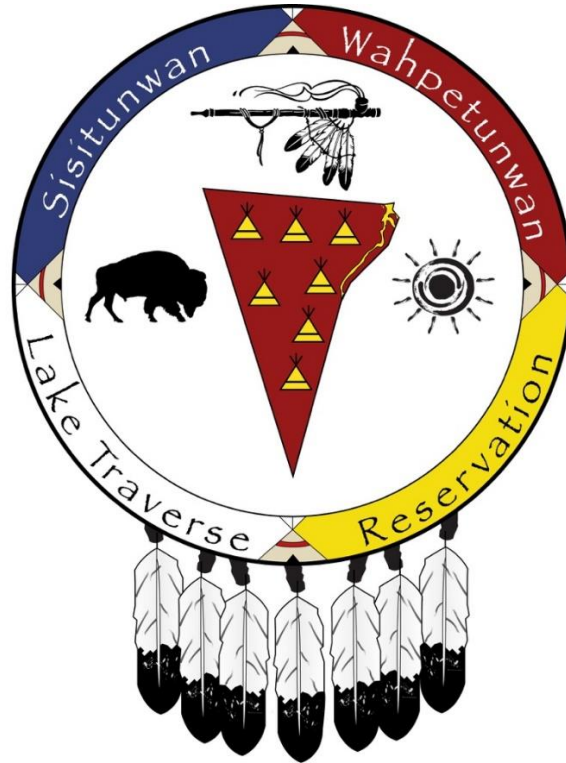


SISSETON-WAHPETON OYATE



MEDICAL CANNABIS REGULATIONS

Adopted by the
SWO Medical Cannabis Commission
on March 31, 2022

SISSETON WAHPETON OYATE
MEDICAL CANNABIS REGULATIONS

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CHAPTER 1 GENERAL PROVISIONS

1.1 TITLE

These regulations shall be cited as the Medical Cannabis Regulations of the Sisseton Wahpeton Oyate of the Lake Traverse Reservation (“Oyate”).

1.2 PURPOSE AND POLICY

The purpose of these Regulations are to:

- A. Civilly regulate those persons and lands within the Reservation to protect and promote the health, safety, and welfare of individuals and entities on the Reservation with respect to Medicinal Cannabis.
- B. Ensure that seriously ill people on the Reservation have the right to obtain and use Medicinal Cannabis for medical purposes (i) where that medical use is deemed appropriate and has been recommended by a Practitioner in a Bona fide practitioner-patient relationship where the Practitioner has determined that the patient's health would benefit from use of Medicinal Cannabis in the treatment of a serious medical condition, or (ii) where the seriously ill person is a medical cannabis Cardholder which card has been issued by a State or tribal authority, or (iii) where the seriously ill person holds a Medical cannabis card issued by a website in accordance with the terms in this Code;
- C. Establish protocols for the cultivation/manufacture (growing), packaging, distribution, advertisement, and rules governing the locations and operations of retail Medicinal Cannabis outlets on the Reservation to meet the needs of Tribal Members and/or Qualified Patients and Designated Caregivers on the Reservation.

1.3 AUTHORITY

These Medical Cannabis Regulations are enacted under the inherent sovereign authority of the Sisseton Wahpeton Oyate, as the governing body of the Sisseton Wahpeton Oyate, and pursuant to Article VII, §1(c), (d), and (h) of the Revised Constitution and Bylaws of the Sisseton-Wahpeton Oyate.

1.4 TERRITORIAL APPLICABILITY

These Regulations apply to the following properties and all interests in such property:

- A. Reservation or trust lands;
- B. All buildings and other improvements of a permanent nature now or hereafter located on reservation and trust lands.

1.5 NONWAIVER OF IMMUNITY

Nothing in these Regulations shall be construed to constitute a waiver of the sovereign immunity of the Sisseton Wahpeton Oyate, or any of its officers, employees, or agents administering or enforcing these Regulations, except as provided for by a duly authorized resolution. Nor shall this Regulations subject the Oyate to liability for damages or other relief resulting from enforcement of this Regulations, reliance upon it, or conformance to it, except as provided for by a duly authorized resolution.

1.6 INCLUSION OF LANGUAGE FROM OTHER LAWS

Inclusion of language, definitions, procedures, or other statutory or administrative provisions of other state or federal law shall not be deemed an adoption of that law by the Oyate. Nor shall it be deemed an action deferring to state or federal jurisdiction where such state or federal jurisdiction is concurrent or does not otherwise exist.

1.7 REQUIREMENT TO COMPLY WITH OTHER TRIBAL LAWS

All persons (whether individual or entities), facilities, financial sources, licensed facilities, or tribal members included in any for-profit business entity conducting a retail business as set forth in this Code, with the purpose of selling Medical Cannabis to a qualifying patient or other person shall comply with the requirements of Chapter 53, SWO Business License Ordinance, Chapter 67, SWO Tax Code, and any other law now or in the future made applicable to Medical Cannabis.

1.8 INTEPRETATION

The provisions of these Regulations shall be interpreted and applied as minimum requirements applicable to medical cannabis and shall be liberally construed in favor of the Oyate.

1.9 SEVERABILITY

The provisions of these Regulations are severable. If any Chapter, Section, Paragraph, part, or provision shall be held unconstitutional, the remaining provisions shall not be affected or impaired.

CHAPTER 2 DEFINITIONS

2.1 DEFINITIONS

The following definitions apply to these Regulations:

- A. "Advertising" means the act of providing consideration for the publication, dissemination, solicitation, or circulation, visual, oral, or written, to induce directly or indirectly, the purchase of medical cannabis.

- B. “Alarm installation company” means a person engaged in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving, or installing a security system in a Facility.
- C. “Applicant” means a person that has applied pursuant to these Regulations for a license that was accepted by the Medical Cannabis Commission for review but has not been approved or denied.
- D. “Batch Number” means a distinct group of numbers, letters, or symbols, or any combination thereof, assigned by a facility to a specific harvest batch of medical cannabis.
- E. “Cannabis” or “Marijuana” means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including cannabis concentrate.
- F. “Cannabis plant monitoring system” means the required seed-to-sale tracking system that includes, but is not limited to, testing and data collection established and maintained by a Facility and available to the Medical Cannabis Commission for the purpose of tracking each cannabis plant and for monitoring cannabis plant development from seed or propagation to sale or destruction.
- G. “Cannabis products” or “marijuana products” means any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures. Cannabis in retail final form packaging ready for retail sale.
- H. “Cannabis Testing Facility” or “Testing Facility” means an off-site independent entity registered with the Commission pursuant to the Medical Cannabis Code to analyze the safety and potency of cannabis.
- I. “Commission” means the Medical Cannabis Commission that was established as a government agency of the Tribe and delegated with the regulation of Medical Cannabis that is established to perform regulatory oversight and monitor compliance with the Medical Cannabis Code and applicable regulations.
- J. “Conviction” means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
- K. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- L. “Dispensary” means a place on the Reservation where medical cannabis and medical cannabis products are offered, either individually or in any combination, for retail sale,

including an establishment that delivers medical cannabis and medical cannabis products as part of a retail sale.

- M. “Facility” means a tribally licensed greenhouse, building, or other enclosed area used and controlled by a licensed medical cannabis producer to produce, possess, process, package, store, or sell cannabis or cannabis products and/or in which the business records, receipts, or other funds of the operation are maintained (excluding offsite facilities dedicated to storage of those records and financial institutions).
- N. “Flowering” means the reproductive state of cannabis in which the plant is in a light cycle intended to stimulate production of flowers, trichomes, and cannabinoids characteristic of cannabis.
- O. “Good Cause” for purposes of denial of an initial license, license renewal, or license restatement application or certification, or for purposes of discipline of a license or certification holder, means:
 - 1. the licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Medical Cannabis Code, any rules promulgated pursuant to it, or any relevant applicable law, rule, or regulation;
 - 2. The licensee or applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the Commission; or
 - 3. The licensee’s or applicant’s Facility has been constructed, maintained, or operated in a manner that inadequately protects the environment or the health and safety of the public.
- P. “Good Moral Character” means having a personal history that demonstrates honesty, fairness, and respect for the rights of others and for the law.
- Q. “Harvest Batch” means a specifically identified quantity of processed medical cannabis that is uniform in strain, cultivated utilizing the same pesticides and other agricultural products, and harvested at the same time.
- R. “Licensee” means any person holding a license issued by the Medical Cannabis Commission under the Medical Cannabis Code or any other applicable regulation.
- S. “Limited Access Area” means a building, room, or other contiguous area of a Facility where medical cannabis is produced under the control of a licensed medical marijuana producer.
- T. “Minor” means a person under the age of eighteen (18).
- U. “Notice of Denial” means a written statement from the Commission articulating the reason or basis for denial of a license application.

- V. “Opaque” means that packaging does not allow the product to be seen without opening the packaging material.
- W. “Order to Show Cause” means a document from the Commission alleging the grounds for imposing discipline against a licensed person.
- X. “Person/s” or “Individual/s” means all-natural persons and all legal entities, including but not limited to corporations, foundations, organizations, business trusts, estates, limited liability companies, partnerships, limited liability partnerships, associations, or any other form of business entity (regardless of jurisdiction of formation) as well as tribal, federal, state, local or international governmental entities. Sisseton Wahpeton Oyate Tribal entities including any agencies, offices, enterprises, corporations, and political subdivisions, such as Community governments of Sisseton-Wahpeton Oyate Tribe which apply for a license.
- Y. “Pesticide; means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.
- Z. “Produce” or “Production” means the planting, propagation, cultivation, growing, harvesting, manufacture, and/or extraction of cannabis or cannabis products.
- AA. “Propagation” means the reproduction of medical cannabis plants by seeds, cutting, or grafting.
- BB. “Reservation” means all lands lying in the territory within the original confines of the Reservation as described in Article III of the Treaty of February 19, 1867, that are held in trust by the United States of America and those lands subsequently acquired by the Sisseton Wahpeton Oyate and held in trust by the United States of America.
- CC. “Security Alarm System” means a device or series of devices, intended to summon law enforcement personnel during, or because of, an alarm condition. Devices may include hardwired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal, motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code from the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold up alarms (a silent system signal to indicate that a robbery is in progress).
- DD. “Shipping Container” means any container or wrapping used solely for the transportation of medical cannabis in bulk.
- EE. “Test Batch” means a group of samples that are collectively submitted to a cannabis testing facility for testing purposes.

FF. “Tribal Council” means the Tribal Council of the Sisseton Wahpeton Oyate as set for in its governing documents.

GG. “Tribe” or “Tribal” means the Sisseton Wahpeton Oyate of the Lake Traverse Reservation and includes its activities, programs, agencies, departments, divisions, instrumentalities, economic development enterprises, and their respective officials.

CHAPTER 3 MEDICAL CANNABIS COMMISSION

3.1 ENABLING LEGISLATION

The Sisseton Wahpeton Oyate of the Lake Traverse Reservation enacted the Amended Medical Cannabis Code on December 22, 2021.

3.2 CANNABIS COMMISSION

Through the Medical Cannabis Code, the Sisseton-Wahpeton Oyate created the Medical Cannabis Commission and delegated certain authority to the Medical Cannabis Commission to carry out the policies and requirements established by this law for all Medical Cannabis activities within the Reservation and those lands and property subsequently acquired by the Sisseton-Wahpeton Oyate.

- A. Composition. The Commission shall consist of three (4) Sisseton-Wahpeton Oyate tribal members meeting the qualifications and two (2) ex-officio Tribal Council Member. The Tribal Council shall appoint commissioners and the Ex-Officio. Minimum qualifications for the Commission require that each Commissioner:
 - 1. Must demonstrate experience and knowledge in government affairs, agriculture, cannabis, business, or law, or Tribal government regulatory experience; and have an understanding of applicable laws regarding cannabis and the cannabis industry;
 - 2. Have a completed and approved federal, state and tribal background check conducted prior to voting on any matters;
 - 3. Shall not have been convicted of a felony relating to a controlled substance under Tribal, State, or Federal law.

- B. Powers and Duties. The Commission has those functions, powers, and duties specified in the Medical Cannabis Code and all others that may be necessary to enable the Commission to exercise its powers and carry out its duties, including those specifically referenced or described in these Regulations.

- C. Independent Authority. The Commission will be independent of, and act independently and autonomously from, the Tribal Council in all matters within its purview. No prior, or subsequent, review by the Tribal Council of

any actions of the Commission is required or permitted except as otherwise explicitly provided in the Medical Cannabis Code or the Tribe's Governing Document.

- D. Rulemaking Authority. The Commission shall have authority consistent with 81-04-04-05 of the Medical Cannabis Code related to the initial adoption of these Regulations.
- E. Authority to Amend Regulations. Regulations adopted to 81-04-04-05 of the Medical Cannabis Code may be amended by a majority vote of the Cannabis Commission (81-04-04-05-1) at any time after the initial adoption of these regulations. The Oyate reserves the right to amend these regulations at any time for any reason. Nothing in these regulations shall be construed to limit the Oyate's legislative or regulatory authority to enact or promulgate legal requirements that apply to all Licensees. This provision applies to all licenses, vendors, commercial entities, without regard to when they receive a license or entered into an agreement with the Oyate or a Licensee.

3.3 MEDICAL CANNABIS REGISTRY

The Sisseton Wahpeton Oyate Medical Cannabis Program shall create a Medical Cannabis Registry and Issue Medical Cannabis Cards to individuals based upon the following, if they:

- A. Completed SWO Medical Cannabis Program Application;
- B. They are 18 years or older;
- C. Under 18 years of age shall provide parent or guardian approval form;
- D. Any current State issued Medical Cannabis Card;
- E. Any current Native American Tribal Government issued Medical Cannabis Card;
- F. Pay SWO MCP Application fee \$50

The Sisseton Wahpeton Oyate Medical Cannabis Program shall create application forms regarding an individual being listed on the Medical Cannabis Registry and Issuance of Medical Cannabis Cards.

CHAPTER 4 LICENSING

4.1 LICENSING AUTHORITY

The Commission shall serve as the licensing authority for Facilities, Financial Sources, and Individual Persons required to be licensed as set forth in the Medical Cannabis Code. The Commission will administer background investigations as part of the licensing process. The Commission may issue temporary licenses pending completion of the application process and background investigation.

4.2 TYPES OF LICENSES

****NOTE: See Amendment #1 for Additional Types of Licenses**

- A. Facility License. Every Facility, as that term is defined by the Medical Cannabis Code, shall obtain a Facility License from the Commission prior to operating pursuant to Tribal law.
- B. Financial Source Licensing. Any person (whether individual or entity) extending financing (whether equity or debt), directly or indirectly, to the licensed Medicinal Cannabis Program must be licensed by the Commission prior to extending that financing, provided that any person who is extending financing at the time of the adoption of this Code shall be licensed by the Commission as soon as practicable.
- C. Individual License. The following persons at Facilities must be licensed by the Commission to lawfully operate on the Reservation:
 - 1. All owners, operators, managers, officers, directors, volunteers, employees, agents, and contractors (excluding licensed professionals);
 - 2. All other persons having a significant influence over a licensed Medicinal Cannabis Facility;
 - 3. All persons having a direct financial interest in a licensed Medicinal Cannabis License, Business, or Property; or
 - 4. All persons employed at Facilities.

4.3 GENERAL LICENSING PROCEDURES

- A. License Applications. Any Facility, Financial Source, or Individual desiring to obtain a license under these Regulations shall make written application for a license on forms provided by the Commission.
- B. Licensing Fees. The Commission has established the following application and licensing fees payable by applicants not wholly owned by the Tribe seeking licensure pursuant to these regulations. Note: See Amendment #1.

- C. Tribal Ownership Requirement. At least 51% of a licensed business must be owned by a Sisseton Wahpeton Oyate tribal member, or an authorized tribal entity, or a tribal district owned business entity. Sale or transfer of a license is prohibited.
- D. Additional Fees. The Commission may impose additional fees for fingerprinting, photographing, and background check costs. The fees will not be refunded if the license is denied. The Commission may, in its sole discretion, waive, increase, or decrease any fees at any time.
- E. Provisional Licenses will be issued immediately upon submission of an application, and each licensee will have 90 days to come into compliance. Cannabis operations can not begin track until track and trace requirements are met. One extension per license may be granted by the Cannabis Commission at their discretion. Provisional licenses expire after 90 days, and an operational inspection must be scheduled and completed before the initial provisional license expires. Once an inspection with the Compliance Officer or Cannabis Commission is completed, and all regulatory requirements are met, a licensee will be issued a Certificate of Compliance and annual license will be issued at that time.
- F. A licensee can request in writing to have a one-time extension of 3 months. This extension is at the discretion of the Commission.
- G. Pre-Approval Inspection. Prior to approval of a license for a Facility, the Compliance Officer or its designee shall inspect the proposed establishment or facility to determine compliance with the requirements of the Medical Cannabis Code, these regulations, and any other applicable requirements.
- H. License Issuance. The Commission shall issue a license to an applicant if such licensure complies with the requirements of the Medical Cannabis Code, these regulations, and any other applicable requirements.
- I. Granting; Denial; Notice. An applicant must be notified immediately of any decision by the Commission to grant or deny a license. All notices of denial shall be in writing and effective when personally delivered to the applicant, upon receipt by certified mail by the applicant, or when posted conspicuously at Licensed Facilities. An applicant may utilize the procedures included in Section 5.6 and 5.7 of these Regulations to appeal an adverse licensing decision.
- J. License Renewals. Licenses must be renewed on an annual basis. The annual licensing process is as follows:
 - 1. Each license shall expire twelve (12) months from the date that it was issued;
 - 2. An application for annual renewal must be received at least forty-five (45) days prior to the existing licenses' expiration date and shall be treated as an application for a new license.

3. Timely applicants for annual renewal shall be notified no less than thirty (30) days prior to the expiration date of the existing license of any decision by the FSI to grant or deny a renewal license.
- K. **New Ownership or Operation.** Applications for a new license must be made within ten (10) days of any change in ownership or operation of a Facility or Finance Source. Failure to apply within this period may result in the revocation of any existing license and may be grounds for refusal by the Commission to issue a new license.
- L. **Changes in Address.** A Licensee shall inform the Cannabis Program in writing of any change to his/her/it's mailing address within thirty (30) days of the change. The Cannabis Program will not change a licensee's information without explicit written notification provided by the licensee or his/her/its authorized agent. Failure to notify the Cannabis Program of a change of mailing address does not relieve a licensee or applicant of the obligation to respond to the Cannabis Program's communication.
- M. **Structural Modification.** Prior to any significant structural modification or addition to a Facility, the applicant must file one (1) copy of the plans and specifications to the Commission. Failure to obtain the Commission's approval for structural changes may result in the revocation of an existing license.
- N. **Posting.** The Licensee must keep the license posted at all times in a conspicuous place at the Licensed Premises for which it has been issued.
- O. **Cooperation and Candor with Commission.** Applicants and licensees must cooperate with the Commission when the Commission conducts inspections or investigations relevant to the enforcement of laws and regulations related to the Medical Cannabis Ordinance or these Regulations. No applicant or licensee shall by any means interfere with, obstruct, or impede the Commission from exercising its duties. This would include, but is not limited to:
1. Threatening force or violence against the Commission, or otherwise endeavoring to intimidate, obstruct, or impede the Commission from exercising its duties. The term "threatening force" includes the threat of bodily harm to an individual or to a member of his or her family;
 2. Denying the Commission access to Facilities on the Reservation where medical cannabis is produced, possessed, processed, packaged, stored, transferred, or sold;
 3. Providing false or misleading statements;
 4. Providing false or misleading documents or records;
 5. Failing to timely produce requested books or records required to be maintained by the Facility; or

6. Failing to timely respond to any other request for information made by the Commission.

4.4 LICENSING OF INDIVIDUALS

The Medical Cannabis Code provides the following requirements for individual licenses:

- A. All such persons needing to be licensed must apply to the Cannabis Program. At a minimum, the application must request the following information:
 1. Full name, other names used (oral or written), social security number, birth date, place of birth, citizenship, gender, and all languages spoken and/or written;
 2. Current, and for the previous five (5) years, business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver's license numbers;
 3. The names and current addresses of at least three (3) personal references, including one personal reference with whom the applicant was acquainted during each period of residence listed above;
 4. Current business and residential telephone numbers, and all cell phone numbers;
 5. A description of any existing and previous business relationships with other tribes, including any ownership interests in the businesses;
 6. A description of any existing and previous business relationships with the Medicinal Cannabis industry generally, including ownership interests in the businesses;
 7. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to Medicinal Cannabis, whether such license or permit was granted;
 8. For each felony conviction or ongoing felony prosecution, the charge, the name, and address of the court involved, and the date of disposition, if any;
 9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved and the date of disposition, if any;
 10. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the

application, the criminal charge, the name, and address of the court involved, and the date of disposition, if any;

11. A current photograph;
12. Fingerprints; and
13. Copy of SWO Tribal ID Card, if applicable.

B. The Compliance Officer shall investigate the background of every individual applicant before the applicant may be licensed. As part of the investigation, the Compliance officer shall:

1. Verify the applicant's identity through items such as a social security card, driver's license, birth certificate or passport;
2. Contact each personal and business reference provided in the license application, when possible;
3. Conduct a criminal history records check using fingerprints of sufficient breadth to ensure that the person has never been convicted of a disqualifying crime pursuant to the Amended Medical Cannabis Code;
4. Based on the results of the criminal history records check, as well as information acquired from an applicant's self-reporting or from any other source, obtain information from the appropriate court regarding any past felony and/or misdemeanor convictions or ongoing prosecutions within the past ten (10) years;
5. Inquire into any previous or existing business relationships with the Medicinal Cannabis industry;
6. Verify the applicant's history and current status with any licensing agency by contacting the agency; and
7. Take other appropriate steps to verify the accuracy of the information.

C. The Cannabis Program shall ensure that all records and information obtained because of a background investigation shall remain confidential and shall not be disclosed to any persons who are not directly involved in the licensing or employment processes.

D. The Cannabis Program will issue identification badges that will include license numbers. All persons at the Facility are required to have their badges in view at all times. Badges are the property of the Commission; they are not to be altered, obscured, damaged, or defaced in any manner. The Commission issues and approves all certificates of licensure.

4.5 REQUIREMENTS APPLICABLE TO FACILITIES

NOTE: See Amendment #1

The Medical Cannabis Code provides the following requirements for individual licenses:

- A. All production, possession, processing, packaging, and storing of Medicinal Cannabis must take place in a secure facility located on the Sisseton Wahpeton Reservation. The secure facility may only be accessed by licensed persons, authorized visitors, emergency personnel, and law enforcement. The facility must be licensed by the Commission to lawfully operate on the Reservation.
- B. All Licensed Facilities shall be constructed, maintained, and operated in a manner that adequately protects the environment and the health and safety of the public. The Compliance Officer shall identify the environmental, health, and public safety standards with which the Facility must comply. At a minimum, the Facility must be constructed to meet the Uniform Building Codes then in effect, including all uniform fire, plumbing, electrical, mechanical, and related codes and be operated so as not to create or allow erosion or result in contaminated runoff into any stream, creek, river, or other body of water.
- C. The Commission may limit the size, location, capacity, and hours of operation depending on adverse impacts on the Oyate, environment, and surrounding area. The Facility must have an air treatment system that ensures off-site odors do not result. No Facility may be located within one thousand (1,000) feet of a school or child-care center.
- D. A Facility shall post clear and legible signs indicating that the use or consumption of Medicinal Cannabis at the Facility is illegal. No Medicinal Cannabis or Medicinal Cannabis product testing may be done on-site. All such random sample testing must be done off-site by a registered Medicinal Cannabis testing facility approved by the Commission.
- E. All entrances to a Facility must always be locked and strictly controlled. The Commission shall prescribe those procedures necessary to ensure proper security and control of a Facility.
- F. No person under the age of eighteen (18) may be present at a Facility. The entrance to a Facility must be clearly and legibly posted with a notice indicating that persons under the age of eighteen (18) are precluded from entering the Facility.
- G. A Facility shall provide adequate security at the facility, as approved by the Commission, including lighting and alarms, to ensure the safety of persons, to prevent unauthorized access, and to protect the Facility from theft.

1. These measures may include continuous video surveillance of all areas identified by the Commission, such as entrances, exits, areas immediately surrounding the Facility, and areas where Medicinal Cannabis and/or cash is located. The Commission will determine the length of time such surveillance must be retained.
 2. These measures may also include the use of professional armed guards licensed or registered by relevant authorities as determined by the Commission.
- H. A Facility shall refrain from using names, images, logos, or symbols that are derogatory, offensive, or culturally inappropriate in packaging, marketing, or promoting their products. This includes using Dakota names, images, logos, or symbols. If the Commission determines that a Facility is using a name, image, logo, or symbol in a derogatory, offensive, or culturally inappropriate manner, it shall order the Facility to pull such products, packaging, or marketing and discontinue use of the name, image, logo, or symbol immediately. A failure to discontinue use of the name, image, logo, or symbol may result in enforcement actions pursuant to Chapter 5 of this Ordinance.

4.6 LICENSING OF FACILITIES

- A. If a Facility applicant is a business entity and not an individual, each of the applicant's individual owners, operators, managers, officers, directors, members, partners, shareholders, volunteers, employees, agents, contractors (excluding licensed professionals), persons having a significant influence over a licensed medical cannabis facility, and persons having a direct financial interest in a licensed medical cannabis facility, as determined by the Commission, must establish that:
1. He or she is of good repute and moral character based upon his or her criminal history background check.
 2. He or she has not been convicted of a felony (whether expunged or pardoned) or a misdemeanor involving moral turpitude or violence (provided, however, the Commission will not consider a prior conviction for the possession or manufacture of marijuana more than ten (10) years prior to the date of the application).
 3. He or she is age eighteen (18) or older.
 4. He or she does not pose a threat to the public interest or to the effective regulation of cannabis under the Medical Cannabis Code.
- B. All applications for licenses authorized pursuant to the Medical Cannabis Ordinance and these Regulations shall be made upon current forms prescribed by the Commission. A license issued by the Commission constitutes a revocable privilege. The burden of always proving an applicant's qualifications for licensure rests with the applicant. The

Commission will deny an application for good cause.

- C. Applicants must submit a complete application to the Cannabis Program before it will be presented to the Commission. All applications must be complete in every material detail. All applications must include all attachments or supplemental information required by the current forms supplied by the Cannabis Program. All applications must be accompanied by a full remittance for the whole amount of the application fees. The Commission may refuse to accept an incomplete application.
- D. Each applicant shall provide any additional information required that the Commission may request to process and fully investigate the application. The additional information must be provided to the Commission no later than fifteen (15) days from the request unless otherwise specified by the Commission. An applicant's failure to provide the requested evidence or information by the deadline may be grounds for denial of the application.
- E. All applicants shall submit information to the Commission in a full, faithful, truthful, and fair manner. The Commission may deny an application where the applicant made intentional or purposeful misstatements, omissions, misrepresentations, or untruths in the application or in connection with the applicant's background investigation.
- F. All applicants for initial licensure shall provide a photograph and are subject to a criminal history background check. A renewal applicant shall provide a photograph and be fingerprinted at the Commission's discretion. Any applicant may be required to establish his or her identity and age by acceptable documents. All applicants must sign an authorization to release information as prescribed by the Commission.
- G. The Commission may issue temporary and permanent licenses for the construction and operation of a Facility. Before construction may begin and a temporary license issued, the facility must present to the Commission, as soon as practicable, a facility plan detailing the size, separate buildings, their purposes, and a schedule for construction. Under a temporary license, members of the facility are not necessarily prohibited from making improvements. The issuance of a temporary or annual license to operate a facility on the Reservation requires the approval of a state-licensed building inspector or architect.
- H. All versions of the complete facility construction plan must include a section on wastewater treatment. Wastewater produced at the facility must be recycled or otherwise adequately disposed of care being taken that this water does not create or allow erosion or result in contaminated runoff into any stream, creek, river, or other body of water.
- I. The Facility shall keep the Cannabis Program apprised as to whether employees on site are not regular employees but construction workers. In the construction of the first Facility, the formal licensing procedure will be abbreviated to a list of persons needing identification badges and temporary licensing. If necessary, the Facility may include a receiving area, but this area must be physically outside the Facility proper, accessible to

people without Facility access. The Commission may issue limited identification badges to vendors who could access such a receiving area.

- J. The Licensee shall notify the Cannabis Program when a Facility is completed and in operation. At that time, the Facility will require an annual license.
- K. All Facilities must be licensed by the Commission to lawfully operate on the Reservation. The Facilities must be organized and operated in a manner that ensures the security of the crop and safeguards against diversion for non-medical purposes.
- L. Operating Procedures. All Medical Cannabis Facilities shall adopt operating procedures, which must be submitted to the Commission prior to licensure, that include:
 - 1. A management plan identifying the individuals who will oversee day-to-day operations of the Facility and their specific management roles; copies of resumes for each;
 - 2. Identify any areas in which cannabis will be stored and secured;
 - 3. Indicate the types of activities that will take place in those areas;
 - 4. Identify a means of legal ingress onto property from the closest maintained right of way;
 - 5. Identify signage that will be used to deter theft and minors;
 - 6. Demonstrate compliance with the Sisseton Wahpeton Medical Cannabis Code;
 - 7. Indicate operating days and hours;
 - 8. A security plan indicating all doors, windows, gates, exterior lights, alarm sensors, and cameras and describing how alarms and cameras will be monitored;
 - 9. Any additional steps to ensure the safety of patrons and the community;
 - 10. Plans for preventing the diversion of cannabis to non-cardholders;
 - 11. Pre-employment screening procedures, including criminal background check;
 - 12. Processes for limiting access by unauthorized persons, including verification of identity for all vendors and contractors, issuance of a visitor badge, and closely monitoring all visitors;
 - 13. Plans to obtain an adequate supply of cannabis, cannabis extracts, and

cannabis products;

14. Types of products offered;
15. Verification of identification card and purchase limits;
16. Advertising plan, including onsite signs, logo; to ensure no advertisements target minors;
17. Point of sale software to be used, including documentation of its interoperability with the inventory tracking system; and
18. Parking plan with accessibility to individuals with disabilities.

M. The Commission shall not license a Facility unless:

1. All persons associated with the Facility who need to be licensed are licensed.
2. The licensee has the financial and operational ability to produce cannabis adequately and safely on the Reservation.
3. The licensee is able to maintain effective security and control to prevent theft, diversion, and other illegal conduct relating to the cultivation, processing, and sale of cannabis.
4. The licensee and facility can comply with the Medical Cannabis Code and applicable Regulations.
5. It is in the public interest that such license be granted.

4.7 LICENSING OF FINANCIAL SOURCES

- A. Any person (whether individual or entity) extending financing (whether equity or debt), directly or indirectly, to the licensed Medicinal Cannabis Program must be licensed by the Commission prior to extending that financing, provided that any person who is extending financing at the time of the adoption of this Code shall be licensed by the Commission as soon as practicable.
- B. The Compliance Officer shall develop requirements for licensing Financial Sources that includes information similar to that which is required for individual licensing.
- C. These licenses shall be reviewed quarterly for continuing compliance and renewal. In connection with such a review, the Cannabis Program shall require the financial source to update all information provided in the previous application.

- D. Any agreement between a tribal entity licensed under the Medicinal Cannabis Program and a financial source shall include a provision for the agreement's termination without further liability on the part of the tribal entity licensed under the Medicinal Cannabis Program, except for the bona fide repayment of all outstanding principal sums (exclusive of interest) owed as of the date of termination or upon revocation or non-renewal of the financial source's license by the Commission acting in good-faith.
- E. The Commission may, at its discretion, exclude from the licensing requirements of this section, financing provided by a bank, savings and loan, or other financial institution regulated by a tribal, state, or federal government or financing provided by any agency of a tribal, state, or federal government.
- F. Investment must be in the form of bank transfer or check and verified by the commission.

CHAPTER 5 INSPECTIONS AND COMPLIANCE

5.1 INSPECTIONS, REPORTS, AND INVESTIGATIONS

- A. Inspections shall be conducted at least annually on all Licensed Facilities by the Compliance Officer or their designee. Inspection findings shall be reported utilizing a standardized form created by the Cannabis Program for each license type.
- B. Spot check inspections will be conducted periodically of Licensed Facilities by the Compliance Officer or their designee. Each Facility will be inspected at least once during its license period. The Commission also has the authority to conduct spot checks.
- C. The issuance of a license carries with it the implied consent that the Commission or their designee shall have, at all times, the right of proper entry upon any and all parts of the facility of any place in which such entry is necessary to carry out the provisions of the Medical Cannabis Code or these Regulations.
- D. The Commission or its designee may receive reports of violations of the Medical Cannabis Code or these Regulations. The Commission may conduct an investigation regarding such reports upon a majority vote.

5.2 WARNINGS

- A. The Commission may, depending on the severity of the violation, issue a written warning to the Licensee identifying corrective actions that must be taken within a specified time to avoid license suspension.
- B. Notice of warnings are effective when personally delivered to the Licensee, upon receipt by certified mail by the Licensee, or when posted conspicuously at the Facility.

- C. If re-inspection does not satisfy the Commission that all corrective actions identified in a warning have been taken within the time specified, the license may be suspended under Section 5.3 of this Chapter or alternative corrective actions may be ordered.

5.3 ENFORCEMENT ACTIONS

- A. If the Commission, on its own initiative or based on a complaint, has reasonable cause to believe that a Licensee has violated the Medical Cannabis Ordinance, any rule or regulation promulgated pursuant to it, or any Commission order, the Commission shall issue and serve upon the Licensee an Order to Show Cause (administrative citation) as to why his/her/its license should not be suspended, revoked, restricted, fined, or subject to other disciplinary sanction.
- B. The Order to Show Cause (“Order”) shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The order shall also provide notification that the license could be suspended, revoked, restricted, fined, or subject to other disciplinary sanction should the charges contained in the Order be sustained. Such hearing shall provide due process.
- C. Following the issuance of an Order to Show Cause (“Order”), an administrative proceeding shall occur whereby a Licensee is provided with notice and an opportunity to be heard.
- D. When the Commission finds, by majority vote, that a violation of applicable law or regulation, or that the public health, safety, or welfare requires emergency action, it may issue a corrective order, suspension order, or impose fines pursuant to these Regulations.

5.4 LICENSE SUSPENSIONS

- A. In instances of immediate and unavoidable danger to public health and safety or after the failure of a Licensee to take corrective actions pursuant to 5.2 of this Chapter, the Commission may, upon a majority vote of the Commission, order suspension of the license of a Facility at once. An order of suspension is effective upon notice.
- B. Notice of suspension shall be in writing and is effective when personally delivered to the Licensee, upon receipt by certified mail by the Licensee, or when posted conspicuously at the Facility.
- C. A suspension remains in effect until the Licensee satisfies the Commission that adequate measures have been taken to correct the conditions which resulted in the order.
- D. Unless otherwise ordered by the Commission, during any period of suspension of the license, the Facility shall not permit the purchase, packaging, transporting, transferring, or selling of medical cannabis. Unless otherwise ordered by the Commission, during any period of suspension of the Facilities’ license, the Facility may continue to possess and produce medical cannabis. The Facility must fully account for all such medical cannabis in the cannabis plant monitoring system.

5.5 ADMINISTRATIVE HOLDS

- A. To prevent destruction of evidence, diversion, or other threats to public safety, while permitting a Facility to retain its inventory pending further investigation, the Commission may order an administrative hold of medical cannabis if during an investigation or inspection the Commission develops reasonable grounds to believe certain medical cannabis constitutes evidence of acts in violation of the Medical Cannabis Code or rules promulgated pursuant to it, or otherwise constitutes a threat to the public safety.
- B. A Facility shall completely and physically segregate the medical cannabis subject to the administrative hold, where it shall be safeguarded. While the administrative hold is in effect, the facility is prohibited from selling, giving away, transferring, transporting, or destroying the medical cannabis subject to the administrative hold except as otherwise authorized by these rules. Nothing herein shall prevent a facility from the continued possession, cultivation, or harvesting of the medical cannabis subject to the administrative hold. At any time after the initiation of the administrative hold, the Commission may lift the administrative hold pending the administrative process or seek other appropriate relief.
- C. After investigation, the Commission by majority vote may order destruction of some or all the medical cannabis subject to the administrative hold. The Licensee shall comply with the order or risk losing its license. If law enforcement notifies the Commission that some or all the medical cannabis subject to the administrative hold is involved in a criminal investigation, the Commission shall not order the medical cannabis destroyed pending investigation.

5.6 CLASSES OF OFFENSES AND IMPOSITION OF FINES

The Commission may issue a notice of proposed civil fines according to the chart provided below. A notice of proposed civil fines is effective upon notice. Notice of proposed civil fines shall be in writing and shall be effective when personally delivered to the Licensee, upon receipt by certified mail by the licensee, or when posted conspicuously at the Facility. Each day that a Facility is in violation of the Ordinance or Regulations shall constitute a separate violation for purposes of these fines.

CLASS	DESCRIPTION	FINE
Class A (Violation Affecting Public Safety)	A severe violation of the Ordinance or Medical Cannabis Regulations that affects public safety	Civil fine of up to \$5,000 per occurrence
Class B (License Violations)	A violation of the Ordinance or Regulations which does not affect public safety (moderate severity)	Civil fine of up to \$2,500 per occurrence.
Class C (License Infractions)	An infraction of the Ordinance or Regulations (least severe)	Civil fine of up to \$500 per occurrence

- A. License Violation Affecting Public Safety. This category of violation is the most severe and may include, but is not limited to, sales to persons under the age of 21 years, Medical Marijuana sales to non-patients, consuming marijuana on the Licensed Premises, Regulated Marijuana sales in excess of the relevant sales limitations, permitting the diversion of Regulated Marijuana outside the regulated distribution system, possessing marijuana obtained from outside the regulated distribution system or from an unauthorized source, making misstatements or omissions in the Inventory Tracking System failure to report any transfer, knowingly adulterating or altering or attempting to adulterate or alter any samples, violations related to co-located Medical Marijuana Businesses and Retail Marijuana Businesses, violations related to, failure to maintain books and records to fully account for all transactions of the business, failure to cooperate with investigators during the course of an investigation by the Commission, utilizing advertising material that is misleading, deceptive, or false, advertising violations directly targeting minors, or packaging or labeling violations that directly impact patient or consumer safety. Violations of this nature generally have an immediate impact on the health, safety, and welfare of the public at large. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.
- B. License Violations. This category of violation is more severe than a license infraction but generally does not have an immediate impact on the health, safety, and welfare of the public at large. License violations may include but are not limited to, advertising and/or marketing violations, packaging or labeling violations that do not directly impact patient or consumer safety, failing to continuously escort a visitor in a limited access area, failure to maintain minimum security requirements, failure to keep and maintain adequate business books and records, or minor or clerical errors in the Inventory Tracking System. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.
- C. License Infractions. This category of violation is the least severe and may include, but is not limited to, failure to display required Identification Badges, visitor badges, unauthorized modifications of the Licensed Premises of a minor nature, or failure to notify the SWO Cannabis Commission of a minor change in ownership. The range of penalties for this category of violation may include license suspension, a fine per individual violation, and/or a fine in lieu of suspension of up to \$10,000 depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.
- D. Other Factors.
1. The Commission may take into consideration any aggravating and mitigating factors surrounding the violation which could impact the type or severity of penalty imposed.
 2. The penalty structure is a framework providing guidance as to the range of violations, suspension description, fines, and mitigating and aggravating factors. The

circumstances surrounding any penalty imposed will be determined on a case-by-case basis.

3. For all administrative offenses involving a proposed suspension, a Licensee may petition the Commission for permission to pay a monetary fine, in lieu of having its license suspended for all or part of the suspension.

E. Mitigating and Aggravating Factors.

The State Licensing Authority may consider mitigating and aggravating factors when considering the imposition of a penalty. These factors may include, but are not limited to:

1. Any prior violations that the Licensee has admitted to or was found to have engaged in.
2. Good faith measures by the Licensee to prevent the violation, including the following: 1.) proper supervision; 2.) Regularly-provided and documented employee training, provided the Licensee demonstrates all reasonable training measures were delivered prior to the Commission's investigation; and 3.) Standard operating procedures established prior to the Commission's investigation, and which include procedures directly addressing the conduct for which imposition of a penalty is being considered.
3. Licensee's past history of success or failure with compliance checks.
4. Corrective action(s) taken by the Licensee related to the current violation or prior violations.
5. Willfulness and deliberateness of the violation.
6. Likelihood of reoccurrence of the violation.

5.7 ADMINISTRATIVE APPEAL PROCESS

Any recipient of a fine or suspension order or an individual that is denied or has a license revoked shall have ten (10) days from receipt of the written order to respond to the same in writing. The Commission shall confer with the Licensee taking into consideration the Licensee's response. If the Commission is satisfied with the response, the Commission shall issue a written order reflecting resolution of the issue. If the Commission is not satisfied with the response, the Commission shall issue a notice of final action to recipient in writing that the proposed order shall remain in effect.

5.8 TRIBAL COURT APPEAL

- A. The appeal described herein shall be the recipient's exclusive cause of action against the Oyate, and the recipient must first exhaust the administrative remedies described in Section 5.6 of this Chapter.

- B. The recipient shall then have twenty (20) days from the receipt of such notice of final action to seek a review of the same by the Tribal Court. An appeal may be effectuated by filing a Notice of Appeal.
- C. Within thirty (30) days of filing of the appeal, the Commission or its designee shall certify the record of the proceedings to the Tribal Court which will include all reports, communications, letters, and orders related to the issue in question.
- D. The Tribal Court shall consider the record as well as any evidence presented.
- E. The Tribal Court shall either confirm, reverse, or modify the final action taken by the Commission. To overturn actions by the Commission, the Individual bringing the appeal must prove by clear and convincing evidence that the Commission's action was arbitrary, capricious, or an abuse of discretion.

5.9 LIMITED WAIVER OF SOVEREIGN IMMUNITY

The Sisseton Wahpeton Oyate waives sovereign immunity for the limited purpose of suit in the Tribal Court only for the actions described in Section 5.8 of this Chapter. The Tribal Court must limit its decision to the determinations described in Section 5.8 of this Chapter. There shall be no monetary damages or other recourse resulting from the overturning of a Commission decision.

5.10 APPROPRIATION OF LICENSING FEES AND CIVIL FINES

Licensing fees and civil fines collected by the Commission shall be dedicated to continued Commission operations related to regulating the Cannabis industry. By 2023, the Commission shall develop a budget for operations and submit said budget to the Tribal Council for review and approval. The goal of collecting licensing fees and civil fines shall first be to ensure that the Commission is self-sufficient. If licensing fees and civil fines result in a surplus, such moneys shall be set aside until the Commission has funds equivalent to twice its annual budget, thus ensuring that the Commission can operate for the next year. Any funds received after the Commission reaches the aforementioned amounts shall be subject to Tribal Council discretion, but it would be advisable to use such funding for cannabis related projects due to existing restrictions on using other sources of revenue for such purposes.

CHAPTER 6 RULES GOVERNING MEDICAL CANNABIS

6.1 PREVENTING ACCESS BY MINORS

- A. These Regulations shall be interpreted and implemented in a such a way as to prevent the distribution of cannabis to minors. No Facility may be located within one-thousand (1,000) feet of a school.
- B. No Facility licensed by the Commission may transport, transfer, or sell medical cannabis off the Reservation to any person that might sell such product to a minor unless permitted

by applicable law.

- C. No minor may visit or work at a Facility on the Reservation. The entrance to a Facility must be clearly and legibly posted with a notice indicating that minors are precluded from entering the Facility.
- D. No packaging, labeling, or marketing may target minors, including but not limited to, cartoon characters or similar images or use of the words “candy” or “candies.”
- E. The diversion of medical cannabis to a minor shall be immediately reported to the Licensee, Commission, and appropriate law enforcement personnel.

6.2 PREVENTING REVENUE FROM GOING TO CRIMINAL ENTERPRISES, GANGS, AND CARTELS

- A. Because banks are not yet able to hold funds generated by a cannabis operation, it may be necessary to construct a secure cash holding area within the Facility, or outside it. However, if possible, it is preferable for a Facility to arrange to hold cash off the Reservation in a bank. Any arrangement to hold cash on the Reservation must be approved by the Commission.
- B. No person who has been convicted by a court of competent jurisdiction of a felony (whether expunged or pardoned) or a misdemeanor involving moral turpitude or violence may be employed by a Facility. Failure to disclose a conviction or association can lead to immediate and/or permanent license suspension or revocation.
- C. No person who is or has been a member of a criminal gang, enterprise, or cartel within the past five (5) years may be licensed or employed by a Facility. Failure to disclose membership can lead to immediate and/or permanent license suspension or revocation.
- D. A Facility must keep accurate records and follow accepted cash handling practices, including regular bank runs and cash drops, and maintain a general ledger of cash transactions. They must submit an independent annual audit within one hundred twenty (120) days after the close of each fiscal year to the Commission and to the Tribal Council. These annual audits shall conform to generally accepted auditing standards. The Commission may also audit a Facilities’ books, records, accounts, and cash transactions less than annually at any time to ensure no diversion to criminal enterprises, gangs, or cartels.

6.3 PREVENTING MEDICAL CANNABIS FROM LEAVING THE RESERVATION

- A. All medical cannabis transported, transferred, or sold must be kept within the Sisseton Wahpeton Oyate Reservation unless such cannabis is being securely provided to a third-party testing facility. The ~~Commission~~ Compliance Officer must be able to verify at a

moment's notice that every shipment has arrived at its scheduled destination. Wherever possible, there must be a third-party source that can verify arrival by telephone.

- B. The Commission reserves the right to audit the records of a Facility to ensure that no medical cannabis from the Facility was diverted to another state

6.4 PREVENTING MEDICAL CANNABIS FROM BEING USED AS A COVER FOR TRAFFICKING OF ILLEGAL DRUGS

- A. The Commission shall ensure that only medical cannabis is produced on the Reservation pursuant to applicable law. The Commission will consult with local law enforcement concerning illegal drug use patterns in and around the Reservation, if any, to reduce use of all illegal drugs in the area around the Reservation and Facility.
- B. Facility workers who enter and leave the Facility are subject to search for contraband. Being discovered in possession of or arrested for illegal drugs while employed by the Facility shall lead to immediate license suspension while the charge is investigated and resolved.

6.5 PREVENTING VIOLENCE AND FIREARM USE IN ASSOCIATION WITH MEDICAL CANNABIS GROWING

- A. Possession of firearms shall be prohibited at all Licensed Facilities except for law enforcement or security personnel authorized by tribal, state, or federal law to possess firearms. All professional armed guards must be licensed or registered by relevant authorities as determined by the Commission. If a security company provides armed guards, that company shall ensure that all its guards are properly licensed and trained.
- B. All such guards at the Facility must also be licensed by the Commission. The Commission reserves the right to audit the security guard company's licensing, training, and compliance records.
- C. After one (1) year of operation, the management shall report to the Commission on the possibility of using unarmed security at the Facility.
- D. The transportation of medical cannabis off the Reservation shall be handled by a third-party company that may or may not be armed as permitted by applicable law.

6.6 PREVENTING DRUGGED DRIVING AND PUBLIC HEALTH CONSEQUENCES OF MEDICAL CANNABIS USE

- A. To minimize drugged driving on or near the Reservation, no individual may produce cannabis or cannabis products on the Reservation for individual use or otherwise regardless of applicable state law.
- B. The Commission shall coordinate with local law enforcement to monitor and help reduce

any instances of drugged driving on or near the Reservation.

- C. Cannabis use at the Facility is strictly prohibited. No one who has been convicted of driving under the influence of cannabis in the last five (5) years may be employed at the Facility.

6.7 PREVENTING GROWING, POSSESSION, AND USE ON PUBLIC LANDS AND FEDERAL PROPERTY

- A. The Commission does not consider Licensed Facilities located on Reservation to be “public lands” as understood in the Cole Memorandum. A Facility may only produce medical cannabis at a Facility on the Reservation.
- B. The Commission does not consider Licensed Facilities located on the Reservation to be “federal property” as understood in the Cole Memorandum. A Facility may only produce medical cannabis at a Facility on the Reservation.
- C. The growing of cannabis outside of Licensed Facilities is illegal and will be reported to law enforcement authorities and the Commission.
- D. The possession and use of Medical Cannabis shall be limited to private residences of registered patients.

CHAPTER 7 SECURITY PRACTICES AND PROCEDURES

7.1 CHIEF SECURITY OFFICER AND SECURITY PLANS

- A. Each Facility will designate a Chief Security Officer and notify the Cannabis Program of such designation. The Chief Security Officer may be employed by the facility in another position or may be employed by a third-party security company.
- B. The Chief Security Officer shall be responsible for preparing and submitting a Security Plan to the Cannabis Program which satisfies the requirements of these Regulations. The Licensee and Chief Security Officer shall coordinate with the Compliance Officer on effective implementation of the security plan.
- C. The Chief Security Officer and Licensee shall be jointly and severally responsible for ensuring compliance with the security requirements in these Regulations.
- D. All areas of ingress and egress to a Facility shall be locked and clearly identified by the posting of a sign which shall be not less than twelve (12) inches wide and twelve (12) inches long, composed of letters not less than a half inch in height, which shall state, “Do Not Enter – Access Limited to Licensed Personnel and Escorted Visitors.”

- E. All areas of ingress and egress to an indoor Cultivation area shall be locked and clearly identified by the posting of a sign which shall be not less than twelve (12) inches wide and twelve (12) inches long, composed of letters not less than a half inch in height, which shall state, "Do Not Enter – Access Limited to Licensed Personnel and Escorted Visitors.
- F. All outdoor Cultivation areas shall be surrounded by chain link privacy fence designed to: stop intruders from entering the facility; to individuals outside of the facility from clearly seeing licensed activity occurring inside the fenced area; and equipped with a discrete security system that is capable of detecting cutting, lifting, or attempted scaling of the fence. Such fencing should be of a height that keeps humans and animals from easily scaling the fence. The perimeter areas of the fence should be equipped with surveillance pursuant to Section 6.2 of this Chapter.

7.2 BUILDING SECURITY

- A. No Facility may share premises with or permit access directly from any residence or business unless the Commission determines that adequate security measures are in place and the use of the premises as a Facility conforms with the existing use of the shared premises as a residence or business.
- B. Each Facility shall have a security alarm system, installed by an alarm installation company, on all perimeter entry points and perimeter windows. A Facility must be continuously monitored. The Licensee operating a Facility shall maintain up to date and current records and existing contracts at the Facility that describe the location and operation of each security alarm system, a schematic of security zones, and the name of the alarm installation company. The Licensee shall, upon request, make available to the Commission or law enforcement all information related to security alarm systems and alarm activity.
- C. Each Facility must have sufficient security measures to demonstrate the Facility is not readily accessible by unauthorized individuals. At all points of ingress and egress at a Facility the licensee shall ensure the use of commercial-grade, non-residential door locks.
- D. Each Facility must have a fully operational video surveillance and camera recording system. The recording system must record in digital format and meet the requirements outlined in this Chapter. All video surveillance records and recordings must be kept confidential and stored in a secure area that is only accessible to management staff of the Facility. Video surveillance records and recordings must be made available upon request to the Commission or law enforcement.
- E. Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, cameras capable of meeting the recording requirements described in this Chapter, video monitors, digital archiving devices, and a color printer capable of delivering still photos. All video surveillance systems must be equipped with a failure notification system that provides prompt notification to the Facility of any prolonged surveillance interruption and/or the complete failure of the surveillance system. The

Licensee shall be responsible for ensuring that all surveillance equipment is properly functioning and maintained so that the playback quality is suitable for viewing and the surveillance equipment is capturing the identity of all individuals and activities in the monitored areas. All video surveillance equipment shall have sufficient battery backup to support a minimum of five (5) hours of recording in the event of a power outage.

- F. Continuous video surveillance is required for areas immediately surrounding the Facility, areas where cannabis or cash is located, security rooms, and all points of ingress and egress to a Facility. Camera placement shall be capable of identifying activity occurring within twenty (20) feet of all points of ingress and egress and shall allow for the clear and certain identification of all individuals and activities at the Facility. All entrances and exits to a Facility shall be recorded from both indoor and outdoor vantage points. The system shall be capable of recording all pre-determined surveillance areas in any lighting conditions provided, however, a rotating schedule of lighted conditions and zero-illumination can occur in a cultivation area as long as ingress and egress points to flowering areas remain constantly illuminated for recording purposes.
- G. Areas where medical cannabis is produced, possessed, processed, or stored shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment. Cameras shall also be placed at each location where weighing, packaging, transport, transfer, preparation, or tagging activities occur. At least one camera must be dedicated to record the access points to the secured surveillance recording area.
- H. Surveillance recording equipment must be housed in a designated, locked, and secured room or other enclosure with access limited to authorized employees, the Commission, law enforcement, and service personnel or contractors. A Facility must keep a current list of all authorized employees and service personnel who have access to the surveillance system and/or room at a Facility. Facilities must keep a surveillance equipment maintenance activity log on location to record all service activity including the identity of the individual(s) performing the service, the service date and time, and the reason for service to the surveillance system. Off-site monitoring and video recording storage is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site monitoring.
- I. All camera views at a Facility must be continuously recorded twenty-four (24) hours a day. The use of motion detection is authorized when a Facility can demonstrate that monitored activities are adequately recorded. All surveillance recordings must be kept for a minimum of thirty (30) days or as determined by the Commission and be in a format that can be easily accessed for viewing. Video recordings must be archived in a format that ensures authentication of the recording as legitimately captured video and guarantees that no alteration of the recorded image has taken place. The surveillance system or equipment must have the capabilities to produce a color still photograph from any camera image, live, or recorded. The date and time must be embedded on all surveillance recordings without significantly obscuring the picture. Surveillance video recordings may

not be destroyed if the Facility knows or should have known of a pending criminal, civil, or administrative investigation or any other proceeding for which the recording may contain relevant information.

- J. All records applicable to the surveillance system shall be maintained at the Facility. At a minimum, a Licensee shall maintain a map of the camera locations, direction of coverage, camera numbers, surveillance equipment maintenance activity log, user authorization list and operating instructions for the surveillance equipment.

7.3 SECURITY MEASURES FOR FACILITIES

- A. A Facility shall use a cannabis plant monitoring system as the primary inventory tracking system of record. A Facility operating without a cannabis plant monitoring system that is activated and functional shall not operate or exercise any privileges pursuant to the Medical Cannabis Code. A Facility must have at least one individual licensee who is knowledgeable about and responsible for the cannabis plant monitoring system. The facility shall keep records of all persons with access to and who access the tracking system.
- B. All inventory tracking activities by a Facility must be tracked through use of the Cannabis plant monitoring system. A Facility must reconcile all on-premises and in-transit medical cannabis inventories each day in the tracking system at the close of business or by midnight.
- C. A Facility must utilize a standard of measurement that is supported by the tracking system to track all medical cannabis. A scale used to weigh such product prior to entry into the tracking system shall be tested and approved.
- D. Each Facility shall designate an individual responsible for entering data into the cannabis plant monitoring system that fully and transparently accounts for all inventory tracking activities. Both the Facility and the individuals using the tracking system are responsible for the accuracy of all information entered into the cannabis plant monitoring system. Any misstatements or omissions may be considered a license violation affecting public safety. Proper use of the tracking system does not relieve a licensee of his/her/its responsibility to maintain compliance with all applicable laws, rules, and other requirements at all times.

7.4 SECURITY MEASURES FOR VISITORS

- A. Visitors at the Facility will be furnished temporary identification badges. Visitors must be always escorted by a Licensee. No more than five (5) visitors may be escorted by a single Licensee. Nothing shall prohibit the Commission or law enforcement from entering a Facility upon presentation of official credentials identifying them as such.
- B. Facilities and Dispensaries may only have visitors for official governmental purposes, business purposes, or educational purposes. Facilities and Dispensaries may only have a

total of fifteen (15) visitors per month.

- C. Visitors at the Facility will be furnished temporary identification badges. Visitors must always be escorted by a licensee.
- D. The licensee shall maintain a log of all visitor activity, for any purpose, within the Facility and shall make such logs available for inspection by the Commission or law enforcement. Visitor logs shall be kept for at least five (5) years.
- E. Visitors admitted into a Facility must provide acceptable proof of age and not be minors. A Licensee may not receive consideration or compensation specifically for permitting a visitor to enter a Facility.
- F. All areas of ingress and egress to a Facility shall be locked and clearly identified by the posting of a sign which shall be not less than twelve (12) inches wide and twelve (12) inches long, composed of letters not less than a half inch in height, which shall state, "Do Not Enter – Access Limited to Licensed Personnel and Escorted Visitors."

7.5 INFORMATION SECURITY

- A. No person shall disclose confidential information unless required to do so by applicable law. Commission members and Licensees shall not obtain or utilize confidential information that they are not lawfully entitled to acquire or possess.
- B. Any Licensee that is authorized to access the cannabis plant monitoring system and/or has access to confidential information shall utilize the confidential information only for authorized purposes. No Licensee shall use the tracking system for any purpose other than tracking medical cannabis.

7.6 WASTE MANAGEMENT

- A. Medical cannabis waste must be stored, secured, and managed in accordance with all applicable statutes, regulations, ordinances, or other requirements. Liquid waste shall be disposed of in compliance all applicable laws, regulations, rules, and other requirements.
- B. Disposal of chemical, dangerous or hazardous waste must be conducted in a manner consistent with applicable laws, regulations, rules, or other requirements. This may include, but is not limited to, the disposal of all pesticide or other chemicals used in the cultivation process.
- C. Medical cannabis waste must be made unusable and rendered indistinguishable from any other plant material, whether by composting or otherwise, prior to leaving a Facility. A Licensee shall not dispose of cannabis waste in an unsecured waste receptacle not in possession and control of the Facility.
- D. In addition to all other tracking requirements set forth in these Regulations, a Licensee

shall utilize the cannabis plant monitoring system to ensure its post-harvest waste materials are identified, weighed, and tracked while at the Facility until disposed of. All medical cannabis waste must be weighed before leaving any Facility. A scale used to weigh medical cannabis waste prior to entry into the cannabis plant monitoring system shall be tested and approved before use. A Licensee is required to maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all waste activity related to the disposal of cannabis.

- E. A facility is required to maintain accurate and comprehensive records regarding any waste material produced through the trimming or pruning of a cannabis plant prior to harvest, which must include weighing and documenting all waste. Unless required by a cannabis plant monitoring system procedure, records of waste produced prior to harvest must be maintained by the Licensee. All waste, whether produced prior or subsequent to harvest, must be disposed of in accordance with these Regulations and made unusable or rendered indistinguishable from any other plant material.

7.7 WORKPLACE AND HYGIENE MEASURES

- A. A Facility shall be inspected by a local fire department, building inspector, or code enforcement officer employed by the Oyate as determined, requested, and controlled by the Commission and concerning possible health or safety concerns. The inspection may result in standards and requirements to meet general licensing requirements or requirements specific to medical cannabis. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety as determined by the Commission.
- B. Any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with medical cannabis shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected.
- C. All persons working in direct contact with medical cannabis shall conform to hygienic practices while on duty, including but not limited to:
 - 1. Maintaining adequate personal cleanliness;
 - 2. Washing hands thoroughly in an adequate hand-washing area(s) before starting work and at any other time when the hands may have become soiled or contaminated;
 - 3. Hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Handwashing facilities shall be located at the Facility and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;

and

4. Refraining from having direct contact with medical cannabis if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.
- D. Litter and waste must be properly removed and the operating systems for waste disposal must be maintained in an adequate manner so that they do not constitute a source of contamination in areas where medical cannabis is exposed. Floors, walls, and ceilings must be constructed in such a manner that they may be adequately cleaned and kept clean and kept in good repair.
 - E. There must be adequate lighting in all areas where medical cannabis is stored and where equipment or utensils are cleaned. Each Licensee must provide adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests.
 - F. All buildings, fixtures, and other parts of a Facility must be maintained in a sanitary condition. Toxic cleaning compounds, sanitizing agents, and solvents shall be identified, held, stored, and disposed of in a manner that protects against contamination of medical cannabis, and in a manner that is in accordance with any applicable law, rule, regulation, or ordinance. All pesticide must be stored and disposed of in accordance with the information provided on the product's label.
 - G. All contact surfaces, including utensils and equipment used for the preparation of medical cannabis shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable and shall be properly maintained. Only sanitizers and disinfectants registered with the U.S. Environmental Protection Agency may be used and must be used in accordance with labeled instructions.
 - H. The water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that can provide a safe, potable, and adequate supply of water to meet the needs of the Facility. Plumbing shall be of adequate size and design and adequately installed and maintained to carry enough water to required locations throughout the Facility and that shall properly convey sewage and liquid disposable waste from the Facility. There shall be no cross-connections between the potable and wastewater lines. A Facility shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.
 - I. All operations in the receiving, inspecting, producing, transporting, segregating, preparing, manufacturing, packaging, and storing of medical cannabis shall be conducted in accordance with industry-standard sanitation principles. Medical cannabis that can

support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

- J. The Commission may require environmental quality reports from a Licensee and that they be verified by an agreed upon third party. All medical cannabis must the standards included in these Regulations and any future variation of these Regulations.

CHAPTER 8 RECORD KEEPING

8.1 RECORD KEEPING REQUIREMENTS

- A. A Facility shall retain all books and records necessary to fully account for the business transactions conducted under its license for the current year and five (5) preceding calendar years. The licensee may use off site facilities to store those books and records more than one (1) year old. A licensee must exercise due diligence in preserving and maintaining all required records. Violation of this Section may constitute a license violation affecting public safety.
- B. The books and records kept by a Facility must fully account for the transactions of the licensee and must include, but shall not be limited to:
 - 1. A current list that includes the full name and license number of each owner, operator, manager, officer, director, volunteer, employee, agent, contractor (excluding licensed professionals), person having a significant influence over a Facility, and person having a direct financial interest in a Facility. This list must be updated within fifteen (15) days of any change;
 - 2. For the Facility and any associated permitted off-premises storage facility, a licensee must maintain the business contact information for vendors that maintain video surveillance systems and security alarm systems;
 - 3. Diagram of the Facility and any permitted off-premises storage facilities;
 - 4. List of all visitors entering the Facility; and
 - 5. All records normally retained for tax purposes.
- C. A Facility must maintain accurate and comprehensive inventory tracking records that account for, reconcile, and evidence all inventory activity for medical cannabis from either seed or immature plant stage until the medical cannabis is sold, transferred, destroyed, or transported off the Reservation.

8.2 ACCESS TO RECORDS BY MEDICAL CANNABIS COMMISSION

- A. A Facility must provide on-demand access to on-premises records following a request from the Compliance Officer and/or the Commission and must provide access to off-premises records within one (1) business day following a request from the Compliance Officer and/or the Commission.
- B. A Facility and all licensees shall report to the Commission any discovered plan or other action of any person to commit theft, burglary, underage sales, diversion of cannabis or cannabis products, or other crimes related to the operation of a licensee or that compromise the integrity of the cannabis plant monitoring system. A report shall be made as soon as possible after the discovery of such action. Nothing in this paragraph alters or eliminates any obligation a licensee may have to report criminal activity to law enforcement.

CHAPTER 9

MINIMUM INTERNAL CONTROL STANDARDS

9.1 BANKING

Minimum internal control standards for handling funds are especially complicated because of the difficulty of banking, in the cannabis industry. The following are regulations applying to the case in which a licensee is obliged to use regular, relatively large amounts of cash to operate. If cannabis producers are allowed to maintain regular bank accounts, these regulations will be modified accordingly.

9.2 ASSET ACCOUNTABILITY

- A. The manager at a Facility shall be responsible for maintaining accountability as regards the assets of the Facility, all transactions occurring at the Facility, and all cash or securities held at the Facility, by reason of lack of regular banking access.
- B. The Facility management shall hire a bonded and insured certified public accountant who will design standards to reasonably assure that:
 - 1. Assets are safeguarded and accountability over assets is maintained;
 - 2. Liabilities and payouts taking place at the Facility are properly recorded and contingent liabilities properly disclosed;
 - 3. Financial records relating to revenues, expenses, assets, liabilities, and equity/fund balances are accurate and reliable;
 - 4. Transactions are performed in accordance with the Commission's general or specific authorization;
 - 5. Access to assets is permitted only in accordance with the Commission's

- approved procedures;
7. Records indicating assets and balances (cash, product) are to be regularly checked against actual amounts and stocks;
 8. Functions, duties, and responsibilities are appropriately segregated and performed in accordance with sound practices by qualified personnel; and
 9. All persons subject to the Medical Cannabis Ordinance comply with the Medical Cannabis Ordinance and its regulations.
- C. The Commission may suspend, revoke, or deny the license of any person found to have falsified records or engaged in illegal transactions of any kind. This would result in an exclusion from the Facility as well.

CHAPTER 10 TESTING

10.1 CONTAMINANT TESTING

Note: See Admendment #1

- A. The purpose of this Chapter is to clarify the means the Commission may utilize to ensure medical cannabis is safe for patient consumption and that any medical cannabis sold for human consumption does not contain contaminants that are injurious to health, and to help ensure sufficient and correct labeling.
- B. Facility management shall, upon request of the Compliance Officer, submit enough medical cannabis to a cannabis testing facility to enable laboratory or chemical analysis thereof. The Compliance Officer will notify Facility management of the results of such analysis. The Facility Management shall maintain the testing results as part of its business books and records. This testing is not to be performed at the Facility.
- C. Except for test samples, Facility Management shall not transport, transfer, or sell medical cannabis until its cultivation or production process has been validated and passed all contaminant tests under these Regulations. Failure to comply with this Chapter may constitute a license violation affecting public safety.
- D. Each harvest batch of medical cannabis must be tested for microbial contamination by a cannabis testing facility. The microbial contamination test must include, but need not be limited to, testing to determine the presence of and amounts present of *Salmonella* sp., *Escherichia coli.*, and total yeast and mold. Each harvest batch of medical cannabis must be visually inspected for toxic amounts of filth, mold, or mildew contamination. The Commission may require additional testing. Additional tests may include, but need not be limited to, screening for Pesticide, chemical contaminants, other types of biological

contaminants, microbials, molds, metals, filth, or residual solvents.

- E. A Facilities' cultivation or production process shall be deemed valid regarding contaminants if every harvest batch that it produced during at least a six (6) week period but no longer than a twelve (12)-week period passed all contaminant tests.
- F. Once a Facility has successfully obtained process validation for contaminants, the process validation shall be effective for one (1) year from the date of the last passing test required to satisfy the process validation requirements. If a Facility makes a material change to its cultivation or production process, then it must have the first five (5) harvest batches produced using the new standard operating procedures tested for all of the contaminants required by these Regulations regardless of whether its process has been previously validated regarding contaminants. If any of those tests fail, then the process must be re-validated.

10.2 POTENCY TESTING

- A. The Commission may, without prior notice, order a Facility to submit a sample of medical cannabis it possesses to a testing facility at any time regardless of whether its process has been validated. Samples collected may be tested for potency or contaminants. Samples may include, but are not necessarily limited to, specific plants or any portion of a plants, any growing medium, water, or other substance used in the cultivation process, or a swab of any equipment or surface.
- B. A test batch submitted for potency testing may only be comprised of samples that are of the same strain of medical cannabis. A potency test conducted pursuant to this Section must effectively determine the level of concentration of THC, THCA, CBD, CBDA and CBN.
- C. Facility management must have potency tests conducted by a testing facility on four (4) harvest batches, created a minimum of one (1) week apart, for each strain of medical cannabis that it cultivates. The first potency test must be conducted on each strain prior to the medical cannabis being sold on the Reservation. All potency tests must be conducted on each strain no later than six (6) months after the Facility begins cultivating that strain. After any initial potency testing, a Facility shall have each strain of medical cannabis that it cultivates tested for potency at least once every six (6) months.

10.3 GENERAL RULES

- A. The Commission will generally permit a Facility to select which cannabis testing facility will test a sample collected pursuant to these Regulations. However, the Commission may elect, at its sole discretion, to assign a testing facility to test the sample. The cost for all sampling and tests conducted pursuant to these Regulations shall be the financial responsibility of the licensee that is required to submit the sample for testing.
- B. If the Compliance Officer has reasonable grounds to believe that a particular harvest batch, package, or quantity of medical cannabis is contaminated or presents a risk to

public safety, then the Commission may require a Facility to quarantine it until the completion of any investigation, which may include the receipt of any test results. If a Facility is notified by the Commission or a testing facility that a test batch failed a contaminant or potency test, then the Facility shall quarantine the medical cannabis. Medical cannabis that has been quarantined must be physically separated from all other inventory and may not be transported, transferred, or sold on the Reservation.

- C. If a Facility is notified by the Commission or a testing facility that a test batch failed contaminant testing, then the Facility management must either destroy and document the destruction of the entire portion of the harvest batch or package from which the test batch came or decontaminate the portion of the package or harvest batch and pass re-testing.

CHAPTER 11 PESTICIDES

11.1 STANDARD OPERATING PROCEDURES

NOTE: See Amendment #1

- A. A Facility may only use pesticide and other agricultural chemicals in accordance with applicable laws, statutes, rules, and regulations. Pesticides used in the cultivation process must meet tolerances established for application to cannabis by the U.S. Environmental Protection Agency, be exempted from EPA tolerances, or be permitted for application to cannabis in other countries if the pesticide is also permitted for application to one or more food crops in the United States. Nutrients used in the cultivation of medical cannabis must be appropriate for use in food production.
- B. No Facility may detach, alter, deface, or destroy, in whole or in part, any label on any Pesticide. A licensed person must have the original label or a copy thereof at its location or Facility for all pesticides and other agricultural chemicals used during its cultivation process.
- C. A Facility must establish written standard operating procedures for the cultivation of medical cannabis. The standard operating procedures must at least include when and how all pesticides and other agricultural chemicals are to be applied during the cultivation process. A copy of all standard operating procedures must be maintained at the Facility. The Facility must follow the manufacturer's application and storage recommendations, and disposal recommendations for the pesticide product, and must follow EPA Worker Protection Standards when preparing and applying pesticides. A Facility also must comply with the pesticide manufacturer's published re-entry interval time periods when applying pesticides.
- D. A Facility that applies any pesticide or other agricultural chemical to any portion of a medical cannabis plant, water, or feed used during cultivation or generally within the Facility must document, and maintain a record at the Facility of, the following information:

1. The name, signature, and license number of the individual who applied the pesticide or other agricultural chemical;
2. The date and time of the application;
3. The EPA registration number of the pesticide or CAS number of any other agricultural chemical(s) applied;
4. Any of the active ingredients of the pesticide or other agricultural chemical(s) applied;
5. Brand name and product name of the pesticide or other agricultural chemical(s) applied;
6. The restricted entry interval from the product label of any pesticide or other agricultural chemical(s) applied;
7. The RFID tag number of the medical cannabis plant(s) that the pesticide or other agricultural chemical(s) was applied to or if applied to all plants throughout the Facility, a statement to that effect; and
8. The total amount of each Pesticide or other agricultural chemical applied.

11.2 PROHIBITED CHEMICALS

- A. The following chemicals shall not be used in medical cannabis cultivation. Possession of chemicals and/or containers from these chemicals at the Facility shall be a violation of these Regulations. These prohibited chemicals include:

<u>Chemical Name – CAS Registry Number (or EDF Substance ID)</u>	
Aldrin – 309-00-2	Arsenic Oxide (3) – 1327-53-3
Asbestos (Friable) – 1332-21-4	Azodrin – 6932-22-4
1, 4 Benzoquinone, 2, 3, 4, 6 – Tetrachloro – 118-75-2	Binapacryl – 485-31-4
2,3,4,5-BIS (2 Butenylene) Tetrahydrofurfural – 126-15-8	Bromoxynil Butyrate – EDF-186
Cadmium Compounds – CAE750	Calcium Arsenate – 7778-44-1 [2ASH304.2CA]
Camphechlor - 8001-35-2	Captafol – 2425-06-1
Carbofuran – 1563-66-2	Carbon Tetrachloride – 56-23-5
Chlordane – 57-74-9	Chlordecone (Kepone) – 143-50-0
Chlordimeform – 6164-98-3	Chlorobenzilate – 510-15-6
Chloromethoxypropylmercuric Acetate [CPMA] - EDF- 183	Copper Arsenate – 10103-61-4
2,4-D, Isooctyl Ester – 5168-26-7	Daminozide – 1596-84-5

DDD – 72-54-8	DDT – 50-29-3
DI (Phenylmercury) Dodecenylsuccinate [PMDS]-EDF-187	1, 2 Dibromo-3-Chloropropane (DBCP) – 96-12-8
1,2 – Dibromoethane – 106-93-4	1,2-Dichloroethane – 107-06-2
Dieldrin – 60-57-1	4,6-Dinitro-o-cresol – 534-52-1
Dinitrobutyl Phenol – 88-85-7	Endrin – 72-20-8
EPN – 2104-64-5	Ethlene Oxide – 75-21-8
Fluoroacetamide – 640-19-7	Gamma-Lindane – 58-89-9
Heptachlor – 76-44-8	Hexachlororbenzene – 118-74-1
1,2,3,4,5,6 – Hexachlorocyclohexane (Mixture of Isomers) – 608-73-1	1,3-Hexanediol, 2-Ethyl – 94-96-2
Lead Arsenate – 7784-40-9	Leptophos – 21609-90-5
Mercury – 7439-97-6	Methamidophos – 10265-92-6
Methyl Parathion – 298-00-0	Mevinphos – 7786-34-7
Mirex – 2385-85-5	Nitrofen – 1836-75-5
Octamethyldiphosphoramidate – 152-16-9	Parathion – 56-38-2
Pentachlorophenol – 87-86-5	Phenylmercuric Oleate[PMO] – EDF-185
Phosphamidon – 13171-21-6	Pyriminil – 53558-25-1
Safrole – 94-59-7	Sodium Arsenate – 13464-38-5
Sodium Arsenite – 7784-46-5	2,4,5-T – 93-76-5
Terpene Polychlorinates (Strobane6) – 8001-50-1	Thallium(I) Sulfate – 7446-18-6
2,4,5-TP Acid (Silvex) – 93-72-1	Tributyltin Compounds – EDF – 184
2,4,5 – Trichlorophenol – 95-95-4	Vinyl Chloride – 75-01-4

- B. The use of Dimethyl sulfoxide (DMSO) in the production of medical cannabis shall be prohibited and possession of DMSO at a Facility is prohibited. A Facility may not treat or otherwise adulterate medical cannabis with any chemical or other compound whatsoever to alter its color, appearance, weight, or smell.

AMENDMENT #1

A. SWO Regulation Recommendations Testing:

In an effort to protect consumer safety the following regulations must be followed:

- 1.) Compliance testing will be facilitated through a State licensed testing laboratory.
- 2.) A licensee or manager will be physically present while obtaining the sample of cannabis or cannabis products for testing to ensure the sample increments are taken from throughout the entire batch.
- 3.) The sampling should be recorded under video with the batch number or UID stated in writing at the beginning of the video with the date and time indicated on the video recording footage. This video shall be maintained for 30 calendar days.
- 4.) Once a sample has been taken the testing batch will be left in a quarantine area on the licensed premises until testing results are released from the licensed laboratory.
- 5.) Cannabis flower may be transported from a licensed cultivator to a licensed manufacturer without acquiring testing.
- 6.) Once a testing batch passes compliance testing as defined by the Cannabis Commission, a testing batch may be repackaged and distributed within the supply chain to licensed cultivators, manufacturers and retailers.
- 7.) A copy of the Certificate of Analysis must be present during the transfer to any other licensed operator.
- 8.) If a testing batch fails compliance testing as defined in the Cannabis Commission, a remediation plan shall be completed by the licensee and kept on file for 12 calendar months. Failed cannabis batches may be transferred to licensed manufacturers, or distributors for remediation after a remediation plan is approved by the Cannabis Commission.
- 9.) The certificate of analysis is valid for 12 calendar months.
- 10.) Cannabis and cannabis products can be labeled before or after batch testing occurs.
- 11.) Cannabis packaging shall be considered inaccurate if the THC, TOTAL THC or CBD is not within 10% of the Certificate of Analysis in either direction.

Chapter 10 amendments: Section D: Testing requirements Potency, Pesticide and Microbials

Transport:

- 1.) Transportation shall be conducted between licensed entities within the boundaries of the Sisseton Wahpeton Oyate of the Lake Traverse Reservation.

- 2.) All transfers to or from another Federally recognized Tribe will be facilitated only by the tribe or a wholly owned entity thereof.
- 3.) Prior to transporting cannabis, the licensee shall have a completed sales invoice.
- 4.) A licensed employee shall always carry a copy of the license issued through the Cannabis Commission.
- 5.) Cannabis and cannabis products shall be transported in a fully enclosed vehicle or trailer.
- 6.) While left unattended transportation vehicles must be locked and secure.
- 7.) Packages containing cannabis will not be tampered with during transportation.
- 8.) Vehicles and trailers transporting cannabis are subject to inspection by the Cannabis Commission at any licensed premises or during transport at any time.

C. Shipping Manifest:

- 1.) Prior to the transportation of cannabis or cannabis good a licensee shall generate a shipping manifest.
- 2.) Copies of shipping manifest will be held on site for 12 calendar months, and available to the Cannabis Commission at any time.
- 3.) Shipping manifest shall include:
 - a.) Manifest Number
 - b.) Originating Entity
 - c.) Address of Originating Entity Originating License number
 - d.) Destination License number
 - e.) Address of Destination
 - f.) Date Created
 - g.) Route Traveled
 - h.) Date and Time of Departure Approximately
 - i.) Date and Time of Arrival Approximately Layover schedule if applicable
 - j.) Contact Phone Number
 - k.) Name of person Transporting
 - l.) Driver's License Number of Person Transporting
 - m.) Employee ID
 - n.) Make Model and License Plate Number of Transportation Vehicle

- o.) Product UID's
- p.) Name of Item Being Transported
- q.) Quantity of Item being Transported
- r.) Name of Person Receiving or Rejecting Product Signature of Person Receiving or Rejecting
- s.) Product Date Written by person Receiving or Rejecting Product

D. Permissible Extractions:

- 1.) Mechanical Extractions
- 2.) Water Extraction
- 3.) Chemical Extraction using a nonvolatile solvent
- 4.) Chemical extraction using CO2 gas in a professional closed loop extraction system.
- 5.) Any solvents used for extraction processing shall meet the following requirements: Hydrocarbon based solvents should be at least 99 percent purity, nonhydrocarbon-based solvents shall be food grade, Ethanol shall be food grade.
- 6.) Water and Dry Ice shall be potable.
- 7.) Dry Ice shall be food grade
- 8.) Licensed manufacturers shall maintain copies of the safety data sheets for any chemical solvents used and make these readily available to employees and the Cannabis Commission upon request.
- 9.) Closed loop systems must be commercially manufactured and retain a permanent and visible serial number.
- 10.) After installation and before use the closed loop system must be certified by an (approved) licensed engineer. The engineer must check that the machine was commercially manufactured, safe for use with the intended solvent, and built and installed to codes of recognized and generally accepted good engineering practices.
- 11.) Volatile Extraction will only be conducted by the tribe or a wholly owned entity thereof.

E. Quality Control Manufacturing:

- 1.) Licensee must establish and implement a quality control program to ensure that cannabis products are not adulterated. The Quality Control program should include how the licensee will comply with the following: Grounds, building, and premise standards, personnel procedures, and Manufacturing processes procedures.
- 2.) Running water shall be supplied in all areas used for cleaning equipment, utensils.
- 3.) A licensed manufacturing facility shall provide a hand washing station.

4.) The premises, including fixtures, and other physical facilities therein, shall be maintained in a clean and sanitary condition and kept in good condition so to prevent the contamination of cannabis goods and keep cannabis goods from becoming adulterated.

F. Cannabis Product Components:

1. Raw materials shall be inspected upon intake to ensure that they are clean and suitable for manufacturing cannabis products, and shall be stored under conditions that protect against cross-contact and contamination.

2. Raw materials shall be washed or cleaned as necessary to remove soil and other visible contaminants. Water used for washing should be potable water.

3. Frozen raw material shall remain frozen. If thawing is required prior to use, it shall be done in a manner that prevents the raw materials and ingredients from becoming adulterated.

4. Raw materials and other components that are food allergens shall be identified and stored in a manner that prevents cross-contact with other raw materials or ingredients.

G. Manufacturing procedures:

1. Licensee shall implement and maintain a product quality plan.

2. Licensee shall implement and maintain batch production records which include: UID batch number, label, date, employee id, time, ingredients, Employee signature, intended cannabinoid amount.

H. Product Quality Plan:

1.) Identify each step from intake through the transfer of product.

2.) Evaluate potential risks associated with each step.

3.) Identify preventative measures to mitigate each risk.

4.) Identify methods to evaluate and monitor the effectiveness of each preventative measure.

5.) Cleaning and sanitizing if equipment and utensils to mitigate risk of microbiological hazards.

6.) Implementing procedures to promote homogeneity of cannabinoids into cannabis products.

I. Product Complaints:

1.) A licensee shall review all product complaints made to the licensee.

2.) A licensee shall keep written record of all product complaints and include, batch UID, description of cannabis good, date the complaint was received, name address and telephone number of the complainant, nature of complaint, reply to the complaint, findings of the investigation, and follow up action taken.

J. Product Packaging:

All product packaging shall contain:

1.) Universal Symbol: .5 x .5 in at minimum

On the front of the packaging

2.) Net wt. in US and **Metric**

3.) **GOVERNMENT WARNING:** For Cannabis Products: “GOVERNMENT WARNING: THIS PRODUCT CONTAINS MARIJUANA. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”

4.) Product Identity: If the cannabis product is infused “Cannabis Infused” must be prominently shown on the front of the packaging

5.) License number of producer

6.) Website or phone number of producer

7.) Batch Number and UID

8.) Package Date

9.) Expiration Date if Applicable

10.) Child resistant if not single use

K. Products:

1.) Edibles: maximum of 10 mg doses delineated totaling 100 mgs THC in any package. There is no limit on CBD per package

2.) CBD under 2% is not required to be listed on packaging

3.) Tinctures: 1000 mg per package

4.) Cannabinoids listed on packaging: SUM, Total THC, THC, CBD

5.) Terpenes optional

6.) Other Cannabinoids optional

7.) Ingredients if applicable

8.) Instructions if applicable

9.) Allergy Warning if applicable

L. Retail:

- 1.) Customer Access to the Retail Area: Individuals shall be granted access to the retail area to purchase cannabis goods only after the retailer or an employee of the retailer has confirmed the individual's age and identity.
- 2.) The licensed retailer or at least one employee shall be physically present in the retail area at all times when individuals who are not employees of the licensed retailer are in the retail area.
- 3.) All sales of cannabis goods must take place within the retail area of the retailer's licensed premises, except for cannabis goods sold through delivery, a drive-in or drive-through window
- 4.) A licensed retailer authorized to engage in storefront sales at their licensed premises may conduct sales through curbside delivery if safety protocols are in place.
- 5.) Cannabis products that have been purchased by a customer may be delivered to the customer in a vehicle parked immediately outside the licensed retail premises. Curbside delivery of cannabis goods must occur under video surveillance within 30 feet of the licensed retail facility.
- 6.) Retail employees engaging in curbside delivery must verify each customer's age

M. Hours of Operation: 7am-10pm

Requirements While Not Open for Business

At any time, the licensed premises is not open for retail sales, a licensed retailer shall ensure that:

- 1.) The licensed premises is securely locked with commercial-grade, nonresidential door locks
- 2.) The licensed premises is equipped with an active alarm system of this division, which shall be activated when the licensed retailer or its employees are not on the licensed premises; and
- 3.) Only employees of the licensee and other authorized individuals are allowed access to the licensed premises. For the purposes of this section, authorized individuals include individuals employed by the licensee as well as any outside vendors, contractors, or other individuals conducting business that requires access to the licensed premises.

N. Retail Customers:

Acceptable forms of identification include the following: A valid Medical Card issued by the SWO Licensing department, a medical card issued by any other federally recognized tribe or a Medical Card issued by a state.

O. Cannabis Goods Display.

- 1.) Cannabis goods for inspection and sale shall only be displayed in the retail area.
- 2.) Cannabis and cannabis products may be removed from their packaging and placed in containers to allow for customer inspection. The containers shall not be readily accessible to customers without assistance of retailer personnel. A container must be provided to the customer by the licensed retailer or its employees, who shall remain with the customer at all times that the container is being inspected by the customer.

3.) Cannabis and cannabis products removed from their packaging for display shall not be sold or consumed when the cannabis and cannabis products are no longer used for display.

P. Cannabis Goods for Sale

A licensed retailer shall not make any cannabis or cannabis products available for sale to a customer unless:

- 1.) The cannabis products were received by the licensed retailer from a licensed distributor, cultivator, or manufacturer.
- 2.) The licensed retailer has verified that the cannabis goods have not exceeded their best-by, sell-by, or expiration date if one is provided;
- 3.) The cannabis goods have undergone regulatory compliance testing
- 4.) The batch number, if any, is labeled on the package of cannabis goods and matches the batch number on the corresponding certificate of analysis for regulatory compliance testing; Or the correlating source bath of concentrate used to manufacture such cannabis goods.
- 5.) The packaging and labeling of the cannabis goods comply with SWO regulations;
- 6.) The cannabis goods comply with all applicable requirements found in the regulations

Q. Daily Limits

- 1.) A medical card holder may purchase up to 3 oz of cannabis flower every 14 days.
- 2.) A medical card holder may purchase up to 6,000 mgs of THC in the form of a cannabis product every thirty days.

R. Customer Return of Cannabis Goods

- 1.) For the purposes of this section, “customer return” means a customer's return of cannabis goods that were purchased from a licensed retailer, back to the licensed retailer from whom the cannabis goods were purchased.
- 2.) A licensed retailer may accept customer returns of cannabis goods that were previously sold to a customer.
- 3.) A licensed retailer shall not resell cannabis goods that have been returned.
- 4.) A licensed retailer shall treat any cannabis goods abandoned on the licensed retailer premises as a customer return.
- 5.) Defective manufactured cannabis products returned by customers to a licensed retailer may be destroyed or returned to the licensed distributor, cultivator or manufacturer from whom the cannabis goods were obtained.

S. Prohibition on Packaging and Labeling by a Retailer

- 1.) A licensed retailer shall not package or label cannabis goods.

T. Inventory Documentation

A licensed retailer shall maintain an accurate record of its inventory. A licensed retailer shall provide the Cannabis Commission with the record of inventory immediately upon request. A licensed retailer shall keep a record of the following information for all cannabis goods the licensed retailer has in its inventory:

- 1.) A description of each item such that the cannabis goods can easily be identified;
- 2.) An accurate measurement of the quantity of the item;
- 3.) The date and time the cannabis goods were received by the licensed retailer;
- 4.) The sell-by or expiration date provided on the package of cannabis goods, if any;
- 5.) The name and license number of the licensed manufacturer will be on the cannabis goods.
- 6.) All cannabis products will be tracked and traced through Flourish.

U. Inventory Reconciliation

- 1.) A licensed retailer shall be able to account for all of its inventory.
- 2.) In conducting an inventory reconciliation, a licensed retailer shall verify that the licensed retailer's physical inventory is consistent with the licensed retailer's records pertaining to inventory.
- 3.) The result of inventory reconciliation shall be retained in the licensed retailer's records and shall be made available to the Cannabis Commission upon request.
- 4.) If a licensed retailer identifies any evidence of theft, diversion, or loss, the licensed retailer shall notify the Cannabis commission within 10 business days.
- 5.) If a significant discrepancy of more than five percent is discovered between a licensed retailer's physical inventory and the licensed retailer's inventory records, the licensed retailer shall notify the Cannabis Commission within 10 business days. Retailer Premises-to-Retailer Premises Transfer
- 6.) A licensee who holds multiple retail licenses may arrange for the transfer of cannabis goods from one licensed retail premises to another licensed retail premises if both retail licenses are held by the same sole proprietor or business entity.
- 7.) Cannabis goods transferred to a licensed retail premises may be sold by the licensed retailer receiving the cannabis goods only if the cannabis goods comply with all requirements found in the regulations.
- 8.) The transportation of cannabis and cannabis products under this section must comply with all requirements found within the regulations.
- 9.) Any movement of cannabis goods under this section shall be properly entered into the track and trace system.

V. Security Regulations:

Licensing Fees:

Indoor cultivation defined as Indoor: 2\$ per sq ft

Indoor Cultivation defined as Greenhouse: 1\$ per sq ft

Indoor Retail Facility: \$15,000.00 Renewal \$7500.00

Small Non-Volatile Manufacturing up to 2,500 sq feet: \$10,000.00 Renewal \$5,000

Large Non-Volatile Manufacturing 2501-5000 sq ft: \$20,000 Renewal: \$10,000

Tribe owned Volatile Manufacturing: \$25,000.00 Renewal: \$12,500

Tribe owned Testing Facility: \$25,000.00 Renewal: \$12,500

Application Fee: \$1000.00

W. Social Equity Licensing Fee Waiver:

Any 100% member owned entity will be granted an equity fee waiver that will waive the first year of licensing fees. Once granted license renewal from the Cannabis Commission, the equity applicant will be required to pay the renewal fee set out in the regulations.

X. Social Equity: Any 100% tribal member owned entity.

Y. Track and Trace: Flourish Research and Development waiver: a special waiver given in place of a license.

Z. Cannabis products:

Indoor Cultivation License:

An indoor cultivation license authorizes the licensee to grow cannabis plants within an enclosed structure.

AA. Section X: Research and Development (R&D) Waiver for Sun-Grown Cannabis Cultivation. This waiver is subject to a Research and Development gross tax of 10% due on the date that the license would be set to renew. Fees are due whether or not the license is renewed.

Purpose:

To allow for the exploration and development of sun-grown cannabis cultivation methods within the regulatory framework of the SWO cannabis program.

Eligibility:

SWO members and districts who wish to engage in sun-grown cannabis cultivation for the purpose of research and development.

BB. Application Process:

1.) Proposal Submission:

Interested SWO members and districts must submit a detailed proposal outlining the objectives, methodology, and expected outcomes of the sun-grown cultivation research.

The proposal must include a plan for ensuring compliance with existing regulatory requirements, including security, environmental impact, and public safety measures.

2.) Review and Approval:

The SWO Cannabis Commission will review the proposals based on criteria such as innovation, feasibility, and potential benefits to the cannabis industry and the tribal community.

Approved proposals will be granted an R&D waiver, allowing the cultivator to proceed with the sun-grown cultivation project.

CC. Conditions and Compliance:

Fee waived for the purpose of research and development. Subject to a Research and Development Tax.

Up to an acre of Cultivation

Duration:

The R&D waiver will be granted for a specified period of one year with the possibility of renewal based on the progress and findings of the research.

Reporting:

Waiver recipients must submit regular progress reports to the SWO Cannabis Commission, detailing the cultivation practices, data collected, and any preliminary findings.

A final report must be submitted at the end of the waiver period, summarizing the research outcomes and providing recommendations for future sun-grown cultivation practices.

Regulatory Compliance:

All sun-grown cultivation activities under the R&D waiver must adhere to the security, environmental, and safety regulations outlined in the SWO cannabis program.

Any deviations from the approved proposal must be reported to and approved by the SWO Cannabis Commission.

The Tribe and the Cannabis Commission will have access to grow sites awarded a Research and Development Waiver to conduct data collection and testing that will aid in the further progression of the Sisseton Wahpeton Oyate of the Lake Traverse Reservation Cannabis program as a whole.

Amendment #2

4.3 General Licensing Procedures

E. Provisional licenses will be issued immediately upon submission of an application, and each licensee will have 90 days to come into compliance. Cannabis operations cannot begin until track and trace requirements are met. One extension per license may be granted by the Cannabis Commission at their discretion. Provisional licenses expire after 90 days, and an operational inspection must be scheduled and completed before the initial provisional license expires. Once an inspection with the Cannabis Commission is completed, and all regulatory requirements are met, a licensee will be issued a Certificate of Compliance and annual license will be issued at that time.

F. A licensee can request in writing to have a one-time extension of 3 months. This extension is at the discretion of the Commission.

**Revised 7/24/24 : To Add additional language to 4.3 Types of Licenses.