtain all licenses and licensure required by applicable law to operate a business on the Territory, including but not limited to compliance with building and safety regulations, health and safety regulations, leasing and

land use laws and environmental laws. The issuance of a license under this code shall not be deemed or construed as a certification of a Person's compliance with other applicable regulations or laws. Additional licenses and licenses may be necessary before a person may lawfully cultivate Hemp. It is the responsibility of the person obtaining a license under this code to comply with other applicable laws and regulations. The Commission may, as appropriate and feasible, assist persons in identifying the necessary additional licenses or licenses required.

- d. Notwithstanding any rule or regulation to the contrary, the inclusion of Hemp as an ingredient in a consumable product shall not by itself render the product misbranded or adulterated.
- e. No person shall have an expectation of privacy with respect to any location or site that is a grow site. Hemp growers, whether present or not, shall grant the Tribe, their representatives, law enforcement officials, and federal authorities, access to the grow sites for inspection and sampling, without cause and without advanced notice.

7. Establishment of the Ho-Chunk Nation Hemp Control Commission

- f. The Tribe hereby establish the Ho-Chunk Nation Hemp Control Commission ("Commission") which is delegated the authority to oversee the regulation of Hemp production under this code. The Commission shall have all the powers necessary and proper to carry out the purposes set forth in this code. The Commission shall at a minimum:
 - i. Provide prospective applicants with information necessary to submit a complete application;
 - ii. Upon review and verification of information contained in a license application, recommend the approval or denial of license applications to Legislature;
 - iii. Obtain the assistance of HCN Police Department, DEA-approved laboratories, agricultural or environmental consultants or other third-parties as necessary to properly regulate Hemp production under this code;
 - iv. Enforce license requirements and conditions and promptly report any violations to Legislature and tribal prosecutors;
 - v. Develop policies, procedures, protocols and forms necessary to carry out this code;
 - vi. Ensure that the Hemp program is in compliance with all mandatory reporting requirements outlined under the Farm Bill, the Final Rule, and other applicable federal law; and
 - vii. Provide a written report to the Legislature, at least annually, on Hemp production occurring pursuant to this code, including the amount of land under cultivation, a profile of licensees, revenue generated by Hemp production, any violations of this code or other

tribal law related to Hemp production currently under investigation, and any resources necessary to expand Hemp production and to improve regulation of Hemp production on tribal land.

- g. Ho-Chunk Nation Hemp Control Commissioner.
 - i. A Commissioner is appointed by the Legislature.
 - ii. The Commissioners will each serve for a term of six (6) years commencing on July 1st of the year of appointment in accordance with Section 9.C. Prior to the dates specified for each seat in Section 9.C., the Commissioners' terms shall be for four (4) years, with the exception of Seat 5, which shall be for three (3) years.
 - 1. At least ninety (90) calendar days prior to the expiration of a Commissioner's term in office, the Legislature will post the seat as open.
 - 2. Vacancy.
 - iii. Upon a vacancy on the Commission through death, resignation, incapacity, or removal from office, the Legislature will post the seat as open within five (5) business days.
 - iv. If a vacancy is less than one year, the appointed Commissioner will fulfill the current vacancy and continue with a full six (6) year term.
 - v. All other vacancies will fulfill the current term.
 - h. Staggered terms. The Commissioners' terms shall be staggered.
 - 1. Seat 1 and 2 shall expire every six (6) years beginning June 30, 2024.
 - 2. Seat 3 shall expire every six (6) years beginning June 30, 2026.
 - 3. Seat 4 and 5 shall expire every six (6) years beginning June 30, 2028.
2. In order to qualify for appointment to the Commission, an applicant must:
- a. Be an enrolled member of the Nation.
 - b. Be at least 25 years of age or older.
 - c. Have at least a high school diploma, or equivalent.
 - d. Possess working experience in the Hemp industry. Have a minimum of five (5) years of experience in any combination of the following:
 - i. Post-secondary education in one or more of the following areas;
 - 1. Agriculture degree or Cannabis Certificate;
 - 2. Hemp law or Indian law;
 - 3. Law enforcement;
 - 4. Business administration or business management;
 - 5. Information Technology (IT/MIS)

- ii. Hemp experience in one or more of the following areas:
 1. Hemp regulation;
 2. Hemp operations;
 3. Auditing;
 4. Background investigations;
 5. Surveillance
 - e. Submit to and successfully comply with criminal and civil background investigations and meet with Nation's eligibility standards which will be at least as stringent as the standards established for key employees and primary management officials.
 - f. Have no prior criminal record of conviction of, or entry of a plea of guilty or no contest to, any of the following in any jurisdiction, unless pardoned:
 - i. A felony relating to controlled substances;
 - ii. Any Hemp-related offense;
 - iii. Crimes of dishonesty; offenses which involve the taking or appropriation of property without the consent of the owner in the knowledge that the accused has no right to the property in question.
 - g. Submit to and successfully comply with the Ho-Chunk Nation Drug, Alcohol and Controlled Substance Policy (Employment Relations Act, 6 HCC § 5, Ch. VII).
 - h. Willingness and ability to perform duties in accordance with the job description of a Hemp Control Commissioner.
 - i. Demonstrate experience in reviewing and interpreting laws, regulations, policies and procedures;
 - j. Possess strong interpersonal, verbal and written communication skills.
 - k. Possess the physical capabilities requiring extensive travel, working varied hours, including evening and weekends; and perform a minimum of forty (40) hours a week.
 - l. Possess a valid driver's license, dependable transportation and proper insurance.
 - m. As defined in this Ordinance and at the time of appointment, cannot be directly related to any member of the Legislature or the President.
 - n. Not be a primary management official, or owner or controlling person with respect to any management contract, or relative thereto.
 - o. Not be employed by any of the Nation's hemp operations during his or her term of office.
3. The Legislature shall require a background check with appropriate law enforcement agencies for each Commissioner candidate; shall review the candidate's background

- check results; and shall make an appropriate eligibility determination before appointing an individual to the position of Commissioner.
4. The Legislature recognizes the importance of an independent Commission in maintaining a well-regulated Hemp operation. The Commission shall be independent of, and act independently and autonomously from, the Legislature and Executive Branches in all matters within its purview. To avoid potential conflicts of interest between the operation and regulation of the Hemp facility, the Nation requires that, at a minimum:
 - a. No seated member of the Legislature may serve on the Commission;
 - b. Appointed members of the Commission are prohibited from purchasing Hemp in any of the Nation's Hemp facilities.
 5. A vacancy on the Commission through death, resignation, incapacity, or removal from office will be filled by a majority vote of the Legislature at a duly convened meeting.
 6. Removal.
 - a. The independence of the Commission is essential to a well-regulated Hemp Operation. For that reason, Commissioners may only be removed from office by the Legislature prior to the expiration of their respective terms for neglect of duty, misconduct, malfeasance, misfeasance, or other acts that would render a Commissioner unqualified for his/her position. Removal will be initiated upon a petition being presented to the Legislature by any member of the Legislature or the President.
 - b. The Legislature shall determine whether to consider a petition for removal.
 - c. If the Legislature has determined to consider a petition for removal, the Commissioner subject to removal hereunder shall be given notice in writing of the specific grounds for a pending removal and an opportunity at a hearing before the Legislature, which hearing shall be held not less than thirty (30) days after the Commissioner's receipt of the Notice of Removal hereunder, to appear and present evidence rebutting the grounds for his or her removal. Notice required hereunder may be made by personal service or by certified mail with return receipt requested.
 - d. While a removal proceeding is underway pursuant to this section, the Legislature may, in its discretion, investigate and order immediate suspension pending a final determination concerning removal of a Commissioner who is subject to such proceeding.
 - e. Any allegations of neglect of duty, misconduct, malfeasance, misfeasance, or other acts that would render a Commissioner

unqualified for his/her position must be substantiated by a preponderance of the evidence. A final determination of the Legislature removing a Commissioner shall be subject to review by the Nation's courts solely with respect to errors of law, and all findings of fact made by the Legislature may be overturned only if clearly erroneous.

8. Hemp Control Commission Authorized Duties

- A. The Legislature hereby establishes a Commission to regulate the Nation's Hemp operations. The Commission shall consist of five (5) members, including a Chair, Vice-Chair, Secretary, and Treasurer. At the inaugural meeting established by the Commission, the Commission will vote on the above mentioned roles and submit information to Legislature.
- B. The Commission possesses all the rights, privileges, and immunities of the Nation, including but not limited to the sovereign immunity of the Nation from suit absent express consent from the Legislature. The individual members of the Commission are appointed officials of the Nation's government and shall be immune from suit when acting in their official capacity to the fullest extent permitted by law.
- C. The Commission will conduct oversight and ensure compliance with Ho-Chunk Nation, Federal and, if applicable, State laws and regulations.
- D. The Commission may recommend Hemp-related policies and guidelines to the Legislature and other appropriate regulatory authorities, including any amendments to the Ordinance. No prior or subsequent review by the Legislature of any actions of the Commission shall be required or permitted, except as may be otherwise explicitly provided in this Ordinance. Notwithstanding the foregoing, the Commission shall be subject to all Nation laws.
- E. A decision may be reached by the Commission by a majority of the Members of the Commission. The Commission may act in its official capacity, even if there are vacancies on the Commission.
- F. The Commission will serve as the licensing authority for individuals employed in the Hemp operation and will administer background investigations as part of the licensing process.
- G. The Commission will have regulatory oversight of the Hemp operation's internal controls and in tracking Hemp revenues.
- H. The Commission shall have the authority to take enforcement actions, including suspension or revocation of a Hemp license in accordance with this Ordinance.

- I. The Commission shall have the authority to refer actions of the Executive to the Legislature for the right of review pursuant to Article 5 Section 2(b) of the Ho-Chunk Nation Constitution.

- J. The Commission may enjoin or otherwise prevent any violation of this Ordinance, any Order of the Commission, any license condition or other laws relating to Hemp on the Nation's lands and/or seek to impose penalties or fines for such violation(s) in accordance with Section 37. To enforce violations the Commission shall be able to apply the doctrine of respondeat superior. Any person may be found responsible and liable for violations due to the action or inaction of the person or person's employees, agents, or officers. The Commission will only use the doctrine of respondeat superior to seek to impose sanctions on a supervisor if it can be shown that:
 - 1. After the Commission has informed the supervisor in writing of the violation, the supervisor has failed within a reasonable time to instruct his or her employees, agents, or officers of appropriate action to remedy the violation in the future; or
 - 2. The violation committed by the supervisor's employees, agents, or officers is so egregious that the supervisor should have known about the violation and taken corrective action.

- K. In order to carry out its regulatory duties in accordance with this Ordinance, the Commission shall have immediate, unrestricted, and unfettered access to all areas of the Hemp Operations and all areas where Ancillary Activities are conducted, including, but not limited to, accounting, information technology, storage, and administrative support areas, as well as unfettered access to all meetings of the Hemp Operation, and records of the Hemp Operation wherever conducted or maintained, which it may exercise directly or through such agents or employees as determined by the Commission.

- L. The Commission or authorized agent of the Commission will have full access to all areas related to the licensed Hemp facility for any and all inspections, any and all audits, necessary observations, and preliminary and formal investigations at any time, without notice to management, the Department of Business, and the Office of the President in order to carry out the duties of this code.

- M. The Commission has the authority to temporarily impound Hemp equipment for investigation, review, or analysis and execute a shutdown of specified Hemp-industry related equipment failing to conform to the standards required under laws and regulations applicable to the Hemp Operation.

- N. The Commission will conduct background investigations, or cause such investigations to be conducted, for primary management officials, key employees, and vendors of the Hemp operations.
- O. The Commission will review and approve all investigative work conducted in connection with the background investigations of primary management officials, key employees, and vendors of the Hemp operations.
- P. Confidentiality of Information. The Commission may refuse to reveal, in any court proceeding the identity of any informant, or the information obtained from the informant, or both the identity and the information.
- Q. The Commission will create and maintain investigative reports based on the background investigations of primary management officials, key employees, and vendors of the Hemp operations.
- R. The Commission will obtain and process fingerprints upon hiring and every other review period and conduct a criminal history check that shall include a check of criminal history records information maintained by the Federal Bureau of Investigation.
- S. The Commission will make licensing eligibility determinations.
- T. The Commission will submit a notice of results to the Legislature of the background investigations done for each primary management official and key employee applicant.
- U. The Commission will issue Hemp licenses to primary management officials and key employees of the operation, if warranted by the eligibility determination.
- V. The Commission shall ensure that all records and information obtained as a result of an employee background investigation, including but not limited to, the identity of each person interviewed in the course of an investigation, shall remain confidential and shall not be disclosed to any persons who are not directly involved in the licensing process.
- W. The Commission will establish standards for licensing Ho-Chunk Nation Hemp facilities which shall be included in the Administrative Rules.
- X. The Commission will issue Hemp licenses to Ho-Chunk Nation Hemp facilities.
- Y. The Commission will inspect, examine, and monitor all of the Nation's Hemp activities, and have unlimited immediate access to review, inspect, examine, photocopy, and audit all

records of the Hemp facilities and operations at any time, absent notice to management, the Department of Business, and the Office of the President.

- Z. The Commission will investigate any suspicion of wrongdoing associated with any Hemp activities which may result in an external forensic audit.

- AA. The Commission will ensure patron complaints are reviewed, investigated, and resolved in accordance with procedures established in this ordinance and the Ho-Chunk Nation Hemp regulations.

- BB. The Commission will have the right to exclude a person from any Hemp facility in accordance with this Ordinance at any time for any reason.

- CC. The Commission will have the right to reinstate a previously excluded person after a thorough investigation.

- DD. The Commission will comply with any and all reporting requirements under USDA, the USDA's regulations and any Ho-Chunk Nation-State compact to which the Ho-Chunk Nation is a party, and any other applicable law.

- EE. The Commission will promulgate and issue regulations necessary to comply with applicable internal control standards.

- FF. The Commission may promulgate and issue regulations on the levying of fees and/or taxes associated with Hemp license applications.

- GG. The Commission may promulgate and issue regulations on the levying of fines and/or the suspension or revocation of Hemp licenses for violations of this Ordinance or any Ho-Chunk Nation, Federal, or applicable State Hemp regulations.

- HH. The Commission may consider issuing licenses to Hemp vendors possessing valid licenses from other tribal or state jurisdictions until such time that the Nation completes its own background investigation. In the event that other jurisdictions suspend, revoke, or refuse to renew a license or certificate to a Hemp vendor, the Commission will consider the determination of that jurisdiction and may suspend, revoke, or refuse to renew any license issued by the Commission.

- II. The Commission will perform such other duties the Commission deems appropriate for the proper regulations of the Ho-Chunk Nation Hemp operation.

- JJ. The Commission may promulgate such regulations and guidelines as deemed appropriate to implement the provisions of this ordinance, so long as they are in furtherance of, and not in conflict with, any provisions of this ordinance. Such regulations and guidelines promulgated by the Commission shall be approved by the Legislature.
- KK. Approval of Hemp Facility floor plans, closed-circuit television system, and cashier's safe, minimum staffing and supervisory requirements, and technical standards for Hemp device operations.
- LL. The Commission may refer any apparent violations of the Nation's laws of general applicability, such as, but not limited to, the Employment Relations Act (6 HCC § 5) the Appropriations and Budget Process Act (2 HCC § 4), Finance Manual/Ordinance [Title changed by Resolution 08.24.21A] (5 HCC § 5), or law impacting on the Nation's Contracting Authority in the operation of the Nation's Hemp facilities to the Attorney General for consideration and action as he/she may determine appropriate.
- MM. The Commission shall keep a written record of all its meetings where official action is taken.
- NN. The Commission will use the Nation's Department of Justice Attorneys as its legal counsel, or such other counsel to whom the Nation's Department of Justice may appoint special counsel for such matters.
1. All communications by the Commission and the assigned Attorney shall be confidential, privileged, and protected communication.
 2. Only the Attorney General or designee may release such information pursuant to the Discovery Act.
- OO. When the Nation's Department of Justice is conflicted from representing the Commission, the Commission shall have the ability to request an Attorney, who is admitted to practice law within the Nation's court system to discuss all enforcement actions and to represent the Commission in Trial Court.
- PP. The Commission will have such other powers as are delegated to it from time to time by the Legislature.
- QQ. The Commission has discretion as to what documents may or may not be shared with requisite Hemp Commissioners related to guidance and implementation.
- RR. Administrative Rules will be developed and adopted by the Commission and shall govern all Hemp license determinations and hearings. Such Administrative Rules shall be approved by the Legislature.

- i. .
- f. Funding. The Legislature shall fund the Commission on an annual basis from its General Fund at a level sufficient to support its execution of its duties and obligations set forth herein. If the Commission needs a budget modification during a fiscal year, it shall make its request to the Legislature.

7. Licensing.

- g. License Application
 - i. Any person producing or intending to produce Hemp on tribal lands must have a valid license prior to producing, cultivating, or storing Hemp. A valid license means the license is unexpired, unsuspended, and unrevoked.
 - ii. Any person desiring to cultivate Hemp anywhere on tribal land shall submit to the Commission a completed Hemp grower license application at least 90 days prior to planting. The license application shall contain the following information.
 1. The full name, residential address, telephone number, and email address (if available) of the applicant;
 2. If the applicant represents a business entity, the full legal entity name of the business, the principal business location address, the full name and title of the key participants, the employer identification number (“EIN”) of the business, and the email address (if available) of the applicant;
 3. Documentation showing a valid tenancy, ownership or other legal interest in the proposed property, and that the property and applicant are otherwise in compliance with the Tribes’ Agriculture code.
 4. Street address (if possible), legal description and geospatial location for each field, greenhouse, building, or site where Hemp will be grown, handled, processed or stored.
 5. A business plan and operations plan that includes at a minimum the following:
 - a. The proposed acreage or greenhouse or indoor square footage to be planted or used for processing.
 - b. A description of the type of facility proposed and the anticipated or actual number of employees and the name of the proposed manager of the facility.
 - c. A description of the intended output (i.e., raw Hemp or some Hemp product), and if the business intends to manufacture Hemp product(s), a description of the

- proposed Hemp products and the intended market for the products;
 - d. A security plan which shall identify a system for accounting for Hemp plants, security systems(s) and lighting plan showing the outside lighting, and current centrally alarmed and monitored security system service agreements;
 - e. A list of pesticides, herbicides, and other potentially hazardous materials proposed for use and proposed precautions for applying, handling and storing the materials.
 - f. A description and plan of all equipment and methods that will be employed to stop any noxious effects and/or impacts to adjacent uses, including assurances that minimal to no odor will be detected from outside the grow site.
 - g. A plan for the disposal of Hemp and related byproducts.
 - h. Source of seeds or propagules.
 - i. A statement of previous farming and business expertise or experience.
- h. Grow Site Registration. As a component of the Hemp grower license application, each applicant shall submit a grow site registration application on a form provided by the Tribes for each proposed grow site. Information submitted to the Tribes must include, at a minimum:
- i. The street address (if possible), legal description and geospatial location of each field, greenhouse, building, or site where Hemp will be cultivated.
 - ii. If Hemp is cultivated or is intended to be cultivated in a field:
 1. the geospatial location of the grow site provided in decimal of degrees and taken at the approximate center of the grow site;
 2. the number of square feet or acres of each grow site; and
 3. a map of the production area showing clear boundaries of the grow site.
 - iii. If Hemp is cultivated or is intended to be cultivated in a greenhouse or other building:
 1. the GPS coordinates provided in decimal of degrees and taken at the approximate entrance of the greenhouse or other building composing the grow site;
 2. the approximate dimension or square feet of the greenhouse or other building composing the grow site; and
 3. a map of the production area showing clear boundaries of the grow site.
 - iv. Any other information required by the Commission.

- i. Acknowledgement of Terms. By submitting an application, the applicant acknowledges and agrees to the following minimum terms and conditions, which shall be expressly contained in licenses issued by the Legislature:
 - i. any information provided to the Legislature or another entity or instrumentality of the Tribes may be provided to law enforcement agencies without further notice to the applicant;
 - ii. the applicant or Hemp grower shall allow and fully cooperate with any inspection and sampling of Hemp or Hemp products that the Tribes deems necessary;
 - iii. the applicant or Hemp grower shall pay for any inspection and laboratory analysis costs that the Tribes deem necessary within thirty (30) days of the date of the invoice, provided that the Hemp grower shall not be required to pay for more than one (1) tribal inspection and associated laboratory analysis costs per year unless the applicant or Hemp grower is alleged to have violated the license or this code;
 - iv. the applicant or Hemp grower shall submit all required reports by the applicable due-date specified by the Commission;
 - v. The applicant or Hemp grower will comply with applicable laws rules and regulations, including but not limited to, this code, tribal law, and federal law;
 - vi. The applicant consents to all of the licensing terms and conditions listed in the license;
 - vii. The applicant consents to the jurisdiction of the Tribe;
- j. License Application Processing.
 - i. Upon submission of an application, the Commission shall verify that the information in the application is accurate and complete, including one pre-licensing inspection of the grow site. Verification by the Commission shall occur within twenty-one (21) days of submission of the application. The Commission shall notify applicants that their application is complete or specify information that remains to be submitted.
 - ii. Upon verification of the information in the application, applications shall be reviewed for compliance with code and any other applicable law within thirty (30) days.
 - iii. The Commission shall submit their written recommendation to grant or deny the license to the Legislature within seven (7) days.
 - iv. Legislature shall make the final determination as to whether to approve or deny a license application within fourteen (14) days of receipt of the recommendation. The Commission shall notify applicants that the license has been granted or denied by certified mail and assign the successful applicant a license number.

- v. Applicants may appeal the denial of a license according to the procedure set forth in Ch. III, Section 20 below.
- k. The notice that a license has been approved shall contain the following minimum information:
 - i. The contact information required for license applications contained in Ch. II, Section 8.
 - ii. The hemp grower's license identification provided in a format compatible with the USDA's information sharing system.
 - iii. Any conditions or restrictions on the license.
 - iv. The date of expiration of the license.
 - v. The dates of scheduled sampling(s) and inspection(s).
 - vi. The date for submission of an application to renew the license.
 - vii. Any other information deemed appropriate by the Commission.
- l. All licenses shall be valid for three (3) years from the date of issuance, unless otherwise extended or revoked at an earlier date pursuant to this code or other tribal law or regulation.
- m. Licenses cannot be assigned or transferred to another Person, unless first approved by the Director in writing.
- n. License Conditions.
 - i. The Tribe may add conditions and/or provisions to licenses at any time, including but not limited to:
 - 1. Conditions for protection of the soil and water quality;
 - 2. Conditions restricting water use or irrigation;
 - 3. Conditions governing the disposal of plants and equipment related to Hemp production;
 - 4. Conditions governing the disposal of plants and equipment related to Hemp production;
 - 5. Conditions protecting workers health and safety;
 - 6. Provisions that ensure the security of the Hemp production operation;
 - 7. Provisions to ensure that records are effectively maintained; and
 - 8. Provisions governing the THC-testing of Hemp crops.
 - ii. The Tribes must notify the Hemp grower of conditions added to the license after the license has issued in writing, must specify the time for compliance with the conditions and must verify confirmation of receipt by the Hemp grower.
 - iii. Contesting license conditions.
 - 1. License conditions may be contested as impracticable or unnecessary for compliance with tribal or federal law.
 - 2. A Hemp grower may petition for review of a license condition by the Legislature under the procedure set forth in Ch. III, Section 20.
- o. License Modifications. A license modification is required if there is any change to the information submitted in the application including, but not limited to, sale of a business, the production, handling, or storage of Hemp

in a new location, or a change in the key participants producing under a license.

- p. Renewal. Licenses may be renewed annually or as otherwise determined by the Tribes by submitting a renewal application to the Commission no later than ninety (90) days prior to the date of the license expiration. At a minimum, the renewal application shall require the Applicant to provide updated information regarding the grow site registration, address and contact information, any citations of the applicant for violations of Hemp production licenses or tribal law and any changes to the applicant's eligibility under Ch. II, Section 8.
- q. Revocation. The Tribes shall immediately revoke the license of a Hemp grower if the Hemp grower:
 - i. Pleads guilty to, or is convicted of, any felony related to a controlled substance;
 - ii. Made any materially false statement with regard to their license application with a culpable mental state greater than negligence; or
 - iii. Is found to be growing cannabis exceeding the Acceptable Hemp THC level with a culpable mental state greater than negligence or negligently violated this code three times in five years.

8. Persons Ineligible for Licenses.

- r. Any person convicted of a felony relating to a controlled substance under state or federal law shall be ineligible to produce Hemp under the Hemp program during the ten (10) year period following the date of the conviction, unless that person was already lawfully growing Hemp under the 2014 Farm Bill before December 20, 2018 and if the conviction also occurred before December 20, 2018.
- s. A Hemp grower that negligently violates this code or other State or Tribal plan or the USDA plan three (3) times in a five (5) year period shall be ineligible to participate in the Hemp program for a period of five (5) years beginning on the date of the third violation.
- t. Any person found to have materially falsified any information contained in an application for a hemp license shall be permanently ineligible for a license.

9. Fees.

- u. In addition to submitting a Hemp grower license application or renewal application, each applicant shall submit the application fee set by the Commission
- v. The Tribes may set and collect additional fees, including testing fees, in amounts that are reasonable and necessary to cover the costs of administering and enforcing the Tribes' Hemp program.
- w. Application fees shall not cover or include the cost of obtaining and submitting a criminal background check report.

- x. The Tribe may waive the application fee for tribal enterprises or enterprises which are majority owned by a HCN tribal member.

10. Inspections.

- y. The Tribe shall conduct scheduled inspections of all Hemp growers and grow sites, at least once per growing season. The purpose of these inspections is to verify compliance with all requirements and conditions of the license issued, as well as with applicable tribal and federal law. Inspection may include sampling by tribal inspectors for testing of Hemp products THC levels or any other purpose. In addition to scheduled inspections, the Tribes shall have authority to conduct random inspections of all Hemp growers and all grow sites.
- z. Random inspections may be conducted at any time. Inspectors shall be granted unrestricted access to the grow site(s).
- aa. The Tribe shall complete a report for all inspections. Any reports noting violations of the license, this code, or other applicable tribal or federal law shall be submitted to the Legislature within forty-eight (48) hours for review.
- bb. All samples collected by the Tribes shall become the property of the Tribes and no compensation shall be owed by the Tribes for such samples.
- cc. The Tribes shall maintain a record of test results for all Hemp products tested for a minimum of three (3) years.

11. Land Use Restrictions and Site Modification.

- dd. A Hemp grower shall not cultivate Hemp on any site not listed in a valid grow site registration approved by the Tribes.
- ee. Any Hemp grower that wishes to alter its grow site shall, before altering the grow site, submit to the Commission an updated legal description, geospatial location, and map specifying the proposed alterations on a form determined by the Commission. Modification of the grow site shall be considered a proposed modification of the license. No modifications to the grow site may be made without prior written approval from the Tribes.
- ff. No grow site may be included in more than one (1) grow site registration at the same time, and no Hemp plant shall be included in more than one (1) grow site registration simultaneously.

12. Transportation Requirements.

- gg. The Hemp grower or other person responsible for the transportation of a Hemp crop or Hemp product must ensure that the following documentation accompanies the Hemp crop or Hemp product at all times during transport:
 - i. a copy of the license that corresponds to the grow site from which the Hemp originated;
 - ii. a copy of the pre-harvest test results that corresponds to the harvest lot in transit as identified by the harvest lot identifier that accompanies the Hemp;

- iii. a copy of a transport manifest that includes all information required to be documented by the Tribes;
 - iv. the transportation log; and
 - v. any other documentation that may be required by the Commission or federal regulations.
- hh. To ensure the security of the Hemp crop or Hemp products:
- i. The Hemp grower or employee thereof shall remain in the presence of and shall maintain control of the Hemp crops or products at all times.
 - ii. At least two people shall be present to transport Hemp crops or products to ensure their security.
 - iii. The Hemp grower shall take any other precautions specified by tribal or federal law, regulations or policy.
- ii. The two people transporting the Hemp crop or product shall certify transport and delivery on the same day that the Hemp crops or products are transported and delivered.

CHAPTER III- COMPLIANCE AND ENFORCEMENT

13. General.

- a. Upon written or oral request of the Tribe, Hemp growers shall provide the Tribes' inspector immediate and unrestricted access to all plants, parts, and seeds within a grow site, whether growing or harvested, and all land, buildings and other structures used for the cultivation of Hemp, and all documents and records pertaining to the Hemp grower's Hemp business.

15. Required Recordkeeping and Reporting

- a. Tribal Recordkeeping and Reporting:
 - i. The Commission shall retain for a period of at least three (3) calendar years, all information required to be collected in Chapter II of this code for every grow site approved by the Tribes.
 - ii. Hemp Grower Report. The Commission shall submit to the USDA, by the first of each month, a report providing the contact information and the status of the license or other authorization issued for each Hemp grower under this code. If the first of the month falls on a weekend or holiday, the report shall be submitted by the first business day following the first of the month. The report shall contain:
 - 1. For each new Hemp grower who is an individual and is licensed or authorized under this code, the report shall include the individual's:
 - a. full name;
 - b. license identification number;
 - c. business address;

- d. telephone number;
 - e. email address (if available); and
 - f. a legal description of the land on which the Hemp grower is producing or intends to produce Hemp including, to the extent practicable, its geospatial location.
- b. For each new Hemp grower that is an entity and is licensed or authorized under this code, the report shall include the entity's:
- a. Full name;
 - b. License identification number;
 - c. Principal business location address business address;
 - d. The full name, title, and email address (if available) of each employee for whom the entity is required to submit a criminal history record report; and
 - e. a legal description of the land on which the Hemp grower is producing or intends to produce Hemp including, to the extent practicable, its geospatial location.
2. for each Hemp grower that was included in a previous report and whose reported information has changes, the report shall include the previously reported information and the new information;
3. the status of a license or other required authorization from the Tribes including any changes to that status.
4. The period covered by the report; and
5. Indication that there were no changes during the current reporting cycle, if applicable.

iii. Hemp Disposal Report. If a Hemp grower has produced cannabis exceeding the Acceptable Hemp THC level, the cannabis shall be disposed of in accordance with Ch. II, Section 17. The Commission shall submit to the USDA, by the first of each month, a report notifying the USDA of any occurrence of non-conforming plants or plant material and providing a disposal record of those plans and materials. If the first of the month falls on a weekend or holiday, the report shall be submitted by the first business day following the first of the month. The report shall contain:

- a. Name and address of the Hemp grower;
- b. The Hemp grower's license or authorization identifier;
- c. Location information, such as lot number, location type, and geospatial location or other location descriptor for the production area subject to disposal;
- d. Information on the agent handling the disposal;

- e. Disposal completion date; and
- f. Total acreage.
- iii. Annual Report. The Commission shall submit an annual report to USDA. The report shall be submitted by December 15 of each year and contain the following information:
 - 1. Total planted acreage;
 - 2. Total harvested acreage; and
 - 3. Total acreage disposed.

b. Hemp Grower Recordkeeping and Reporting:

1. Hemp growers must report any changes of contact information to the Tribes in writing within fourteen (14) days of the change.

2. Planting Report: Within fourteen (14) days after planting any Hemp, each Hemp grower shall submit, on a form provided by the Commission, a planting report that includes the GPS coordinates and a map showing the location and actual acreage or square feet of Hemp planted.

3. Pre-Harvest Notification: At least fourteen (14) days prior to harvest, each Hemp grower shall submit a pre-harvest notification, on a form provided by the Commission, that includes the projected harvest date(s) and location(s) of each variety of Hemp cultivated within a grow site. A Hemp grower must notify the Commission immediately of any changes in the reported harvest date(s) in excess of seven (7) days.

4. Post-Harvest Report: Within fourteen (14) days post-harvest, each Hemp grower shall submit a Post-harvest report to the Commission, on a form provided by the Commission that includes the actual harvest date(s) and location(s) of each variety of Hemp harvested within a grow site. A Hemp grower is not required to document the removal of male Hemp plants on a post-harvest report provided that the male Hemp plants are destroyed or utilized on the grow site and are not transferred or sold.

5. Test Results Report: Each Hemp grower must ensure that the DEA-registered laboratory that conducts the test of the sample(s) from its grow site reports the test results for all samples tested to USDA. The test results report shall contain the following information for each sample tested:

- a. Hemp grower's license identification number;
- b. Name of Hemp grower;
- c. Business address of Hemp grower;

- d. Lot identification number for the sample;
- e. Name and DEA registration number of laboratory;
- f. Date of test and report;
- g. Identification of a retest; and
- h. Test result.

6. Reporting Hemp Crop Acreage to the USDA Farm Service Agency. All Hemp growers must report Hemp crop acreage to the USDA Farm Service Agency (“FSA”) pursuant to USDA guidelines and shall provide, at minimum, the following information:

- a. Street address and geospatial location of the grow site;
- b. Acreage dedicated to the production of Hemp, or greenhouse or indoor square footage dedicated to the production of hemp; and
- c. License identification number.

7. Transportation Log. Hemp growers must maintain a transportation log documenting each occurrence when Hemp crops are transported whenever to or from a grow site. The transportation log shall contain the following information:

- a. dates and times of transportation and delivery of Hemp crops and products, the names of individuals transporting, the manager on duty, any loss or damage to the crop during transport or delivery, and certification of the recipient of the Hemp crop or product as well as the manager of the recipient.
- b. Transportation logs shall be kept up to date daily and shall be maintained for a period of three (3) years from the last growing season. The Tribes may inspect the transportation log at any time.
- c. The Hemp grower shall give the Tribe access to the transportation log at any time upon request.

8. A Hemp grower 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 Tribes upon request.

9. The applicant or Hemp grower must report to the Tribes any felony convictions relating to controlled substances under state, federal, or tribal law within five (5) business days of receiving notice of such conviction.

10. Upon revocation of a license or dissolution of a Hemp grower, the Hemp grower is required either to maintain a copy of all licenses,

sampling and testing results and transportation logs in a secure location, the address for which is provided to the Commission for a period of three (3) years or provide them to the Commission.

16. Grow Site Sampling and Testing for THC-level.

a. Prior to Harvest:

i. Within fifteen (15) days of the anticipated harvest of cannabis plants, all Hemp growers must arrange for and ensure that a Commission official or representative collects samples from the flower material of such cannabis plants for THC-level testing at a DEA-registered laboratory.

ii. The method used for sampling from the flower material of the cannabis plant shall be sufficient at a confidence level of 95 percent that no more than one percent (1%) of the plants in the grow site would exceed the Acceptable Hemp THC level. The method used for sampling must ensure that a representative sample is collected that represents homogeneous composition of the grow site.

iii. During a scheduled sample collection, the Hemp grower or an authorized representative of the Hemp grower shall be present at the grow site.

iv. Representatives or officials of the sampling agency shall be provided with complete and unrestricted access during business hours to all Hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation handling, and storage of all hemp and other cannabis plants, and all locations listed in the producer license.

v. Hemp growers shall not harvest the cannabis crop prior to samples being taken.

vi. For each sample tested pursuant to this chapter, the Hemp grower shall obtain from a laboratory a certificate of analysis that includes, at a minimum, the following information:

a. General information identifying that the Hemp that is the subject of the certificate of analysis is the product of a sample tested by the independent testing laboratory;

b. The date the Hemp was sampled, the date testing was performed, and methodology used to analyze the sample;

c. The THC concentration contained in the test sample; and

d. A statement indicating whether the sample contained a THC concentration of not more than the Acceptable Hemp THC level.

b. Standards Detecting THC Concentration Levels.

i. Analytical testing for purposes of detecting the THC concentration levels in the flower material of the cannabis plant shall meet the following standard:

a. Laboratory quality assurance must ensure the validity and reliability of test results;

b. 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;

c. The demonstration of testing validity must ensure consistent, accurate analytical performance; and

d. Method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of Ch. II, Section 16 (a)(ii).

ii. At a minimum, analytical testing of samples for THC concentration levels must use post-decarboxylation or other similarly reliable methods approved by the USDA. The testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THCA) in hemp into delta-9 tetrahydrocannabinol (THC) and the test result reflect the total available THC derived from the sum of the THC and THC-A content. Testing methodologies meeting the requirements of this paragraph include, but are not limited to, gas or liquid chromatography with detection.

iii. The total THC concentration level shall be determined and reported on a dry weight basis. Additionally, measurement of uncertainty must be estimated and reported with test results. Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty.

iv. Any sample test result exceeding the Acceptable Hemp THC level shall be conclusive evidence that the grow site represented by the sample is not in compliance.

c. Responsibility to Harvest after Testing.

- i. Hemp growers shall harvest Hemp crops not more than fifteen (15) days following the date of sample collection.
- ii. If a Hemp grower fails to complete harvest within fifteen (15) days of sample collection, a secondary pre-harvested sample of the lot shall be required to be submitted for testing.
- iii. Harvested lots of Hemp plants shall not be commingled with other harvested lots or other material without prior written permission from the Commission.
- iv. Hemp crops that meet Acceptable Hemp THC level may enter the stream of commerce.
- v. Grow sites tested and not certified by the DEA-registered laboratory not exceeding the Acceptable Hemp THC level may not be further handled, processed, or enter the stream of commerce and the licensee shall ensure the lot is disposed of in accordance with Ch. II, Section 17. Any Hemp grower may request additional testing if it is believed that the original THC concentration level test results were in error.

17. Procedures for Disposal of Noncompliant Plants and products.

- a. Cannabis plants testing higher than the Acceptable Hemp THC level constitute marijuana, a schedule I controlled substance under the Controlled Substances Act (“CSA”), 21 U.S.C § 801 *et. seq.* and must be disposed of in accordance with tribal law, the CSA, and DEA Regulations found at 21 CFR § 1317.15.
- b. Hemp growers must notify the Commission of their intent to dispose of non-conforming plants and verify disposal by submitting appropriate documentation and evidence to the Commission, including:

This documentation and evidence shall include:

1. Name and address of the Hemp grower;
2. The Hemp grower’s license or authorization identifier;
3. Location information, such as lot number, location type, and geospatial location or other location descriptor for the production area subject to disposal;
4. Information on the agent handling the disposal;
5. Disposal completion date; and
6. Total acreage.

The Commission shall submit to the USDA, by the first of each month, a report notifying the USDA of any occurrence of non-conforming plants or plant material and providing a disposal record of those plans and materials, in accordance with Ch. II, Section 15 (b)(iii).

18. Violations.

- a. A violation of this Chapter shall be subject to enforcement in accordance with this section, tribal law, and all applicable federal, state and local laws, regulations, rules and other requirements.
- b. Negligent Violation:
 - i. A Hemp grower shall be subject to penalties if the Tribes determine that the Hemp grower has negligently violated the requirements or conditions of its license or this code, including by negligently:
 - a. A Hemp grower shall be subject to penalties if the Tribes determine that the Hemp grower has negligently violated the requirements or conditions of its license or this code, including by negligently:
 - b. providing an incomplete or inaccurate description of land on which the Hemp grower cultivates Hemp;
 - c. producing *Cannabis sativa L.* with a THC concentration of more than the Acceptable Hemp THC level. Except a Hemp grower shall not have committed a negligent violation under this paragraph if they make reasonable efforts to grow Hemp and the resulting cannabis product has a THC concentration of more than the Acceptable Hemp THC level but does not have a THC concentration of more than 0.5 percent on a dry weight basis.
 - ii. A Hemp grower described in this section shall comply with a corrective action plan established by the Commission to correct the negligent violation, including:
 - a. a reasonable date by which the Hemp grower shall correct the negligent violation; and
 - b. a requirement that the Hemp grower shall periodically report to the Commission on the compliance of the Hemp grower with this code for a period of not less than the next two (2) calendar years.
 - iii. A Hemp grower that negligently violates this code shall not, as a result of that violation, be subject to any criminal enforcement action by

the federal government or any state government, tribal government, or local government.

iv. A Hemp grower that negligently violates this code three (3) times in a five (5) year period shall be ineligible to produce Hemp under the Hemp program for a period of five (5) years beginning on the date of the third violation.

v. The Commission shall conduct periodic inspections to determine if corrective action plans put in place by the Commission to correct negligent violations have been implemented as submitted.

c. Other Violations:

i. If the Tribes determine that a Hemp grower on tribal land has violated this code with a culpable mental state greater than negligence, the Hemp grower may be subject to penalties under tribal law as well as federal, state or local laws, and the Tribes shall immediately report the Hemp grower to:

- a. the Chief of Police for HCN Police Department; and
- b. the United States Attorney General.

ii. Ch. III, Section 18 (b) shall not apply to such violations.

19. Penalties and Remedies.

a. Negligent Violations

i. Every person found to have negligently violated this code shall be subject to punishment by a fine of not more than one thousand dollars (\$1,000.00).

ii. Each day during which any such violation shall continue after the Tribes have given written or oral notice to the person in violation, shall constitute a separate violation, punishable as herein provided.

iii. A Hemp grower described in this Section shall comply with a corrective action plan established by the Tribes to correct the negligent violation as provided for in Ch. III, Section 18 above.

b. Other Violations.

i. In accordance with Ch. III, Section 18 (c), all persons found to have violated this code with a culpable mental state greater than negligence shall be immediately reported to the Chief of Police for HCN Police Department services and the United States Attorney General.

ii. Every person found to have violated this code with a culpable mental state greater than negligence shall be punished by a fine of (\$2,000.00), the amount of tribal property harmed or destroyed, the extent of liability incurred by the Tribes as a result of the violation, or whichever is greatest.

iii. Each day during which any such violation shall continue after the Tribes have given written or oral notice to the person in violation, shall constitute a separate violation, punishable as herein provided.

iv. Every person found to have violated the provisions of this code with a culpable mental state greater than negligence shall forfeit any licenses under this code and shall be ineligible to obtain a license under this code for a period of ten (10) years.

v. The Tribes retain the authority to bring suit against any person to enjoin any activity relating to Hemp production in violation of a license or this code, other tribal, state or federal law, and to collect any delinquent fees, interest or penalties in any court of competent jurisdiction. The court may award interest, costs, and attorney's fees on any judgment.

vi. This section shall not be construed to authorize the imposition of any criminal penalty against any person who, because of his status as a non-Indian or otherwise, pursuant to federal law is not subject to the imposition of criminal penalties by the Tribes.

20. Appeals.

a. Denial, suspension or revocation of a license may be appealed to the Tribal Court within twenty (20) days. The Hemp grower or applicant is responsible for paying all costs associated with an appeal.

b. The Tribal Court shall review the appeal at a hearing at which the Hemp grower, the Tribe and any other necessary party is present and consistent with the Court's Rules of Civil or Criminal Procedure.

c. The Tribal Court may affirm the denial, suspension or revocation of a license based upon a finding that a decision of the Commission or Legislature was arbitrary, capricious or an abuse of discretion; not supported by substantial evidence in the record; or otherwise not in accordance with the law or upon any other basis permitted under tribal law.

d. The Tribal Court may not assess damages or costs against the Tribes, any tribal entity or any of their subsidiaries.

e. For the limited purpose of Ch. II, Section 20 only, the Tribes waive their immunity from suit.

CHAPTER IV- MISCELLANEOUS PROVISIONS

21. Sovereign Immunity.

Nothing in this code, or an arbitration, a contract or other agreement, or any action or inaction relating to, directly or indirectly, tribal hemp, shall constitute a waiver, in whole or in part, of the sovereign immunity of the Tribes, any tribal entity, or any of their subsidiaries, departments, affiliates, agents, officers or employees, beyond the terms of any express limited waiver agreed to therein.

22. Severability.

If any section, provision, phrase, addition, word, sentence or amendment of this article or its application to any Person is held invalid for any reason whatsoever, such invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid applications and to that end, the provisions of this code are declared severable.

23. Effective date.

This code shall be effective immediately upon enactment.