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## **RESOLUTION NO. 2024-07**

### **AMENDMENT OF THE LAC COURTE OREILLES TRIBAL CODE OF LAW INDUSTRIAL HEMP CODE CSV.8 TO COMPLY WITH THE FINAL REVIEW BY THE USDA**

**WHEREAS,** the Lac Courte Oreilles Band of Lake Superior Chippewa Indians is a federally recognized Indian tribe ("Tribe") organized pursuant to the provisions of the Indian Reorganization Act of 1934, 25 U.S.C. §5101, et seq.; and,

**WHEREAS,** the Tribal Governing Board serves as the governing body of Lac Courte Oreilles Band of Lake Superior Chippewa Indians pursuant to Article III, § 1 of the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians; and

**WHEREAS,** the Tribal Governing Board is empowered 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,” pursuant to 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” pursuant to Article V, §1(n) and

**WHEREAS,** the Final Rule established by the Domestic Hemp Production Program mandated by the Agricultural Improvement Act of 2019 (the “2018 Farm Bill”) has been issued, and

**WHEREAS,** it is now necessary to update the Tribe’s Industrial Hemp Code in order to comply with the updates in the Final Rule and the code amendments pursuant to the USDA statutory review process.

**NOW THEREFORE BE IT RESOLVED,** that the Tribal Governing Board hereby adopts the updated and amended CSV.8 Industrial Hemp Code to comply with the USDA.

**NOW THEREFORE BE IT FINALLY RESOLVED,** as follows:

**Section 1.**

**CERTIFICATION**

I, the undersigned, as Secretary/Treasurer of the Lac Courte Oreilles Tribal Governing Board, hereby certify that the Tribal Governing Board is composed of seven (7) members, of whom 5 being present, constituted a quorum at a meeting thereof, duly called, convened, and held on this 16<sup>th</sup> day of January, 2024, that the foregoing Resolution was duly adopted at said meeting by an affirmative vote of 4 members, 0 against, 0 abstaining, and that said Resolution is a lawful act of the Tribe.



William Trepanier, Secretary/Treasurer  
Lac Courte Oreilles Tribal Governing Board

## Chapter CSV.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 final rule established by the Domestic Hemp Production Program mandated by the Agriculture Improvement Act of 2018 (the "2018 Farm Bill"). The 2018 Farm Bill recognizes the Tribe's primary regulatory authority over the production of hemp within the Tribe's territory and in accordance with federal and tribal laws, and a Tribal Hemp Plan approved by the United States Secretary of Agriculture. 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.

#### Subchapter CSV.8.1

##### Introduction

##### CSV.8.1.010 Title

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

##### CSV.8.1.020 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).

#### CSV.8.1.030 Declaration of Policy

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

(1) 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 lots within the jurisdiction of the Tribe;

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

(3) Treat the production and processing of Hemp on lots within the jurisdiction of the Tribe as an agricultural commodity under the laws of the Tribe; and,

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

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

(c) 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.

#### CSV.8.1.040 Purpose

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

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

(b) 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

(c) 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.

(d) 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 produce Hemp for agricultural or academic research, including research into the marketing of industrial Hemp.

(e) 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 production of Hemp in accordance with the Act, and a State or Tribal plan approved by the Secretary of Agriculture.

(f) 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.

(g) Pursuant to this Ordinance and any regulations developed in accordance with this Ordinance, the Tribe authorizes the production 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.

#### **CSV.8.1.050 Territorial Applicability**

This Ordinance shall govern the research, production, 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.

#### **CSV.8.1.060 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.

#### **CSV.8.1.070 Interpretation**

The provisions of this ordinance:

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

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

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

#### CSV.8.1.080 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.

#### CSV.8.1.090 Repeal of Inconsistent Tribal Ordinances

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 CSV.8.2

#### Definitions

#### CSV.8.2.010 General Definitions

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

(a) **"Acceptable hemp THC level"** means when the application of the measurement of uncertainty to the reported total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less. For example, if the reported total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis is 0.35% and the measurement of uncertainty is +/- 0.06%, the measured total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis for this sample ranges from 0.29% to 0.41%. Because 0.3% is within the distribution or range, the sample is within the Acceptable Hemp THC level for the purpose of plan compliance with this code and applicable State and Federal law.

(b) **"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.

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

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

(e) "**CBD**" means cannabidiol.

(f) "**Certified Seed**" means a 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 and that has standards and procedures approved by the United States Secretary of Agriculture to assure the purity and identity of the seed certified.

(g) "**Citizen**" means an enrolled member of the Lac Courte Oreilles Lake Superior Band of Chippewa Indians.

(h) "**Conservation Department**" or "**Department**" means the Conservation Department of the Tribe.

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

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

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

(l) "**Disposal**" means an activity that transitions the non-complaint product into a non-retrievable or non-ingestible form. Such activities include plowing, tilling, or disking plant materials into the soil; mulching, composting, chopping, or bush mowing plant material into green manure; burning plant material; burying plant material into the earth and covering with soil.

(m) "**Drug Enforcement Administration**" or "**DEA**" means the U.S. Drug Enforcement Administration.

(n) "**Dry weight basis**" means the ratio of the amount of moisture in a sample to the amount of dry solid in a sample. Once a sample is collected it shall be dried to a consistent loss (typically 5-12% moisture content) so that the test can be performed.

(o) "**Farm Service Agency**" or "**FSA**" is an agency of the U.S. Department of Agriculture.

(p) "**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.

(q) "**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.

(r) "**Hemp**" means the plant species *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a total Delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(s) "**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.

(t) "**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.

(u) "**Licensee**" means a person or business that has been issued a valid Production Licensing Agreement or Processor Licensing Agreement.

(v) "**Licensed Producer**" 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 and 7 C.F.R. Part 990, a Producer includes an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing the Hemp crop and who is entitled to share in marketed Hemp crop.

(w) "**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.

(x) "**Lot**" means the particular land, building or buildings where Hemp will be produced, handled, stored, or processed, which can include a field name or building name.

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

(z) "**Person**" means an individual or business entity.



(aa) "**Pesticide**" means any substance or mixture of substances intended to:

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

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

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

(bb) "**Police Department**" shall mean the Lac Courte Oreilles Police Department.

(cc) "**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 lots within the Tribe's jurisdiction.

(dd) "**Production Licensing Agreement**" means a document executed by an Applicant and the Agricultural Division authorizing the person to possess, produce, dry, harvest and store Hemp at one (1) or more specified lots.

(ee) "**Program**" means the Tribe's Hemp Program.

(ff) "**Propagule**" means a plant or plant part that can be utilized to produce a new plant.

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

(1) Bare stalks, bast fiber, hard fiber, nonviable roots, nonviable seeds, seed oils, plant extracts with a total Delta-9 THC with a 3.0% or below;

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

(3) 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

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

(5) The product is CBD that is approved as a prescription medication by the United States Food and Drug Administration; or

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

(hh) "**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.

(ii) "**Seed**" means Hemp's unit of reproduction, capable of developing into a Hemp plant.

(jj) "**Seed Source**" means the origin of the Seed or Propagules as determined by the Agricultural Division or the Director.

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

(ll) "**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 Producers. The approved lab must submit results directly to the USDA through the online HeMP platform. The test result report will include the license number, the name and address of the Licensed Producer, the Lot, date of test, test results including total 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.

(mm) "**Tribal Governing Board**" means the Tribal Governing Board of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(nn) "**Tribal Court**" means the court of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(oo) "**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.

(pp) "**Tribe**" means the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(qq) "**U.S. Department of Agriculture**" or "**USDA**" is a Federal agency within the U.S. Government.

(rr) "**Variety**" means a subdivision of a species that is:

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

(2) 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

(3) 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 CSV.8.3 General Provisions

#### CSV.8.3.010 Exemption from Prosecution for Certain Acts

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

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

#### CSV.8.3.020 Control of Hemp

(a) This title shall govern the production and processing of Hemp on lots under the jurisdiction of the Tribe and will be the basis of the tribal plan described in the 2018 Farm Bill.

(b) Tribal regulation of the production and processing of Hemp on the lots 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.

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

#### CSV.8.3.030 Sovereign Immunity

(a) 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.

(b) As established pursuant to Section TCT.1.3.020, the Agricultural Division shall have no authority to waive the sovereign immunity of the Tribe, or any other Tribal entity.

(c) 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 CSV.8.3.030(f), which pertains only to actions initiated by the Tribal Governing Board against the Agricultural Division.

(d) 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.

(e) 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.

(f) 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.

#### **CSV.8.3.040 Compliance with Federal Law**

To the extent that the U.S. Department of Agriculture imposes any regulatory requirements for tribal production, 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 CSV.8.4 Administration**

#### **CSV.8.4.010 Establishment of the Agricultural Division; Attributes**

(a) 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.

(b) The Agricultural Division shall carry out the requirements of the 2018 Farm Bill and the Final Rule, 7 C.F.R. § 990 as adopted and implemented by the Tribe pursuant to the provisions of this ordinance.

(c) 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.

(d) 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.

#### **CSV.8.4.020 Director of the Agricultural Division; Qualifications; Powers**

(a) 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.

(b) 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 Section CSV.8.4.030 of this ordinance, and such other duties and powers that the Tribal Governing Board delegates to the Director in writing.

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

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

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

#### **CSV.8.4.030 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:

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

(b) 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.

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

(d) 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.

(e) 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 lots within the jurisdiction of the Tribe and the renewal of licenses.

(f) 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.

(g) Enforcement of the provisions of this ordinance.

(h) Establishing sampling techniques consistent with USDA requirements.

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

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

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

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

(m) 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.

(n) 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.

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

(p) 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.

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

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

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

(t) Periodically reporting to the Tribal Governing Board on Hemp policies and practices that will result in the proper and legal production, management, marketing, processing, and use of the Tribe's Hemp industry. Such policies and practices should address the following:

(1) Legal and regulatory impediments;

(2) The economic and financial feasibility of a Hemp market on lots within the jurisdiction of the Tribe;

(3) Tribal businesses that may potentially produce and process Hemp;

(4) Examination of research on Hemp production and utilization;

(5) The potential for national and global marketing of Hemp production on lots within the jurisdiction of the Tribe;

(6) The feasibility of private funding for a Tribal Hemp research program;

(7) Law enforcement concerns; and,

(8) Technical support and education about Hemp.

(u) 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.

(v) 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.

#### **CSV.8.4.040 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.

#### **CSV.8.4.050 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.

#### **CSV.8.4.060 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 Producer, Hemp Business or other Hemp activities on tribal land.

### **Subchapter CSV.8.5**

#### **Licensing**

#### CSV.8.5.010 Applications for Production and Processor Licensing Agreements

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

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

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

(d) A Licensed Producer or Licensed Processor may co-operate at the same location. However, each noncontiguous land area on which Hemp is produced or processed shall require a separate licensing agreement. Any addition to a Lot shall require consent of the Agricultural Division and modification of the Production Licensing Agreement.

(e) No person may cultivate, dry, harvest or store Hemp at any lot within the jurisdiction of the Tribe without a Production Licensing Agreement.

(f) No person may process, handle, convert Hemp into a marketable form, or store Hemp at any lot within the jurisdiction of the Tribe without a Production 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 Production Licensing Agreement.

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

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

(2) 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

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

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

(5) Street address, location ID, legal description and/or global positioning system coordinates for each proposed lot where Hemp will be produced and processed; and



(6) Where available, geospatial location as identified by the USDA Farm Service Agency for each proposed lot where Hemp will be produced or processed; and

(7) Information regarding any other Hemp production 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

(8) 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

(9) 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

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

(1) The lot to be used for Hemp production or processing; and

(2) A brief description of Hemp production and/or processing activities; and

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

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

(5) The number of anticipated Hemp plants under production; and

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

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

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

(i) 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 produce or process Hemp, unless that person was convicted of a felony related to the lawful production of Hemp under the 2014 Farm Bill and the conviction occurred before December 20, 2018.

(j) 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.

(k) 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.

(l) 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.

#### CSV.8.5.020 Contents of Production and/or Processor Licensing Agreements

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

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

(b) 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, and USDA inspectors with or without cause, with or without advance notice.

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

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

(2) Hemp or Cannabis sativa L. located in an area that is not licensed by the Agricultural Division or located in Lot; and

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

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

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

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

(g) Acknowledgement that prior written approval from the Agricultural Division will be sought before modification of any lot or licensed production or processing of Hemp.

(h) Acknowledgement by the Applicant that Hemp shall not be produced or processed in any lot other than the lot approved by the Agricultural Division.

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

(j) Agreement that any time Hemp is in transit, a copy of the Production 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.

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

(l) Agreement to submit Planting Reports, Harvest/Destruction Reports, Production Reports, and any other reports required by the Agriculture Division to which the Licensed Producer and/or Licensed Processor has agreed, on or before the deadlines established in this ordinance.

(m) 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.

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

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

(p) 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 hemp for a period of 5 years.

#### CSV.8.5.030 Reports

(a) A Licensed Producer 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 lot, whichever is earlier.

(b) Each Planting Report shall include:

- (1) A description of the Hemp varieties planted within the lot; and
- (2) The anticipated number of Hemp plants under production; and
- (3) Identification of Pesticides in use; and
- (4) A detailed statement anticipated use of the Hemp produced within the lot; and
- (5) Any other information required by the Agricultural Division or Director consistent with the requirements of this ordinance.

(c) A Licensed Producer who does not plant Hemp in a lot shall submit a Planting Report on or before July 31 stating that Hemp has not been planted at that site.

(d) A Licensed Producer shall submit to the Agricultural Division a Post-Harvest Report by December 15 of each crop year after harvest of any Hemp produced pursuant to a Production Licensing Agreement.

(e) Each Post-Harvest Report shall include:

- (1) A statement of actual or intended use or sale of Hemp produced; and
- (2) Identification of Pesticide used in production; and
- (3) The number of Hemp plants produced; and
- (4) Any other information required by the Agricultural Division or Director consistent with the requirements of this ordinance.

(f) Licensed Producers 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>. In addition, Licensed Producers shall provide the following information:

(1) Street address and, to the extent practicable, geospatial location for each lot or greenhouse where hemp will be produced. If an applicant operates in more than one location, or is producing under multiple licenses, production information shall be provided for each location.

(2) Acreage dedicated to the production of hemp, or greenhouse or indoor square footage dedicated to the production of hemp.

(3) License or authorization identifier in a format prescribed by USDA.

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

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

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

(h) The Agricultural Division shall prepare a monthly Licensed Producer hemp disposal report for the U.S. Department of Agriculture pursuant to the requirements of Section CSV.8.11.010(d) of this ordinance

(i) A Licensed Producer 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.

#### **CSV.8.5.040 Review of Decisions**

(a) 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.

(b) 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 Chapter TCT.3 – Appellate Code.

**Subchapter CSV.8.6**  
**Sampling, Testing and Inspections**

**CSV.8.6.010 Procedures for Sampling and Testing**

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

- (a) All sampling and testing of Cannabis sativa L. shall comply with this section.
- (b) All Licensed Producers or Licensed Processors are subject to sampling and testing of all Hemp produced, in accordance with Section CSV.8.6.010(e) to verify that the total Delta-9-THC concentration of the Cannabis sativa L. plant within a lot does not exceed .3% on a dry weight basis.
- (c) In addition to any routine sampling, the Agricultural Division shall designate the person to take samples from any lot 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.
- (d) All Licensed Producers shall be subject to mandatory sampling and testing of any Cannabis sativa L. prior to harvest. The procedures for sampling shall be as follows:
  - (1) Licensed Producers shall contact the Agricultural Division to arrange for a date and time for sampling of the Hemp produced on the Lot at least thirty (30) days prior to harvest;
  - (2) Sampling must occur within thirty (30) days prior to harvest of any Cannabis sativa L.;
  - (3) The Agricultural Division shall have unrestricted access to the lot;
  - (4) A person designated by the Agricultural Division, who has received USDA training, shall collect a representative sample of Cannabis sativa L. flower material from the Registered Land Area that represents a homogeneous composition of the lot and transport it to an independent DEA certified laboratory or other laboratory allowable under federal law and approved by the Agricultural Division;
  - (5) Current Licensed Producers may not act as sampling agents and may not collect their own samples.

(6) Sampling techniques shall ensure that a representative sample of flower material is collected representing a homogenous composition of the lot;

(7) The sampling agent shall visually estimate the average height, appearance, approximate density, conditions of the plants, and the degree of maturity of the inflorescence;

(8) Samples from flowering tops of plants shall be approximately five to eight inches in length from the main stem, which includes the leaves and flowers, terminal bud that occurs at the end of the stem, or the central cola;

(9) The Agricultural Division sampling procedures ensure, with a 95% level of confidence, that no more than 1% of the *Cannabis sativa* L. sampled from the Registered Land Area will fail to meet the definition of Hemp under this ordinance;

(10) The number of plants sampled shall be based on the size of the growing area of the lot as follows;

(A) Lots of less than acre, including greenhouses, a minimum of one plant shall be used to form a sample;

(B) For lots one acre to ten acres, including greenhouses, the number of samples is one sample per acre; and

(C) Any lot larger than ten acres, including greenhouses, shall follow the Sampling Guidelines for Hemp as explained in section 7 of the Sampling Guidelines for Hemp, found at:

<https://www.ams.usda.gov/sites/default/files/media/SamplingGuidelinesforHemp.pdf>.

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

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

(13) A Licensed Producer shall not harvest the *Cannabis sativa* L. on the Registered Land Area prior to sampling.

(14) Samples shall be obtained from the flowering tops of plants when flowering tops are present, and shall be approximately five to eight inches in length from the main stem, terminal bud, or central cola of the flowering top of the plant.

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

(1) Analytical testing for total Delta-9-THC concentration levels will use post-decarboxylation as approved by the USDA;

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

(3) 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 gas or liquid chromatography with detection. All test results must include total THC (THC-A + Delta-9-THC) or the calculation to determine total THC. The Agricultural Division is responsible for ensuring that the laboratory's standards of performance for detecting total Delta-9-THC concentration levels, including the conversion of THCA to THC, are consistent with 7 C.F.R. § 990.25; and the following standards, to the satisfaction of the Agricultural Division:

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

(D) 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.

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

(5) All test results shall be reported to both the Agricultural Division, the licensee, and directly to the USDA through the online HeMP Platform.

(6) All test results shall be reported directly to the USDA through the online HeMP platform.

(f) Any test of a representative sample of Cannabis sativa L. under this subchapter that fails to meet the definition of Hemp shall be evidence that the lot represented by the



sample is not in compliance with this ordinance and shall be disposed of in accordance with the provisions of Subchapter CSV.8.7 of this ordinance.

(g) Licensees 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.

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

(i) A Licensee may apply to the Agricultural Division for retesting and/or resampling of any non-compliant Cannabis sativa L., provided the lots of hemp have not been harvested, no later than five (5) days from notification of test results Hemp which may be approved or denied at the Agricultural Division's sole discretion.

#### CSV.8.6.020 Inspections

(a) The Agricultural Division shall have the authority to conduct random inspections of a lot 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.

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

(c) 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 Tribal Law Enforcement, shall be granted unrestricted access to the lot and unrestricted access to all plants, parts, and seeds within the lot, whether growing or harvested, and all land, buildings, and other structures used for the production of hemp, and all documents and records pertaining to the Licensee's Hemp business.

(d) 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.

(e) 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.

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

(g) 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 CSV.8.7 of this Ordinance.

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

#### Subchapter CSV.8.7 Disposal of Non-Compliant Hemp

##### CSV.8.7.010 Procedures for Disposal of Non-Compliant Hemp

(a) 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.

(b) Non-complaint hemp that tests higher than the acceptable THC level, constitutes marijuana, which is a schedule I controlled substance under the Controlled Substances Act 21 U.S.C § 801 *et. seq.*

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

(d) The following procedures shall be used in disposal and destruction::

(1) The Licensee will be promptly notified;

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

(3) The Cannabis sativa L. from this Registered Land Area may not be further handled, processed or enter the stream of commerce;

(4) 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;

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

(6) 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;

(7) The Licensees shall notify the Agricultural Division of the method of disposal,, the completion date, and the total acreage destroyed.

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

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

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

(g) Upon disposal 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.

(h) The Agricultural Division will prepare a hemp disposal report for the U.S. Department of Agriculture pursuant to the requirements of Section CSV.8.11.010(d) of this ordinance, 7 C.F.R. § 990.71, and submit via the HeMP online system.

#### Subchapter CSV.8.8 Enforcement

##### CSV.8.8.010 Prohibited Acts

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

(a) A person who does not hold a Production Licensing Agreement from the Agricultural Division shall not process Hemp at any lot within the jurisdiction of the Tribe.

(b) A Licensed Processor shall not produce Hemp on any lot within the jurisdiction of the Tribe.

(c) A Licensed Producer or Licensed Processor shall not produce or process any *Cannabis sativa L.* that is not Hemp.

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

#### CSV.8.8.020 Negligent Violations and Corrective Action Plans

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

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

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

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

(3) Producing Hemp or *Cannabis sativa L.* with a total Delta-9-THC concentration of more than 0.3 percent on a dry weight basis, if the Licensee has made reasonable efforts to produce hemp in compliance with this ordinance.

(4) 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

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

(6) 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 produce or process industrial hemp in accordance with this Ordinance and 7 CFR Part 990.6(f)); or

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

(c) Corrective action plans may be issued by the Agricultural Division and shall include, at a minimum, the following information:

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

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

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

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

(e) 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.

(f)

#### **CSV.8.8.030 Culpable Violations**

(a) If the Agricultural Division determines that a person has violated this ordinance, terms of licensure, or any Tribal, State, or Federal law or regulation governing the licensee's activities with a culpable mental state greater than negligence, the Agricultural Division shall immediately report them to:

(1) The Tribal Attorney General;

(2) The State of Wisconsin Attorney General; and/or

(3) The U.S. Attorney General.

#### **CSV.8.8.040 Penalties**

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

(1) Violates any provision of this ordinance; or

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

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

(b) 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.

(c) No criminal penalties shall be authorized for violation of any provision of this ordinance, except as established in Section CSV.8.8.030(f) of this ordinance. This ordinance shall not impact any other provision of applicable Tribal law.

(d) 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 Section CSV.8.4.030 of this ordinance.

(e) 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.

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

#### Subchapter CSV.8.9 Seed or Propagule Acquisition

##### CSV.8.9.010 Seed or Propagule Acquisition

(a) All Hemp Seed or Propagules produced on lots within the jurisdiction of the Tribe shall be obtained from the following sources:

(1) 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;

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

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

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

#### Subchapter CSV.8.10 Transportation

#### CSV.8.10.010 Transportation

(a) 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 Production License and/or Processor License accompanies the Hemp at all times during transport.

(b) 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 CSV.8.11 Information Sharing

#### CSV.8.11.010 Information Sharing

(a) The Agricultural Division is authorized and directed to share information regarding Production 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.

(b) 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:

(1) For each new Licensed Producer, 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, EIN number, address, telephone number, and email address (if available);

(2) For each Licensed Producer, the status of the Licensed Producer's activities under the license;

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

(4) Previously-reported information, and,

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

(c) 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:

- (1) Total planted acreage;
- (2) Total harvested acreage;
- (3) Total acreage disposed; and,
- (4) Any Test Result Reports available for Licensed Producers.

(d) 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 Producer 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:

- (1) Name and address of Licensed Producer;
- (2) License number;
- (3) Identification of lot including total acreage;
- (4) If required, information regarding disposal agent, and date of destruction of non-compliant Cannabis Sativa L.
- (5) Disposal completion date.