



**LAC COURTE OREILLES BAND
OF
LAKE SUPERIOR CHIPPEWA INDIANS**

TRIBAL CODE OF LAW

**TITLE VI
CONSERVATION**

TITLE VI – CHAPTER 8
INDUSTRIAL HEMP CODE
OF THE
LAC COURTE OREILLES BAND OF LAKE SUPERIOR CHIPPEWA INDIANS

Preamble

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. In the implementation of this inherent sovereign authority, Article V, § 1 (h) and (n) of the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, empowers the Tribal Governing Board to: “To engage in any business that will further the social or economic well-being of members of the Band or undertake any programs or projects designed for the economic advancement of the people,” Article V, § 1 (h); and “To regulate, by enactment of ordinances, the conduct of business within the territory of the Band, including the power to impose taxes or license fees upon members and non-members doing business within the reservation” Article V, § 1 (n). Pursuant to this inherent sovereign authority, the Tribal Governing Board hereby establishes the Agricultural Division of the Lac Courte Oreilles Conservation Department as a governmental instrumentality of the Tribe, and enacts this ordinance which shall establish the purposes, powers and duties of the same. The Agricultural Division shall carry out the requirements of the 2018 Farm Bill as adopted and implemented by the Tribe pursuant to the provisions of this ordinance. A copy of this ordinance duly certified by the Secretary/Treasurer of the Tribal Governing Board shall be admissible in evidence in any suit, action or proceedings.

Table of Contents

SUBCHAPTER 8.1 - INTRODUCTION

- § 8.101 Title.
- § 8.102 Authority.
- § 8.103 Declaration of Policy.
- § 8.104 Purpose.
- § 8.105 Territorial Applicability.
- § 8.106 Effective Date.
- § 8.107 Interpretation.
- § 8.108 Severability and Non-Liability.
- § 8.109 Repeal of Inconsistent Tribal Ordinances.

SUBCHAPTER 8.2 – DEFINITIONS

- § 8.201 General Definitions.

SUBCHAPTER 8.3 – GENERAL PROVISIONS

- § 8.301 Exemption from Prosecution for Certain Acts.
- § 8.302 Control of Hemp.
- § 8.303 Sovereign Immunity.
- § 8.304 Compliance with Federal Law.

SUBCHAPTER 8.4 – ADMINISTRATION

- § 8.401 Establishment of the Agricultural Division; Attributes.
- § 8.402 Director of the Agricultural Division; Qualifications; Powers.
- § 8.403 Powers and Duties of the Director of the Agricultural Division.
- § 8.404 Compensation of the Director of the Agricultural Division.
- § 8.405 Training, Equipment; Staff.
- § 8.406 Bi-Annual Reports.

SUBCHAPTER 8.5 – LICENSING

- § 8.501 Applications for Cultivation and Processor Licensing Agreements.
- § 8.502 Contents of Cultivation and/or Processor Licensing Agreements.
- § 8.503 Reports.
- § 8.504 Review of Decisions.

SUBCHAPTER 8.6 – SAMPLING, TESTING AND INSPECTIONS

§ 8.601 Procedures for Sampling and Testing.

§ 8.602 Inspections.

SUBCHAPTER 8.7 – DISPOSAL/DESTRUCTION OF NON-COMPLIANT HEMP

§ 8.701 Procedures for Disposal/Destruction of Non-Compliant Hemp.

SUBCHAPTER 8.8 – ENFORCEMENT

§ 8.801 Prohibited Acts.

§ 8.802 Penalties.

§ 8.803 Negligent Violations and Corrective Action Plans.

SUBCHAPTER 8.9 – SEED OR PROPAGULE ACQUISITION

§ 8.901 Seed or Propagule Acquisition.

SUBCHAPTER 8.10 – TRANSPORTATION

§ 8.1001 Transportation.

SUBCHAPTER 8.11 – INFORMATION SHARING

§ 8.1101 Information Sharing.

SUBCHAPTER 8.1 - INTRODUCTION

§ 8.101 Title.

This Ordinance shall be known as the Industrial Hemp Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

§ 8.102 Authority.

This Ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. In the implementation of this inherent sovereign authority, Article V, § 1 (h) and (n) of the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, empowers the Tribal Governing Board to: “To engage in any business that will further the social or economic well-being of members of the Band or undertake any programs or projects designed for the economic advancement of the people,” Article V, § 1 (h); and “To regulate, by enactment of ordinances, the conduct of business within the territory of the Band, including the power to impose taxes or license fees upon members and non-members doing business within the reservation” Article V, § 1 (n).

§ 8.103 Declaration of Policy.

(1) It is the policy of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians to:

(a) Establish and grant regulatory authority to the Lac Courte Oreilles Agricultural Division to serve as a governmental instrumentality and arm of the Tribe for the regulation of Hemp on lands within the jurisdiction of the Tribe;

(b) Allow persons to plant, cultivate, harvest, sample, test, process, transport, transfer, take possession of, sell, import, and export Hemp on lands within the jurisdiction of the Tribe to the greatest extent allowed under federal law and to comply with the 2018 Farm Bill;

(c) Treat the cultivation and processing of Hemp on lands within the jurisdiction of the Tribe as an agricultural commodity under the laws of the Tribe; and,

(d) Provide an additional source of revenue and an economic opportunity for Tribe and its members.

(2) For the foregoing reasons, the Tribal Governing Board has determined that this Ordinance is in the best interests of the Tribe.

(3) The Tribal Governing Board hereby authorizes submission of a certified copy of this Ordinance to the USDA for approval as its Hemp Regulatory Plan under the 2018 Farm Bill and certifies it has the resources, personnel, capacity and intent to fund, enforce, and staff the regulatory activities authorized and mandated by this ordinance.

§ 8.104 **Purpose.**

The Lac Courte Oreilles Band of Lake Superior Chippewa Indians hereby finds and declares that:

(1) The government of United States recognizes Indian tribes as having sovereignty over their members and territories.

(2) The Lac Courte Oreilles Band of Lake Superior Chippewa Indians (the “Tribe”) is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), codified at 25 U.S.C. §§ 5101, et seq., as amended by the Act of June 15, 1935, (49 Stat. 378); and

(3) Article III of the Lac Courte Oreilles Tribal Constitution (“Tribal Constitution”) establishes the Tribal Governing Board as the governing body of the Tribe. Article V of the Tribal Constitution empowers the Tribal Governing Board to, inter alia, manage all economic affairs and enterprises of the Tribe; to safeguard, regulate and promote the peace, safety, morals and general welfare of the tribe by regulating the conduct of trade and the use and disposition of property upon the reservation; to charter subordinate organizations for economic purposes and to regulate the activities of cooperative associations of members of the tribe under ordinances adopted by the Tribal Governing Board; To delegate to subordinate boards, officers, committees, or cooperative associations which are open to all members of the Band any of the foregoing powers, reserving the right to review any actions taken by virtue of such delegated powers prior to and after such actions are taken; to govern the conduct of persons under the territorial jurisdiction of the Tribe; and to regulate commerce within the jurisdictional boundaries of the Tribe or on any after acquired lands.

(4) In February 2014, Congress passed the Agricultural Act of 2014 (hereinafter “2014 Farm Bill”), which defined industrial Hemp as separate and distinct from marijuana, and also authorized state departments of agriculture and institutions of higher education to cultivate Hemp for agricultural or academic research, including research into the marketing of industrial Hemp.

(5) On December 20, 2018, the U.S. Congress enacted the Agriculture Improvement Act of 2019 (“2018 Farm Bill”) that amend the Agricultural Marketing Act of 1946 (7 U.S.C. § 1621 et seq.) by adding Subtitle G entitled “Hemp Production” thereby allowing for the controlled cultivation of Hemp in accordance with the Act, and a State or Tribal plan approved by the Secretary of Agriculture.

(6) The 2018 Farm Bill also amended Section 102(16) of the Controlled Substances Act (21 U.S.C. 802(16)), by removing Hemp (as defined by section 297A of the Agricultural Marketing Act of 1946) from the list of federal controlled substances.

(7) Pursuant to this Ordinance and any regulations developed in accordance with this Ordinance, the Tribe authorizes the cultivation of Hemp within the Tribe's jurisdiction. Any changes to this Ordinance shall first be submitted to the USDA and approved before they may take effect.

§ 8.105 Territorial Applicability.

This Ordinance shall govern the research, cultivation, processing and distribution of Hemp within the tribes Indian Country, as defined by 18 U.S.C. § 1151, as well as off-reservation lands under the jurisdiction and purview of the Lac Courte Oreilles Tribe.

§ 8.106 Effective Date.

Except as otherwise provided in specific sections, the provisions of this ordinance shall be effective on the date adopted by the Tribal Governing Board.

§ 8.107 Interpretation.

The provisions of this ordinance:

(1) Shall be interpreted and applied as the minimum requirements applicable to the research, cultivation, processing and distribution of Hemp activities within the jurisdiction of the Tribe subject to this ordinance;

(2) Shall be liberally construed in favor of the Tribe;

(3) Shall not be deemed a limitation or repeal of any other tribal power or authority.

§ 8.108 Severability and Non-Liability.

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe further asserts immunity on its part and that of its agencies, employees, and/or agents from any action or damages that may occur as a result of reliance upon and conformance with this ordinance.

§ 8.109 Repeal of Inconsistent Tribal Ordinances.

As Approved and Adopted by Resolution No. 14-2020 and amended by Resolution No. 18-2020.

All ordinances and resolutions inconsistent with this ordinance are hereby repealed. To the extent that this ordinance imposes greater restrictions than those contained in any other tribal law, code, ordinance or regulation, the provisions of this ordinance shall govern.

SUBCHAPTER 8.2 – DEFINITIONS

§ 8.201 General Definitions.

The following terms, wherever used in this ordinance, shall be construed to apply as follows:

(1) **“Agricultural Division” or “Division”** means the Agricultural Division of the Lac Courte Oreilles Conservation Department as established by the Tribal Governing Board through this ordinance which shall serve as a governmental instrumentality and arm of the Tribe.

(2) **“Applicant”** means a natural Person, or a business entity, who submits an application to participate in the Tribe's Hemp program.

(3) **“Cannabis sativa L.”** means all parts of the plant Cannabis sativa L., whether being cultivated or not, including its seeds, resin, compounds, salts, derivatives, and extracts, and does not mean Publicly Marketable Hemp Product, as defined by this ordinance.

(4) **“CBD”** means cannabidiol.

(5) **“Certified Seed”** means Seed for which a certificate or other instrument has been issued by a review board or certifying agency authorized under the laws of the Tribe, a state, federal law, any other federally recognized Indian tribe, or U.S. territory or possession to certify Hemp Seed varieties if cultivated to maturity would test at or below 0.3% Delta-9-THC concentration on a dry weight basis.

(6) **“Citizen”** means an enrolled member of the Lac Courte Oreilles Lake Superior Band of Chippewa Indians.

(8) **“Conservation Department” or “Department”** means the Conservation Department of the Tribe.

(9) **“Decarboxylated” or “Decarboxylation”** means the completion of the chemical reaction that converts tetrahydrocannabinolic acid into Delta-9-tetrahydrocannabinol, the intoxicating component of cannabis.

(10) **“Delta-9-THC”** means Delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of Cannabis sativa L.), accounting for Decarboxylation.

(11) **“Director”** shall mean the Director of the Agricultural Division of the Lac Courte Oreilles Conservation Department, as established by this ordinance.

As Approved and Adopted by Resolution No. 14-2020 and amended by Resolution No. 18-2020.

(11) **“Drug Enforcement Administration” or “DEA”** means the U.S. Drug Enforcement Administration.

(12) **“Farm Service Agency” or “FSA”** is an agency of the U.S. Department of Agriculture.

(13) **“Financial Interest”** is a person or entity that has more than a five (5) percent interest, share or ownership in a Hemp Business or in the revenues of a Hemp Business.

(14) **“Geospatial location”** means a location designated through a global system of navigational satellites used to determine the precise ground position of a place or object which may be available from the USDA Farm Service Agency.

(15) **“Cultivation Licensing Agreement”** means a document executed by an Applicant and the Agricultural Division authorizing the person to possess, cultivate, dry, harvest and store Hemp at one (1) or more specified locations.

(16) **“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 being cultivated or not, with a Delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(17) **“Hemp Business”** means a business entity of any kind that engages in any aspect of Hemp related activities authorized by this ordinance including, but not limited to, a Tribally Owned Corporation.

(18) **“Law Enforcement Agency”** means the Lac Courte Oreilles Police Department and any state or federal law enforcement agency having applicable jurisdiction within Lac Courte Oreilles Reservation lands.

(19) **“Licensee”** means a person or business that has been issued a valid Cultivation Licensing Agreement or Processor Licensing Agreement.

(20) **“Licensed Cultivator”** means a person authorized by the Agriculture Division to cultivate Hemp for market under the terms established by this ordinance. Consistent with the requirements of 7 C.F.R. §718.2, a Licensed Cultivator includes an owner, operator, landlord, tenant, or sharecropper who shares in the risk of cultivating the Hemp crop and who is entitled to share in marketed Hemp crop.

(21) **“Licensed Processor”** means a person authorized by the Agriculture Division to process, handle, store, and market Hemp within the Tribe's jurisdiction under the terms established by this ordinance.

(22) **“Location” or “Land”** means the particular land, building or buildings where Hemp will be cultivated, handled, stored, or processed, which can include a field name or building name.

(23) **“Nonviable Seed”** means a seed that has been crushed, dehulled, or otherwise rendered to have a zero percent germination rate.

(24) **“Person”** means an individual or business entity.

(25) **“Pesticide”** means any substance or mixture of substances intended to:

(a) Prevent, destroy, control, repel, attract, or mitigate any pest; or

(b) Be used as a plant regulator, defoliant, or desiccant; or

(c) Be used as a spray adjuvant, once they have been mixed with a U.S. Environmental Protection Agency registered product.

(26) **“Police Department”** shall mean the Lac Courte Oreilles Police Department.

(27) **“Processor Licensing Agreement”** means a document executed by a person and the Agriculture Division authorizing the person to process, handle, convert Hemp into a marketable form, and store processed Hemp at one (1) or more specified locations within the Tribe's jurisdiction.

(28) **“Program”** means the Tribe's Hemp Program.

(29) **“Propagule”** means a plant or plant part that can be utilized to cultivate a new plant.

(30) **“Publicly Marketable Hemp Product”** means a Hemp product that meets one (1) or more of the following descriptions:

(a) Bare stalks, bast fiber, hurd fiber, nonviable roots, nonviable seeds, seed oils, and plant extracts (excluding products containing Delta- 9-THC below zero and three-tenths (0.3) percent); or

(b) Products produced by a Federally Recognized American Indian Tribe or State pursuant to a program adopted under the 2014 Farm Bill; or

(c) Products produced by a Federally Recognized American Indian Tribe or State pursuant to a State or Tribal plan approved by the U.S. Department of Agriculture pursuant to the 2018 Farm Bill; or

(d) Products that are CBD derived from Hemp, as defined by this ordinance; and

(e) Does not include: any living Hemp plants, viable Seeds, leaf materials, floral materials, or Delta-9-THC content above 0.3%.

(31) **“Registered Land Area”** a contiguous area in a field, greenhouse, or indoor structure where Hemp is cultivated.

(32) **“Reservation” or “Reservation Lands”** means the tribe’s Indian Country, as defined by 18 U.S.C. § 1151, those lands, including the beds of any streams and flowages, located within the exterior boundaries of the Lac Courte Oreilles Reservation lands as well as off-reservation lands under the jurisdiction and purview of the Lac Courte Oreilles Tribe.

(33) **“Seed”** means Hemp's unit of reproduction, capable of developing into a Hemp plant.

(34) **“Seed Source”** means the origin of the Seed or Propagules as determined by the Agricultural Division or the Director.

(35) **“Signing Authority”** means an officer or agent of a legal entity with written authorization to commit the legal entity to a binding agreement.

(36) **“Test Result Report”** shall mean a report prepared by an Agricultural Division approved laboratory that conducts tests on samples of Cannabis sativa L. from Licensed Cultivators. The report will include the license number, the name and address of the Licensed Cultivator, the Registered Land Area, date of test, test results including Delta-9-THC, identification of retest, the name and address of the laboratory, the DEA registration number of the laboratory (if available), and the measurement of uncertainty.

(37) **“Tribal Governing Board”** means the Tribal Governing Board of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(38) **“Tribal Court”** means the court of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(39) **“Tribally Owned Corporation”** shall mean a business entity organized under the laws of the Tribe, Federal law, and wholly owned and operated by the Tribe.

(40) **“Tribe”** means the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(41) **“U.S. Department of Agriculture” or “USDA”** is a Federal agency within the U.S. Government.

(42) “**Variety**” means a subdivision of a species that is:

(a) Uniform, in the sense that the variations in essential and distinctive characteristics are describable; and

(b) Stable, in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity if reproduced or reconstituted as required by the different categories of varieties; and

(c) Distinct, in the sense that the variety can be differentiated by one or more identifiable morphological, physiological, other characteristics from all other publicly known varieties, or other characteristics from all other publicly known varieties.

SUBCHAPTER 8.3 – GENERAL PROVISIONS

§ 8.301 Exemption from Prosecution for Certain Acts.

(1) The possession, cultivation, processing, manufacturing production, handling, transportation and/or distribution of Hemp on lands within the jurisdiction of the Tribe is fully authorized pursuant to the terms and conditions set forward in this ordinance.

(2) No person or Licensee shall be subject to criminal penalties for activities in compliance with this ordinance.

§ 8.302 Control of Hemp.

(1) This Title shall govern the cultivation and processing of Hemp on lands under the jurisdiction of the Tribe and will be the basis of the tribal plan described in the 2018 Farm Bill.

(2) Tribal regulation of the cultivation and processing of Hemp on the lands under the jurisdiction of the Tribe is necessary to protect the health, security, and general welfare of the Tribal community. In order to further these goals, the Tribe has adopted this ordinance, which shall be liberally construed to fulfill the purposes for which it has been adopted.

(3) Nothing in this Title shall be deemed to be in conflict with the Controlled Substances Act, 21 U.S.C. section 801 et seq.

§ 8.303 Sovereign Immunity.

(1) The Agricultural Division shall enjoy all of the privileges and immunities of the Tribe, except as specifically limited by this ordinance, including sovereign immunity from suit in state, federal, or tribal court.

(2) As established pursuant to 2 LCOTCL § 5.302, the Agricultural Division shall have no authority to waive the sovereign immunity of the Tribe, or any other Tribal entity.

(3) Nothing in this ordinance shall be deemed or construed to be a waiver of the Agricultural Division 's sovereign immunity from suit, aside from Section 8.303(6), which pertains only to actions initiated by the Tribal Governing Board against the Agricultural Division.

(4) Nothing in this ordinance shall be deemed or construed as consent of the Agricultural Division to the jurisdiction of the United States, any state, or any other Tribe with regard to the business or regulatory affairs of the Agricultural Division.

(5) Nothing in this ordinance shall be construed to limit the jurisdiction of the Tribe, the Tribal Court or Police Department and nothing herein shall limit or constitute a waiver of the sovereign immunity of the Tribe or its officers, instrumentalities, employees, elected officials, and agents or authorize any form a prospective waiver of such sovereign immunity.

(6) Notwithstanding any other provision herein, as an entity of the Tribe, the Agricultural Division's immunity from suit shall at all times be deemed waived for actions against the Agricultural Division initiated by the Tribal Governing Board.

§ 8.304 Compliance with Federal Law.

To the extent that the U.S. Department of Agriculture imposes any regulatory requirements for tribal cultivation, processing, handling, transporting, or regulation of Hemp that are inconsistent with the provisions of this ordinance, federal law shall apply, and this ordinance will be amended as necessary to comply with any present or future requirements imposed by federal law related to Hemp.

SUBCHAPTER 8.4 – ADMINISTRATION

§ 8.401 Establishment of the Agricultural Division; Attributes.

(1) The Tribe hereby establishes the Agricultural Division of the Lac Courte Oreilles Conservation Department as a governmental instrumentality and arm of the Tribe and will hereafter be referred to as the Agricultural Division.

(2) The Agricultural Division shall carry out the requirements of the 2018 Farm Bill as adopted and implemented by the Tribe pursuant to the provisions of this ordinance.

(3) The Agricultural Division shall be governed by the Lac Courte Oreilles Conservation Department under the directive of the Tribal Governing Board which will fulfill any and all obligations of the Tribal Governing Board as set forth under this ordinance.

(4) In carrying out its purposes under this ordinance, the Agricultural Division of the Lac Courte Oreilles Conservation Department shall function as an arm-of-the-Tribe.

§ 8.402 Director of the Agricultural Division; Qualifications; Powers.

(1) The Director of the Lac Courte Oreilles Conservation Department shall hire, supervise, and may remove the Director of the Agricultural Division, except that the initial Director shall be appointed by the Tribal Governing Board.

(2) The Director of the Agricultural Division shall carry out the day-to-day operations of the Agricultural Division, including the powers and duties of the Director as set forth in § 8.403 of this ordinance, and such other duties and powers that the Tribal Governing Board delegates to the Director in writing.

(3) The Director of the Agricultural Division shall be at least 21 years of age.

(4) The Director of the Agricultural Division may not have been convicted of a felony within the past five (5) years.

(5) No person with a Financial Interest in any Hemp Business shall serve as Director of the Agricultural Division.

§ 8.403 Powers and Duties of the Director of the Agricultural Division.

The Director of the Agricultural Division shall have the power and responsibility to carry out all measures necessary for effective implementation of this ordinance including, not limited to:

(1) Regularly report to and advise the Tribal Governing Board on Hemp activities as set forth in this ordinance.

(2) Exercise all powers and responsibilities of the Agricultural Division as set forth in this ordinance and as delegated and directed by the Tribal Governing Board.

(3) Acknowledging and addressing Band members needs/concerns pertaining to Hemp activities authorized by this ordinance.

(4) Establishing an efficient process for license applications and promptly communicating eligibility determinations to tribal and federal authorities and license applicants as requested by the Director of the Lac Courte Oreilles Conservation Department Director or the Tribal Governing Board.

(5) Reviewing, making determinations, and recommendations to the Tribal Governing Board that it approve and/or deny the eligibility of licenses for all Hemp related activities on lands within the jurisdiction of the Tribe and the renewal of licenses.

(6) Creation and review of rules, standards and regulations, as well as to provide recommendations on the promulgation of additional rules, standards, and regulations as are reasonably necessary to carry out the responsibilities of this ordinance and all relevant Hemp regulations and policies as requested by the Tribal Governing Board.

(7) Enforcement of the provisions of this ordinance.

(8) Establishing sampling techniques consistent with USDA requirements.

(9) Conducting sampling and inspection of Hemp activities related to Cannabis sativa L. on lands within the jurisdiction of the Tribe.

(10) Setting fees and/or imposing and collecting fees set by this ordinance or by the Agriculture Division in execution of this ordinance.

(11) Performing testing of Hemp and Cannabis sativa L. for Delta-9-THC concentrations consistent with this ordinance.

(12) Ensuring compliance with all Tribal, and applicable State and Federal laws, rules and regulations regarding Hemp.

(13) Establishing and imposing civil fines and penalties and other sanctions as deemed appropriate to enforce the requirements of this ordinance and as well as violations of any tribal rule or regulation.

(14) Holding hearings and requiring licensees and license Applicants to appear and testify under oath regarding matters related to the enforcement of this ordinance, tribal regulations and licensing requirements.

(15) Coordinating with relevant Tribal, State and Federal agencies and law enforcement agencies.

(16) Keeping accurate records of all applications for licensure, grants or denials of licenses, receipts of fees, distribution of fees and revenues to the Tribe, and other matters within the responsibility of the Director of the Agricultural Division.

(17) Establishing and carrying out a practice to maintain relevant information regarding land on which Hemp is cultivated within the jurisdiction of the Tribe, including a legal description of the land, for a period of not less than three (3) calendar years.

(18) Requiring labeling of Hemp for THC concentrations, Pesticides and other items as determined by the Agricultural Division.

(19) Entering into agreements with third parties to assist the Agricultural Division in fulfilling its duties.

(20) Periodically reporting to the Tribal Governing Board on Hemp policies and practices that will result in the proper and legal cultivation, management, marketing, and use of the Tribe's Hemp industry. Such policies and practices should address the following:

- (a) Legal and regulatory impediments;
- (b) The economic and financial feasibility of a Hemp market on lands within the jurisdiction of the Tribe;
- (c) Tribal businesses that may potentially cultivate and process Hemp;
- (d) Examination of research on Hemp production and utilization;
- (e) The potential for national and global marketing of Hemp cultivated and produced on lands within the jurisdiction of the Tribe;
- (f) The feasibility of private funding for a Tribal Hemp research program;
- (g) Law enforcement concerns; and,
- (h) Technical support and education about Hemp.

(21) Providing advice as directed by the Tribal Governing Board or requested by the Executive Director of the Lac Courte Oreilles Conservation Department on matters relevant to Hemp activities authorized by this ordinance.

(22) Hire, supervision and termination of staff of the Agricultural Division necessary to carry out the rules of the Agricultural Division, within budgetary constraints established by the Tribal Governing Board.

§ 8.404 Compensation of the Director of the Agricultural Division.

The compensation of the Director of the Agricultural Division shall be established by the Tribal Governing Board.

§ 8.405 Training, Equipment; Staff.

The Agricultural Division will be provided with adequate training, equipment, staff and compensation to fully carry out the requirements of this ordinance in the sole determination of the Tribal Governing Board.

§ 8.406 Bi-Annual Reports.

The Director of the Agricultural Division shall prepare bi-annual reports for the Tribal Governing Board summarizing the Agricultural Division's official actions, activities, investigative reports related to any Licensed Processor, Licensed Cultivator, Hemp Business or other Hemp activities on tribal land.

SUBCHAPTER 8.5 – LICENSING

§ 8.501 Applications for Cultivation and Processor Licensing Agreements.

(1) Any person or Hemp Business, including a Tribally Owned Corporation, who wishes to cultivate or process Hemp at any location within the Tribe’s jurisdiction, shall submit to the Director of the Agricultural Division a completed application for a Cultivation Licensing Agreement and/or Processor Licensing Agreement.

(2) No person or Hemp Business may hold more than five (5) licenses in any year.

(3) Tribal preference in licensing shall be given to Tribally Owned Corporation(s) and to Lac Courte Oreilles citizens (members).

(4) Applications must be submitted on an annual basis.

(5) A Licensed Cultivator or Licensed Processor may co-locate at the same location. However, each noncontiguous land area on which Hemp is cultivated or processed shall require a separate licensing agreement. Any addition to a Registered Land Area shall require consent of the Agricultural Division and modification of the Cultivation Licensing Agreement.

(6) No person may cultivate, dry, harvest or store Hemp at any location within the jurisdiction of the Tribe without a Cultivation Licensing Agreement with the exception of Hemp products that fall within the definition of a Publicly Marketable Hemp Product.

(7) No person may process, handle, convert Hemp into a marketable form, or store Hemp at any location within the jurisdiction of the Tribe without a Cultivation Licensing Agreement or Processor Licensing Agreement with the exception of Hemp products that fall within the definition of a Publicly Marketable Hemp Product and persons who already have a Cultivation Licensing Agreement.

(8) The application shall at a minimum include the following:

(a) Full name, residential address, telephone number, and email address, if an email address is available; and

(b) Business name, EIN number, all persons with a financial interest in the business, type of business entity (such as a corporation, LLC, partnership, sole proprietor etc.), business address. Email address, and phone number; and

(c) Documentation showing either a valid tenancy, ownership or other legal interest showing possession of the property where Hemp cultivation, or processing will occur; and

(d) Documentation establishing membership in the Tribe, if applicable; and

(e) Street address, location ID, legal description and/or global positioning system coordinates for each proposed Registered Land Area where Hemp will be cultivated and processed; and

(f) Where available, geospatial location as identified by the USDA Farm Service Agency for each proposed Registered Land Area where Hemp will be cultivated or processed; and

(g) Information regarding any other Hemp cultivation or processing facility that is licensed in any other jurisdiction owned in whole or in part by any person with a Financial Interest in the Applicant, including any violations, citations, or license revocations of any other Hemp license in any other jurisdiction; and

(h) Criminal History Report and consent authorizing the Agricultural Division to conduct a criminal background check on the Applicant and anyone with a Financial Interest in the Hemp Business; and

(i) Licensing fees, which the Agricultural Division shall reasonably set and collect to cover the costs of licensing and regulation. Failure to pay the fees will result in the denial of an application; and

(9) A business plan and/or operations plan shall be included with the application that includes at a minimum the following:

(a) The Registered Land Area to be used for Hemp cultivation or processing; and

(b) A brief description of Hemp cultivation and/or processing activities; and

(c) The anticipated or actual number of employees and the name of the project manager if not the same as Applicant's Signing Authority; and

(d) A description of Seed, Certified Seed, Variety, or Propagule to be used for cultivation and the planned Seed Source or source of Propagules; and

(e) The number of anticipated Hemp plants under cultivation; and

(f) If cultivation is to occur outdoors, certification that only feminized Seed and/or female Hemp plants will be cultivated and that any male plants discovered during cultivation will be immediately destroyed; and

(g) A list of all Pesticides and other chemicals proposed for use; and

(h) Identification of all persons with a Financial Interest in the Hemp Business;
and

(i) A statement of previous farming experience, if any.

(10) Any person convicted of a felony relating to a controlled substance under state or Federal law shall be ineligible, during the ten (10) year period following the date of the conviction to receive a license to cultivate or process Hemp, unless that person was convicted of a felony related to the lawful cultivation of Hemp under the 2014 Farm Bill and the conviction occurred before December 20, 2018.

(11) No later than fifteen (15) days from submission of an application, the Agricultural Division shall notify the Applicant if additional information is needed. Applicants that fail to provide additional information to the Agricultural Division within thirty (30) days of any request for additional information shall be automatically denied. Applicants that are denied for failure to provide additional information may reapply to the Agricultural Division without prejudice.

(12) Applications shall be approved, conditionally approved or denied by the Agricultural Division within thirty (30) days of submission. The Agricultural Division shall notify Applicants by letter or email whether the application has been approved, conditionally approved or denied.

(13) Applicant shall submit a sworn statement submitting to the Tribe's jurisdiction to resolve any disputes arising under this ordinance and any action by the Agricultural Division or the Tribe in general.

§ 8.502 Contents of Cultivation and/or Processor Licensing Agreements.

Any Cultivation Licensing Agreement or Processor Licensing Agreement issued by the Agricultural Division shall contain the following:

(1) A unique license or registration number in the format prescribed by the U.S. Department of Agriculture.

(2) Consent to entry onto, and inspection of, all land and buildings where Hemp or Cannabis sativa L. is known to be located or licensed to be located, by the Agricultural Division, by the Director and/or by a Law Enforcement Agency.

(3) Consent to forfeiture and destruction, without compensation, of:

(a) Any and all Cannabis sativa L. found to have a measured Delta-9-THC content in excess of zero and three-tenths (0.3) percent on a dry weight basis; and

(b) Hemp or Cannabis sativa L. located in an area that is not licensed by the Agricultural Division or located in a Registered Land Area; and

(c) Hemp or Cannabis sativa L. not accounted for in any required reporting to the Agricultural Division.

(4) Acknowledgement that the Cultivation Licensing Agreement and/or Processor Licensing Agreement cannot be assigned or transferred to another business, person or entity, without approval of the Agricultural Division.

(5) Acknowledgement that any changes to Applicant contact information must be provided in writing to the Agricultural Division within ten (10) days.

(6) Acknowledgement that the Applicant will abide by all requirements of this ordinance and any amendments thereto.

(7) Acknowledgement that prior written approval from the Agricultural Division will be sought before modification of any Registered Land Area or licensed cultivation or processing of Hemp.

(8) Acknowledgement by the Applicant that Hemp shall not be cultivated or processed in any location other than the Registered Land Area approved by the Agricultural Division.

(9) Acknowledgement that the risk of financial or other loss of the Hemp Business shall be borne solely by the Licensed Cultivator and/or Licensed Processor.

(10) Agreement that if cultivation of Hemp is to occur outdoors, only feminized Seed and/or female Hemp plants will be cultivated and that any male plants discovered during cultivation will be immediately destroyed.

(11) Agreement that any time Hemp is in transit, a copy of the Cultivation Licensing Agreement and/or Processor Licensing Agreement, and Test Result Report, shall be available for inspection upon the request of the Agricultural Division, Director or Law Enforcement Agency.

(12) Agreement that, upon request from a representative of the Agricultural Division, Director or Law Enforcement Agency, a Licensed Cultivator and/or Licensed Processor shall immediately produce a copy of his or her Cultivation and/or Processor Licensing Agreement for inspection.

(13) Agreement to submit Planting Reports, Harvest/Destruction Reports, Cultivation Reports, and any other reports required by the Agriculture Division to which the Licensed

Cultivator and/or Licensed Processor has agreed, on or before the deadlines established in this ordinance.

(14) Agreement to notify the Agricultural Division of any interaction with a Law Enforcement Agency, pertaining to the implementation of the provisions of this ordinance, immediately by phone and follow-up in writing within three (3) calendar days of the occurrence.

(15) Agreement to notify the Agricultural Division of any theft of Hemp materials, whether they are being used for cultivation or not.

(16) Acknowledgement that failure to comply with terms and conditions established in the Cultivation Licensing Agreement and/or Processor Licensing Agreement shall constitute grounds for appropriate Agricultural Division action including termination of any license issued under this ordinance.

(17) Acknowledgement that any Person or Hemp Business which has suffered a license revocation or denial from the Tribe's Hemp program shall not be eligible to reapply to the program for a period of one (1) year from the date on which the revocation or denial became final. Any Person or Hemp Business that negligently violates the provisions of this Ordinance three times in a 5-year period shall be ineligible to produce/cultivate hemp for a period of 5 years beginning on the date of the third violation.

§ 8.503 Reports.

(1) A Licensed Cultivator shall submit to the Agricultural Division a Planting Report by July 1 of each year or within thirty (30) days after every planting, including replanting, of seeds or Propagules in any Registered Land Area, whichever is earlier.

(2) Each Planting Report shall include:

(a) A description of the Hemp varieties planted within the Registered Land Area;
and

(b) The anticipated number of Hemp plants under cultivation; and

(c) Identification of Pesticides in use; and

(d) A detailed statement anticipated use of the Hemp cultivated within the Registered Land Area; and

(e) Any other information required by the Agricultural Division or Director consistent with the requirements of this ordinance.

As Approved and Adopted by Resolution No. 14-2020 and amended by Resolution No. 18-2020.

(3) A Licensed Cultivator who does not plant Hemp in a Registered Land Area shall submit a Planting Report on or before July 31 stating that Hemp has not been planted at that site.

(4) A Licensed Cultivator shall submit to the Agricultural Division a Post-Harvest Report by December 15 of each crop year after harvest of any Hemp cultivated pursuant to a Cultivation Licensing Agreement.

(5) Each Post-Harvest Report shall include:

(a) A statement of actual or intended use or sale of Hemp cultivated; and

(b) Identification of Pesticide used in cultivation; and

(c) The number of Hemp plants cultivated; and

(d) Any other information required by the Agricultural Division or Director consistent with the requirements of this ordinance.

(6) Licensed Cultivators shall submit acreage reports to the USDA Farm Service Agency. A link to information on how to report crop acreage is available at: <https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdfiles/FactSheets/2019/crop-acreage-reporting-19.pdf>

(7) A Licensed Processor shall submit to the Agricultural Division a Processor Report by December 15 of each year that shall include:

(a) Identification of all sources of Hemp used in processing (including, but not limited to, Hemp received from Licensed Cultivators); and

(b) The Licensed Processor's intended markets for all Hemp processed under the license.

(8) The Agricultural Division shall prepare a hemp disposal report for the U.S. Department of Agriculture pursuant to the requirements of § 8.1101 (4) of this ordinance

(9) A Licensed Cultivator or Licensed Processor shall submit to the Agricultural Division any other report required by the Agricultural Division necessary to fulfill the requirements of this ordinance.

§ 8.504 Review of Decisions.

(1) A person or entity aggrieved by a decision of the Agricultural Division to deny, suspend, or revoke any license authorized by this ordinance may seek the Tribal Court's review

of such decision by filing a written petition for review with the Tribal Court within thirty (30) calendar days of service of the written notice of decision. If a petition for review is not filed within such time, the Agricultural Division's decision shall be final.

(2) Following review and consideration of the petition for review, the Tribal Court may overturn the decision of the Agricultural Division, 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 the Tribal Court may affirm the decision of the Agricultural Division. The decision of the Tribal Court may be subject to further judicial review pursuant to 2 LCOTCL Chapter 4 – Appellate Code.

SUBCHAPTER 8.6 –SAMPLING, TESTING AND INSPECTIONS

§ 8.601 Procedures for Sampling and Testing.

The following procedures shall apply to sampling and testing of Cannabis sativa L. within the jurisdiction of the Tribe:

(1) All sampling and testing of Cannabis sativa L. shall comply with this section.

(2) All Licensed Cultivators and Licensed Processors, Hemp Businesses, or other persons engaged in the cultivation, processing or handling of Hemp or Cannabis sativa L. within the jurisdiction of the Tribe, and with the exception of Publicly Marketed Hemp Products, shall be subject to the sampling and testing procedures of this ordinance as determined by the Agricultural Division.

(3) All Licensed Cultivators or Licensed Processors are subject to sampling and testing of all Hemp cultivated, in accordance with § 8.601 (5) to verify that the Delta-9-THC concentration of the Cannabis sativa L. plant within a Registered Land Area does not exceed .3% on a dry weight basis.

(4) In addition to any routine sampling, the Agricultural Division shall designate the person to take samples from any Registered Land Area during normal business hours without advance notice to the Licensee if the Agricultural Division has reason to believe a violation of this ordinance may be occurring or has occurred.

(5) All Licensed Cultivators shall be subject to mandatory sampling and testing of any Cannabis sativa L. prior to harvest. The procedures for sampling shall be as follows:

(a) Licensed Cultivators shall contact the Agricultural Division to arrange for a date and time for sampling of the Hemp cultivated on the Registered Land Area at least thirty (30) days prior to harvest;

(b) Sampling must occur within fifteen (15) days prior to harvest of any Cannabis sativa L.;

(c) The Agricultural Division shall have unrestricted access to the Registered Land Area;

(d) A person designated by the Agricultural Division shall collect a representative sample of Cannabis sativa L. flower material from the Registered Land Area and transport it to an independent DEA certified laboratory or other laboratory allowable under federal law and approved by the Agricultural Division;

(e) Sampling techniques shall ensure that a representative sample of flower material is collected representing a homogenous composition of the Registered Land Area;

(f) The Agricultural Division will design its sampling program to ensure, with a 95% level of confidence, that testing will identify if more than 1% of the Cannabis sativa L. sampled from the Registered Land Area will fail to meet the definition of Hemp under this ordinance;

(g) During a scheduled sample collection, the Licensed Cultivator or their authorized representative shall be present during the sampling;

(h) Samples of plant material from one strain shall not be commingled with plant material from any other strain; and,

(i) A Licensed Cultivator shall not harvest the Cannabis sativa L. on the Registered Land Area prior to sampling.

(6) The procedures for testing Cannabis sativa L. shall be as follows:

(a) Analytical testing for Delta-9-THC concentration levels will use post-decarboxylation or other similarly reliable methods as approved by the Agricultural Division;

(b) The total Delta-9-THC concentration level shall be determined and reported on a dry weight basis;

(c) Testing will be performed by an independent DEA certified laboratory or other laboratory allowable under federal law and approved by the Agricultural Division. Testing methodology shall include, but is not limited to, gas or liquid chromatography with detection. The Agricultural Division is responsible for ensuring that the laboratory's standards of performance for detecting Delta-9-THC concentration levels, including the conversion of THCA to THC, are consistent with 7 C.F.R. § 990.25; and the following standards, to the satisfaction of the Agricultural Division:

(i) Laboratory quality assurance must ensure the validity and reliability of test results;

(ii) Analytical method selection, validation, and verification must ensure that the testing method used is appropriate (fit for purpose) and that the laboratory can successfully perform the testing;

(iii) Any demonstration of testing validity must ensure consistent, accurate analytical performance;

(iv) Laboratory measurement of uncertainty must be estimated and reported with Test Result Reports. Laboratories shall use appropriate, validated methods and procedures for all testing activities, and shall evaluate and report to the Agricultural Division their measurement of uncertainty in test results.

(d) Laboratory testing must result in production of a Test Result Report consistent with the requirements of this ordinance; and,

(e) All test results shall be reported to both the Agricultural Division and the Licensee.

(7) Any test of a representative sample of *Cannabis sativa* L. under this subchapter that fails to meet the definition of Hemp shall be evidence that the Registered Land Area represented by the sample is not in compliance with this ordinance and shall be disposed of in accordance with the provisions of Subchapter 8.7 of this ordinance.

(8) Licensees selected for sampling and testing shall be responsible for fees associated with sampling and testing, including lab fees. The Agricultural Division may charge a reasonable hourly fee for any individual(s) designated by the Agricultural Division to conduct the sampling, for actual drive time, mileage, inspection sampling time and any other administrative costs. All fees shall be paid within thirty (30) days of any invoice received from the Agricultural Division.

(9) Nothing in this Section shall prevent a Licensee from voluntarily collecting samples and testing Hemp for quality assurance and research and development purposes.

(10) A Licensee may apply to the Agricultural Division for retesting and/or resampling of any non-compliant *Cannabis sativa* L. no later than five (5) days from notification of test results Hemp which may be approved or denied at the Agricultural Division's sole discretion.

§ 8.602 Inspections.

(1) The Agricultural Division shall have the authority to conduct random inspections of a Registered Land Area site to verify compliance with all requirements of the license issued and this Ordinance. Inspections may include sample collection by the Agricultural Division, with any designated law enforcement agent from the Police Department, to verify compliance with this Ordinance.

(2) The inspections shall be selected at random among all licensees annually, selection method and sampling times are to be determined by the Agricultural Division.

(3) Inspection visits may be conducted at any time by the Agricultural Division during regular business hours or outside of regular business hours, without advance notice, if the Agricultural Division has reason to believe a violation of this ordinance may be occurring or has occurred. The Agricultural Division and its designee, as well any designated law enforcement agent from the Police Department, shall be granted unrestricted access to the Registered Land Area and unrestricted access to all plants, parts, and seeds within the Registered Land Area, 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 Licensee's Hemp business.

(4) Licensees selected for an inspection shall be responsible for fees associated with the inspection. The Agricultural Division may charge a reasonable hourly fee for any inspector(s) designated by the Agricultural Division, actual drive time, mileage, time and any other administrative costs. All fees shall be paid within thirty (30) days of any invoice received from the Agricultural Division.

(5) All samples collected by the Agricultural Division shall become the property of the Tribe and no compensation shall be owed by the Tribe for such samples.

(6) The Tribe shall keep test results for all hemp tested for a minimum of three (3) years.

(7) If a crop is determined to contain a tetrahydrocannabinol (THC) concentration exceeding the acceptable hemp THC level, or if the Agricultural Division, with the required aid of the tribally designated law enforcement agent from the Police Department, may seize, detain, or dispose of the crop pursuant to Subchapter 8.7 of this Ordinance.

(8) If any other cannabis is located, either within or outside of the Registered Land Area, and is determined by the Agricultural Division to be non-compliant with this Ordinance, proper disposal methods will be followed pursuant to Subchapter 8.7 of this Ordinance.

SUBCHAPTER 8.7 – DISPOSAL/DESTRUCTION OF NON-COMPLIANT HEMP

§ 8.701 Procedures for Disposal/Destruction of Non-Compliant Hemp.

(1) Any Cannabis sativa L. that is required by the Agricultural Division to be destroyed pursuant to the provisions of this ordinance shall be destroyed under the supervision of the Agricultural Division.

(2) If Cannabis sativa L. in a Registered Land Area is determined by the Agricultural Division to have Delta-9-THC concentration of greater than .3% on a dry weight basis, the Cannabis sativa L. shall be promptly disposed of and destroyed. The following procedures shall be used in disposal and destruction:

(a) The Licensee will be promptly notified;

(b) The U.S. Department of Agriculture will be promptly notified;

(c) The Cannabis sativa L. from this Registered Land Area may not be further handled, processed or enter the stream of commerce unless and until it is resampled or disposed of and destroyed;

(d) No later than thirty (30) days from the Agricultural Division's determination, all Cannabis sativa L. will be disposed of on-site in a manner approved of and verified by the Agricultural Division and in accordance with applicable federal law and regulations;

(e) The Agricultural Division and/or Tribal Law Enforcement shall be present for the on-site disposal;

(f) The Licensee shall be present and/or observe the handling of the Cannabis sativa L. during the disposal until it is rendered non-retrievable. The disposal shall be conducted by a person or entity authorized by the Agricultural Division;

(g) Hemp stalks (denuded) may be harvested, processed and used for fiber and/or any other lawful purpose, to the extent permitted by federal law; and

(h) Hemp Seed may be harvested, processed, and rendered non-viable for food products, provided it is permitted by federal law; and

(i) All other Cannabis sativa L. must be destroyed on the Registered Land Area in a manner approved of and verified by the Agricultural Division.

(3) The Agricultural Division shall have the authority to require any other procedures required by 21 C.F.R. § 1317.15(c)(3).

(4) The Licensee shall be responsible for the cost of crop destruction.

(5) The Agricultural Division may order a different method of destruction than proposed by the Licensee.

(6) Upon destruction/disposition of any *Cannabis sativa* L. under this provision, the Agricultural Division shall prepare written certification of the crop destruction/disposition, give a copy of the certification to the Licensee and applicable law enforcement agencies, and shall maintain records of the destruction/disposition for a minimum of three (3) calendar years.

(7) The Agricultural Division will prepare a hemp disposal report for the U.S. Department of Agriculture pursuant to the requirements of § 8.1101 (4) of this ordinance.

SUBCHAPTER 8.8 – ENFORCEMENT

§ 8.801 Prohibited Acts.

The following is a non-exclusive list of prohibited activities:

(1) A person who does not hold a Cultivation Licensing Agreement and/or Processor Licensing Agreement from the Agricultural Division shall not cultivate or process Hemp that does not fall within the definition of a Publicly Marketable Hemp Product at any location within the jurisdiction of the Tribe.

(2) A Licensed Cultivator or Licensed Processor shall not cultivate or process Hemp on any site not listed in the Cultivation Licensing Agreement or Processing Licensing Agreement or identified as part of the Registered Land Area.

(3) A Licensed Cultivator or Licensed Processor shall not cultivate or process any *Cannabis sativa L.* that is not Hemp.

(4) No person may cultivate, possess, process, transport, or assist in the cultivation, processing or transport of any *Cannabis sativa L.* with a Delta-9-THC concentration in excess of three-tenths of one percent (0.3 %) on a dry weight basis.

§ 8.802 Penalties.

(1) The Agricultural Division may deny, revoke, or suspend any license if a Licensed Cultivator or Licensed Processor:

(a) Violates any provision of this ordinance; or

(b) Engages in fraud or deception of procurement or attempted procurement of a license under this ordinance; or

(c) Fails to comply with any order or directive of the Agricultural Division issued pursuant to this ordinance.

(2) The Agricultural Division may impose a civil penalty not to exceed five-thousand dollars (\$5000) per violation on any person or entity who violates this ordinance or any lawful order of the Agricultural Division.

(3) No criminal penalties shall be authorized for violation of any provision of this ordinance, except as established in § 8.803 (6) of this ordinance. This ordinance shall not impact any other provision of applicable Tribal law.

(4) The Agricultural Division shall not impose any penalty against a person alleged to have violated this ordinance until the Agricultural Division has notified the person of the charge in writing and has given the person an opportunity to seek review of the Agricultural Division's decision pursuant to § 8.413 of this ordinance.

(5) If a person's, or an entity's license is denied, suspended, revoked, or voluntarily relinquished for a violation of this ordinance, the Agricultural Division may deny a new application for registration for that person or entity for up to two years generally, or up to five years (in instances where 3 negligent violations occur within 5 years) after the effective date of the suspension, revocation, or relinquishment.

(6) The Agricultural Division is hereby authorized to enforce any penalty authorized under this ordinance in Tribal Court.

(7) A Licensed Cultivator or Licensed Processor, Hemp Business, or a person or entity that negligently violates this ordinance by cultivating or processing Hemp with a Delta-9-THC concentration above .3% on a dry weight basis shall not as a result of that violation be subject to any penalties, aside from reasonable fees for time and costs expended by the Agricultural Division, but shall be subject to the requirements for disposal/destruction of any non-compliant Cannabis sativa L. as provided in this ordinance, provided however, a Licensed Cultivator or Licensed Processor that negligently violates this ordinance three (3) times in a 5-year period shall be ineligible for a license for a period of five (5) years beginning on the date of the third violation and the Agricultural Division shall report the Licensee to the U.S. Attorney General and the applicable Law Enforcement Agency.

(8) In addition to any other violations provided for in this ordinance, the following acts and omissions of any person or Licensee shall constitute violations subject to penalties authorized herein:

(a) Refusal or failure by a person or Licensee to fully cooperate and assist the Agricultural Division in carrying out the requirements of this ordinance; or

(b) Failure to provide information required by the Agricultural Division; or

(c) Anyone who intentionally and materially falsifies or provides false, misleading, or incorrect information or statements to the Agricultural Division. (such individuals or entities shall automatically be deemed ineligible to cultivate or process industrial hemp in accordance with this Ordinance and 7 CFR Part 990.6(f)); or

(d) Failure to submit required reports or pay fees.

§ 8.803 Negligent Violations and Corrective Action Plans.

(1) A person who is found by the Agricultural Division to have negligently violated this ordinance shall be subject to a corrective action plan at the discretion of the Agricultural Division.

(2) The following actions shall be deemed negligent violations of this ordinance, including without limitation:

(a) Failing to provide a legal description of land on which Hemp is cultivated or processed;

(b) Failing to obtain a license from the Agricultural Division for cultivating or processing Hemp; and/or,

(c) Producing Hemp or *Cannabis sativa L.* with a Delta-9-THC concentration of more than 0.5 percent on a dry weight basis, if the Licensee has made reasonable efforts to cultivate hemp in compliance with this ordinance.

(3) Corrective action plans issued by the Agricultural Division shall include, at a minimum, the following information:

(a) Corrective measures required by the Agricultural Division consistent with this ordinance; and

(b) A reasonable date by which the person shall correct his or her violation; and

(c) A requirement for periodic reports to the Agricultural Division from the person on implementation of measures necessary to comply with the ordinance for a period of at least two (2) calendar years from the date of the corrective action plan.

(4) The Agricultural Division shall conduct an inspection to determine if the corrective action plan has been implemented as submitted.

(5) A person who is found by the Agricultural Division to have negligently violated a plan established pursuant this ordinance three (3) times in a five (5) year period shall be prohibited from engaging in any conduct authorized pursuant to this ordinance for a period of five (5) years from the date of the third violation.

(6) If the Agricultural Division determines that a person has violated this ordinance with a culpable mental state greater than negligence, the Agricultural Division shall report the person to the applicable Law Enforcement Agency and the U.S. Attorney General.

As Approved and Adopted by Resolution No. 14-2020 and amended by Resolution No. 18-2020.

SUBCHAPTER 8.9 – SEED OR PROPAGULE ACQUISITION

§ 8.901 Seed or Propagule Acquisition.

(1) All Hemp Seed or Propagules cultivated on lands within the jurisdiction of the Tribe shall be obtained from the following sources:

(a) Sellers or distributors of Seed approved by a certified Seed program of a state, Federally Recognized American Indian Tribe, or the U.S. Department of Agriculture;

(b) Other domestic sources approved by the Agricultural Division in writing for research purposes and/or commercial development; and,

(c) Other international sources consistent with U.S. Department of Agriculture requirements.

(2) A person shall not acquire or cultivate Hemp or *Cannabis sativa L.* seeds or Propagules of wild, landrace, or unknown origin without first obtaining written approval from the Agricultural Division.

SUBCHAPTER 8.10 – TRANSPORTATION

§ 8.1001 Transportation.

(1) The Licensee must ensure that during the transportation of Hemp, that is not a Publicly Marketable Hemp Product on lands subject to the jurisdiction of the Tribe, that a copy of the Cultivation License and/or Processor License accompanies the Hemp at all times during transport.

(2) Nothing in this ordinance shall prohibit the interstate commerce of Hemp. Neither a Law Enforcement Agency nor the Agricultural Division may prohibit the transportation or shipment of Hemp produced in accordance with Section 10113 of the 2018 Farm Bill or with section 7606 of the 2014 Farm Bill through lands subject to the jurisdiction of the Tribe.

SUBCHAPTER 8.11 – INFORMATION SHARING

§ 8.1101 Information Sharing.

(1) The Agricultural Division is authorized and directed to share information regarding Cultivation Licensing Agreements/Processor Licensing Agreements (including changes thereto), Registered Land Areas, corrective action plans, and enforcement actions under this ordinance with the U.S. Department of Agriculture and the USDA Farm Service Agency.

(2) Pursuant to the reporting requirements of 7 C.F.R. § 990.3(a) and § 990.70(a), the Agricultural Division will submit to the U.S. Department of Agriculture by the first of each month:

(a) For each new Licensed Cultivator, the full name of the person, or the full name, title, and email address of each person required to submit to a criminal background check for the entity (if applicable), the license or registration number, address, telephone number, and email address (if available);

(b) For each Licensed Cultivator, the status of the Licensed Cultivator’s activities under the license;

(c) Identification of the period covered by the report;

(d) Previously-reported information, and,

(e) Indication that there were no changes during the current reporting cycle, or any new information since the previous submitted report, as applicable.

(3) Pursuant to the reporting requirements of 7 C.F.R. § 990.70(c), the Agricultural Division will submit to the U.S. Department of Agriculture an annual report by December 15 of each year that will contain the following information:

(a) Total planted acreage;

(b) Total harvested acreage;

(c) Total acreage disposed; and,

(d) Any Test Result Reports available for Licensed Cultivators.

(4) Pursuant to the reporting requirements of 7. C.F.R. § 990.70(b), the Agricultural Division will submit to the U.S. Department of Agriculture a Hemp disposal report if a Licensed

As Approved and Adopted by Resolution No. 14-2020 and amended by Resolution No. 18-2020.

Cultivator has produced Cannabis sativa L. that does not meet the definition of Hemp. The disposal report will be prepared by the first of month and shall include:

- (a) Name and address of Licensed Cultivator;
- (b) License number;
- (c) Identification of Registered Land Area including total acreage;
- (d) If required, information regarding disposal agent, and date of destruction of non-compliant Cannabis Sativa L.