

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA
ORDINANCE #02/24
CANNABIS REGULATORY ORDINANCE

Approved by Resolution #1087/24 of the Fond du Lac Reservation Business Committee on February 27, 2024.

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

ORDINANCE #02/24

Cannabis Regulatory Ordinance

Chapter 1. General Provisions

Section 1.1. Purpose and Scope.

- A. This Ordinance regulates matters relating to cannabis, including but not limited to, the use, possession, cultivation, production, sale, and transport of cannabis products within the Band’s Indian country.
- B. This Ordinance consolidates all regulatory responsibility related to cannabis in the Cannabis Regulatory Commission, an agency of the Band, in order to further the economic development and health, safety and welfare goals of the Band.
- C. This Ordinance applies to the Band, Band members, Band businesses operating with the Band’s Indian country, and visitors to the Band’s Indian country who voluntarily consent to the jurisdiction of by affirmative actions that establish such consent, including by patronizing a business regulated under this ordinance.
- D. Nothing in this Ordinance shall be or be deemed to be a waiver of the Band’s sovereign immunity.

Section 1.2. Definitions

- A. “Adult Use Cannabis Product” means marijuana flower, concentrate, and edibles that are cultivated, produced, distributed, and sold in compliance with this Ordinance. This includes adult use cannabis products that are acquired from a state licensed cannabis business, or a cannabis business licensed by another Indian tribe.
- B. “Adult Use Cannabis Flower” means the harvested flower, bud, leaves, and stems of a marijuana plant that is cultivated, processed, distributed, and sold in compliance with this Ordinance. This includes adult use cannabis flower that is acquired from a state licensed cannabis business, or a cannabis business licensed by another Indian tribe.
- C. “Adult Use Cannabis Edible” means any product that is intended to be eaten or consumed as a beverage by humans and contains Adult Use Cannabis Concentrate in combination with food ingredients that is produced, distributed, and sold in compliance with this Ordinance. This includes adult use cannabis edibles that are acquired from a state licensed cannabis business, or a cannabis business licensed by another Indian tribe.
- D. “Adult Use Cannabis Concentrate” means: (1) the extracts and resins of a marijuana plant or flower; (2) the extracts or resins of a marijuana plant or flower that are refined to increase the presence of targeted cannabinoids; or (3) a product that is produced by refining extracts or resins of a marijuana plant or flower and is intended to be consumed by combustion or vaporization of the product and inhalation of smoke, aerosol, or vapor from the product, and is produced, distributed, and sold in compliance with this

Ordinance. This includes adult use cannabis concentrates that are acquired from a state licensed cannabis business, or a cannabis business licensed by another Indian tribe.

- E. “Hemp” means the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, including the plant's seeds, and all the plant's derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.
- F. “Marijuana” means all parts of the plant of any species of the genus *cannabis*, including all agronomical varieties, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. Marijuana does not include hemp.

Section 1.3. Hemp Products.

This Ordinance applies to the cultivation, production, and sale, of hemp products, except that: (i) The Cannabis Commission may promulgate regulations specific to the cultivation, production, and sale of hemp products that are different than what would otherwise be required under this Ordinance; and (ii) The Band, its enterprises, or members may cultivate, produce and sell hemp products in compliance the Fond du Lac Band of Lake Superior Chippewa Hemp Production Plan, Fond du Lac Ordinance #02/23. The quantity limitations on possession of cannabis products in this Ordinance do not apply to hemp products.

Chapter 2. Cannabis Regulatory Commission

Section 2.1. Establishment; Purpose; Delegation of Authority.

A. Establishment and Purpose.

The Cannabis Regulatory Commission is established as civil regulatory agency of the Band having oversight of all cannabis-related matters within the Band's jurisdiction, through Compact, Ordinance, Reservation Business Committee Resolution, or otherwise. The Commission is an instrumentality of the Band government, sharing the Band's sovereign immunity, and nothing in this Ordinance shall be or be deemed to be a waiver of the Commission's sovereign immunity.

B. Delegation of Authority.

The Fond du Lac Reservation Business Committee delegates to the Commission the following authority to:

- (i) promulgate regulations with respect to the provisions of this Ordinance, and to amend and repeal such regulations;
- (ii) hire staff or agents, delegate powers to such staff or agents, and to oversee such staff and agents;
- (iii) impose and administer fees and taxes on entities licensed under this Ordinance;
- (iv) sue in the Fond du Lac Tribal Court for civil regulatory violations of this Ordinance;
- (v) issue, suspend, and revoke licenses as provided in this ordinance or regulations issued under this ordinance;
- (vi) audit, inspect and monitor entities licensed under this Ordinance in order to ensure compliance with this Ordinance and to assess the effectiveness of this Ordinance and regulations enacted under this Ordinance;
- (vii) investigate and aid in prosecution of any suspicion of wrongdoing relating to cannabis activities and any suspected violation of this Ordinance, cooperate with law enforcement and regulators, and cooperate in prosecution of offenders before any court of competent jurisdiction;
- (viii) enforce the requirements of this Ordinance and any Cannabis Commission regulations;
- (ix) exercise all powers incidental, convenient or necessary to enable it to administer or carry out any of the provisions of this Ordinance; and
- (x) carry out any other regulatory duties with respect to cannabis and cannabis activities as the Reservation Business Committee shall direct.

C. Retained Authority of the Reservation Business Committee

- (i) The Reservation Business Committee retains the authority to veto or disapprove any decision by the Commission to promulgate, amend or repeal a regulation;
- (ii) The Reservation Business Committee retains the authority to veto or disapprove any decision by the Commission setting or removing taxes of fees on entities licensed under this Ordinance; and

- (iii) The Reservation Business Committee retains the authority to veto or disapprove any decision by the Commission to issue, deny, suspend, or revoke a license under this Ordinance.

Section 2.2. Composition; Election of Members; Term.

A. Members

- (i) The Commission shall consist of 5 members, appointed by the Reservation Business Committee. The members shall be appointed on an at-large basis.
- (ii) The Commission shall designate members as Chair, Vice-Chair, Secretary, and Treasurer. The Chair shall preside over meetings of the Cannabis Commission and the Vice-Chair shall preside in absence of the Chair. The Secretary shall record in writing the minutes of all Cannabis meetings and all official actions taken by the Cannabis Commission.

B. Term of Office.

Commission Members shall serve three-year terms, subject to the provisions in this subsection governing the initial terms of office. The initial term of the Commission Members shall be as follows: (i) 2 Members shall be appointed to 2-year terms; (iii) 3 members shall be appointed to a 3-year term. Following the first terms of office; all Commission members shall serve for a three (3) year term.

C. Qualifications and Eligibility.

- (i) The following individuals may not serve as Cannabis Commissioners: members of the Reservation Business Committee or the Band's Tribal Gaming Regulatory Authority; members of the board of directors of any licensee or tribally-owned enterprise that engages in any cannabis activity; and employees of any licensee or tribally-owned enterprise that engages in any cannabis activity.
- (ii) A Cannabis Commissioner must be: age 21 or older; and, an enrolled member of the Band residing within the State of Minnesota.

D. Removal

Cannabis Commissioners may only be removed from office before the expiration of their term of office by the Reservation Business Committee for neglect of duty, malfeasance, misfeasance, nonfeasance, or other good cause shown.

Section 2.3. Meetings; Actions of the Commission.

A. Meetings.

- (i) The Cannabis Commissioners shall meet as frequently as necessary to discharge their duties, but in no case less frequently than once a quarter at a time and date to be determined by the Cannabis Commissioners.
- (ii) A Cannabis Commissioner may call a special meeting when necessary. Notice of special meetings shall be given in writing to each Cannabis Commissioner, served by first class mail for delivery at least five (5) business days prior to any special meeting, or by email if the Commissioner agrees in writing to electronic notice. Any or all of the

Cannabis Commissioners may participate in any meeting by, or conduct the meeting through, use of any means of communication by which all individuals participating may simultaneously hear each other during the meeting.

B. Quorum

Three Cannabis Commissioners shall constitute a quorum of the Cannabis Commission.

C. Commission Actions

All actions of the Cannabis Commission shall be taken by an affirmative vote of at least two Cannabis Commissioners.

Section 2.4. Reports

On or before January 20 of each year, the Cannabis Commission shall provide to the Reservation Business Committee an Annual Report, summarizing its activities during the prior fiscal year and accounting for all receipts and disbursements. This annual report shall identify, without limitation, all licenses that the Cannabis Commission issued, suspended, or revoked; all license applications that the Cannabis Commission denied; all fees that the Cannabis Commission collected; all enforcement actions that the Cannabis Commission commenced; all sanctions that the Cannabis Commission imposed; and all dates on which any Cannabis Commission staff engaged in investigation of a licensee and the nature of the investigation. The Cannabis Commission may provide the Reservation Business Committee with additional reports on a more frequent basis as the Cannabis Commission concludes is necessary and appropriate.

Chapter 3. Adult Possession and Use

Section 3.1. Possession by Adults Permitted.

Adults age 21 years or older may:

- (i) possess or transport two ounces or less of Adult Use Cannabis Flower in a public place;
- (ii) possess two pounds or less of Adult Use Cannabis Flower in the individual's private residence
- (iii) possess or transport eight grams or less of Adult Use Cannabis Concentrate;
- (iv) possess or transport Adult Use Cannabis Edible products with a combined total of 800 milligrams or less of tetrahydrocannabinol; and
- (v) use, possess, or transport cannabis paraphernalia.

Section 3.2. Adult Use Permitted.

- A. Subject to the limitations in Section 3.2.B(iii) and (iv), adults age 21 years or older may use Adult Use Cannabis products in the following locations:
 - (i) a private residence, including the individual's curtilage or yard;
 - (ii) on private property that is not generally accessible by the public, unless the individual is explicitly prohibited from consuming cannabis products on the property by the owner of the property;
 - (iii) on the premises of an establishment or event licensed to permit on-site consumption; and
 - (iv) in public outdoor spaces.
- B. An individual may not:
 - (i) use cannabis products in a motor vehicle;
 - (ii) use cannabis products in any Band government building;
 - (iii) use cannabis products in a manner that involves the inhalation of smoke, aerosol, or vapor at any location where smoking is prohibited by law, regulation, or policy of the location, or in any location where the smoke, aerosol, or vapor could be inhaled by a minor;
 - (iv) use cannabis products in any location where cannabis use is prohibited by the owner, manager, or other entity with authority over the location, and notice of such prohibition is posted; or
 - (v) operate a motor vehicle or watercraft while under the influence of cannabis.

Section 3.3. Home Cultivation Permitted.

A. Cultivation Limits.

Up to eight cannabis plants, with no more than four being mature, flowering plants may be grown at a single residence, including the curtilage or yard, without a license to cultivate cannabis issued

under this chapter provided that cultivation takes place at the primary residence of an individual 21 years of age or older and in an enclosed, locked space that is not open to public view.

B. Exception to the Possession Limits.

An adult age 21 years or older may lawfully possess in their residence all cannabis flower cultivated in compliance with this Section, notwithstanding the limitations that would otherwise apply to possession in a residence.

Chapter 4. Licensing

Section 4.1. General Provisions.

A. Eligibility

The Commission may issue licenses under this ordinance to the Band and entities wholly-owned by the Band that are established under Band law.

B. Term of License

A license issued under this ordinance shall have a term of four years. The Commission shall establish by regulation the rules and procedures for renewal of a license.

Section 4.2. Application

A. All applicants must submit the following information:

- (i) Identification of directors (or equivalent office as applicable to the legal entity) and management employees;
- (ii) Identify the license category or categories and any endorsements sought by the applicant;
- (iii) Address and legal property description of the business;
- (iv) Operating procedures (including the plans for compliance with inventory, safety testing, and security) applicable to the license category sought;
- (v) To the extent not included in (iv):
 - a. a general description of the location or locations that the applicant plans to operate, including the planned square feet of planned space for cultivation, wholesaling, and retailing, as applicable;
 - b. a copy of the applicant's business plan showing the expected size of the business; anticipated growth; the methods of record keeping; the knowledge and experience of the applicant and any officer, director, manager, and general partner of the business; the environmental plan; and other relevant financial and operational components;
- (vi) certification that the applicant will comply with the requirements of this chapter relating to the ownership and operation of a cannabis business;
- (vii) identification of one or more controlling persons or managerial employees as agents who shall be responsible for dealing with the Commission on all matters; and
- (viii) any other information that the Commission may require.

B. Fees

Each application shall be accompanied by a fee set by the Commission or, if the Commission has not set a fee, a fee of \$50.

Section 4.3. Cannabis Business Licenses

A. The Commission may issue licenses for the following categories of cannabis business:

- (i) Cultivation;
- (ii) Production and Processing;
- (iii) Retail;
- (iv) Wholesale/Distribution;
- (v) Transport;
- (vi) On-site Consumption;
- (vii) Event and Temporary Licenses; and
- (viii) Hemp-Derived Products – Processing, Distribution and Retail.

B. Combination License.

The Commission may issue a single license with endorsements to operate any combination of the cannabis business categories provided in this Chapter.

C. Employees of Licensee.

As a condition of employment, all employees of a licensee must:

- (i) Meet the qualifications for “NA” employees under Fond du Lac Ordinance #13/94, Non-Gaming Character Investigations and Employment Prohibitions;
- (ii) Certify that they will comply with this Ordinance and the license conditions of their employer; and
- (iii) Comply with any other conditions that the Commission may impose.

Section 4.4. Reciprocity for Tribal and State Licensees

A. Tribal Licensees.

A person holding, or operating under, a valid cannabis business license issued by an Indian tribe within the State may, without obtaining any additional license from the Band, may engage in cannabis commerce with a business licensed under this Ordinance to the extent permitted under the issuing Band’s license conditions.

B. State Licensees.

A person holding, or operating under, a valid cannabis business license issued by the State of Minnesota, without obtaining any additional license from the Band, may engage in cannabis commerce with a business licensed under this Ordinance to the extent permitted under a compact that is in effect between the Band and State.

Section 4.5. Suspension, Revocation, and Other Enforcement Actions

A. Grounds for Enforcement Actions.

A license issued under this Ordinance may be suspended or revoked if the Licensee, its employees or agents:

- (i) Violates of any provision of this Ordinance, any Cannabis Commission regulation, or license condition;
- (ii) Makes any false representation or statement to the Cannabis Commission;
- (iii) Fail to submit any information or report to the Cannabis Commission or maintain any records that are required by this Ordinance, the Cannabis Commission regulations, the licensee's license, or that are necessary for Cannabis Commission staff to perform its duties;
- (iv) Maintains any licensed premises in unhealthy, unsafe, insanitary, or insecure condition;
- (v) Fails to maintain adequate security protocols to prevent the theft or other loss of cannabis items in the licensee's possession;
- (vi) Misrepresents to any person the condition, quality, or content of any cannabis item in the possession of or transferred by the licensee;
- (vii) Obstructs or impedes the performance of the duties of the Cannabis Commission; or
- (viii) Becomes ineligible to hold a license due to a change in circumstances such that the licensee or permittee has failed to meet the minimum requirements for a license.

B. Commencement of Enforcement Action

- (i) An enforcement action is commenced by a Commissioner, or Commission agent, submitting, in writing, an initiating report to the Cannabis Commission.
- (ii) The initiating report shall: (1) set forth allegations of the grounds for the enforcement action against the licensee who is the subject of the enforcement action with sufficient particularity that the licensee has the ability to identify the grounds for the enforcement action and respond to the allegations; (2) identify the evidence and information that are the grounds for determining that an enforcement action is justified; and (3) identify the sanction or sanctions that are appropriate in light of the allegations against the licensee.

C. Notice of Enforcement Action

- (i) After receiving the initiating report, the Cannabis Commission shall provide written notice to the licensee of the enforcement action, which notice shall include the allegations of and any sanctions proposed in the initiating report.
- (ii) The notice of enforcement action shall explain that the licensee has the right to respond to the allegations of the initiating report and shall identify the process that the licensee must follow to do so, including any fee that the licensee or permittee must pay.
- (iii) The notice must permit the licensee not less than ten (10) days to respond to the notice.

D. Hearing

- (i) **Scheduling.** If the Licensee timely responds to the notice to challenge the allegations of and any sanctions proposed in the initiating report and pays any fee that the Cannabis Commission may establish for filing such a response, then the Cannabis Commission shall schedule a hearing, which hearing shall be held within thirty (30) days of the Cannabis Commission receiving the response from the licensee or permittee. The Cannabis Commission shall provide the licensee or permittee with not less than ten (10) days written notice of the date and time when the hearing will be held.
- (ii) **Prosecution.** The Commissioner or Commission agent who initiated the enforcement action may prosecute it at the hearing, or the Commission may appoint another Band official to conduct such prosecution. A Commissioner who conducts a prosecution shall not take part in the Commission's decision on the enforcement action.
- (iii) **Procedure.** The Commission may establish procedural rules for hearing by regulation or resolution, provided that the such procedures give the subject of the enforcement action a fair opportunity to be represented by counsel, rebut the allegations against them, and present legal argument and evidence.
- (iv) **Evidence.** At the hearing, the prosecuting official and any person who is the subject of the hearing shall have the right to subpoena evidence, compel witness attendance, and present relevant oral and written evidence.
- (v) **Legal Standard for Commission Decisions.** The Commission shall weigh the evidence, testimony and exhibits and make its decision on the basis of a preponderance of the evidence and credibility of the evidence and witnesses.
- (vi) **Issuance of Decision.** The Cannabis Commission's decision shall be issued in writing within thirty (30) days of the hearing, and the decision shall include a statement of facts and a statement of legal authority on which the decision is based. Each decision shall be delivered to the party for whom the hearing was held and shall include information and instructions for appealing the decision

E. Default

If the party who is the subject of the enforcement action does not respond to the notice, then the Commission may accept as true any allegations contained in the initiating report. It may then decide either to impose a sanction on the licensee based solely on the information presented in the initiating report, or to request or compel the submission of additional information and evidence to the Cannabis Commission, based on which the Cannabis Commission may decide whether to impose a sanction. The Cannabis Commission shall issue its decision in writing without unreasonable delay.

F. Sanctions

The Cannabis Commission has authority to impose any sanction or sanctions that it concludes are necessary and appropriate to punish wrongdoing, deter further violations of this Ordinance and the Cannabis Commission regulations, and protect the integrity of the regulatory system. Sanctions that the Cannabis Commission may impose include but are not limited to:

- (i) **Barring a licensee or certain of its employees or agents from accessing premises to which a license is appurtenant;**

- (ii) Suspension or revocation of a license;
- (iii) Imposition of a fine; and
- (iv) Requiring the licensee or employees of the licensee who are the subject of the enforcement action to complete a remedial action, such as completion of educational or training courses, remedying an out-of-compliance condition on the licensed premises, or submission of reports or other information to the Cannabis Commission.

G. Appeal

- (i) Any decision of the Commission with respect to any applicant or licensee may be appealed to the Tribal Court. Any such appeal must be filed within thirty (30) days after the decision of the Cannabis Commission is issued, unless a different time frame is otherwise specified or required by applicable Cannabis Commission regulations. After the filing of a Notice of Appeal, the Cannabis Commission shall prepare and submit to the Tribal Court within fifteen (15) days the Administrative Record of the relevant Cannabis Commission hearing.
- (ii) The parties to the appeal, the person appealing the decision of the Cannabis Commission and the respondent Cannabis Commission, shall have the opportunity to submit written arguments on the issues presented by the appeal and, in the discretion of the Court, participate in hearing or oral argument before the Court.
- (iii) The Court shall review the Cannabis Commission's decisions de novo on questions of law and for clear error on questions of fact. The Court is authorized to reverse a decision made by the Cannabis Commission only where the Court of Appeals finds that: a. the Cannabis Commission's decision was unreasonable, arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable law; b. the Cannabis Commission exceeded its jurisdiction, authority, or limitations under applicable tribal law; or c. the Cannabis Commission's decision is unsupported by substantial evidence or unwarranted by the facts presented, either orally or substantively.
- (iv) The Court's rulings shall be subject to further appeal on the same basis as any other civil action in Tribal Court.

Section 4.6. Emergency Enforcement Actions

- A. A Commissioner, or authorized Commission agent, may, upon finding reason to believe that a licensee or employee of a licensee has engaged in conduct that would be grounds for sanction and which presents an imminent threat to the safety of the Band, suspend a license without notice or hearing for up to 72 hours.
- B. The Commission may authorize the extension of a suspension issued under 4.4(A) until completion of the hearing process, or satisfaction of conditions imposed by the Commission.

Chapter 5. Permitted Products and Safety Testing Requirements

Section 5.1. Permitted Products.

A cannabis business licensed under this ordinance may, as applicable under its license category and license conditions, and in compliance with this ordinance: cultivate, produce, distribute, transport, sell, purchase, or possess adult use cannabis flower, cannabis edibles, and cannabis concentrate.

Section 5.2. Testing

A. Testing Required.

Adult use cannabis products may only be sold at retail if a representative sample of each batch of cannabis products has been tested in compliance with this Section and meets the safety standards of this Chapter and any rules or regulations adopted under this Ordinance.

B. Testing Standards.

The following standards apply to safety testing:

- (i) Testing must be completed by a cannabis testing facility approved by the Commission or licensed by the State;
- (ii) The tested sample from each plant or product batch must be selected according to procedures approved by the Commission; and
- (iii) Testing must be sufficient to determine the cannabinoid profile of the tested product and that the product contains no more than trace amounts (as determined under Section 5.2.C) of residual solvents, foreign material, microbiological contaminants, heavy metals, pesticide residue, and mycotoxins.

C. Testing for Contaminants.

The Commission shall by rule establish standards for allowable levels of contaminants in cannabis flower, cannabis products, artificially derived cannabinoids, lower-potency hemp edibles, or hemp-derived consumer products, and growing media.

Chapter 6. Retail Packaging

Section 6.1. Packaging Requirements.

- A. Retail Packaging – Adult Use Cannabis Flower, Concentrate, and Edibles (other than Beverages)

Except as provided in subsection B, all cannabis products sold to retail customers must be: prepackaged in packaging or a container that is child-resistant, tamper-evident, and opaque; or placed at the point of sale in packaging or a container that is plain, child-resistant, tamper-evident, and opaque.

- B. Retail Packaging – Adult Use Cannabis Edibles (Beverages).

The Commission may establish by rule alternative packaging requirements for adult use edible products intended to be consumed as a beverage.

Section 6.2. Labeling Requirements.

- A. Adult Use Cannabis Flower.

All adult use cannabis flower sold to retail customers must have affixed on the packaging or container of the cannabis flower a label that contains at least the following information:

- (i) the name and license number of the cannabis business where the cannabis flower was cultivated;
- (ii) the net weight or volume of cannabis flower in the package or container;
- (iii) the batch number;
- (iv) the cannabinoid profile;
- (v) a symbol approved by the Commission indicating that the package or container contains cannabis;
- (vi) verification that the cannabis flower or hemp plant part was tested in compliance with this Ordinance and that the cannabis flower or hemp plant part complies with the applicable standards;
- (vii) the following statement: “Keep this product out of reach of children and pets.”; and
- (viii) any other statements or information required by the Commission.

- B. Adult Use Cannabis Concentrate and Edibles.

All adult use cannabis concentrate and edibles (including beverages) sold to retail customers must have affixed on the packaging or container of the cannabis product a label that contains at least the following information:

- (i) the name and license number of the cannabis business that cultivated the cannabis flower used in the cannabis product;
- (ii) the name and license number of the cannabis business that manufactured the cannabis concentrate, and, if different, the name and license number of the cannabis business that manufactured the product;

- (iii) the net weight or volume of the cannabis product in the package or container;
- (iv) the type of cannabis product;
- (v) the batch number;
- (vi) the serving size;
- (vii) the cannabinoid profile per serving and in total;
- (viii) a list of ingredients;
- (ix) a symbol approved by the Commission indicating that the package or container contains cannabis;
- (x) a warning symbol approved by the Commission that:
 - a. is at least three-quarters of an inch tall and six-tenths of an inch wide;
 - b. is in a highly visible color;
 - c. includes a visual element that is commonly understood to mean a person should stop;
 - d. indicates that the product is not for children; and
 - e. includes the phone number of a poison control service;
- (xi) verification that the cannabis product was tested in compliance with this ordinance and that the cannabis product complies with the applicable standards;
- (xii) the following statement: “Keep this product out of reach of children and pets.”; and
- (xiii) any other statements or information required by the Commission.

C. Hemp-Derived Products.

Hemp-derived products are subject to the requirements of this Chapter, except that the Commission may by rule establish alternative labeling requirements for hemp-derived edibles provided that those requirements provide consumers with information that is substantially similar to the information described in paragraph (a).

Chapter 7. Commercial Cultivation

Section 7.1. Permitted Activities.

- A. A Cultivation Facility may grow cannabis plants from seed or immature plant to mature plant, harvest cannabis flower from a mature plant, package and label immature cannabis plants and seedlings and cannabis flower for sale to other cannabis businesses, and perform other actions approved by the Commission.
- B. A cannabis cultivator that cultivates cannabis at an indoor facility may cultivate up to 30,000 square feet of plant canopy, and the Commission may increase the plant canopy limits by rule or license endorsement.
- C. A cultivation facility may sell or transfer cannabis flower to other cannabis businesses licensed under this Ordinance, and insofar as permitted by applicable law or compact, to cannabis businesses licensed by other Tribal governments or the State.

Section 7.2. Facility and Operational Standards

A. Facility Standards.

The following requirements apply to cultivation facilities:

- (i) Cultivation operations must be conducted within a structure that is kept in good repair and adequately ventilated, with odor-control measures for external venting. Outdoor cultivation is permitted if the cultivation area is securely fenced and cannabis plants are not visible from any publicly accessible area.
- (ii) Cultivation facilities must comply with storm-water, wastewater, and other requirements of the Band.
- (iii) Cultivation facilities must have and maintain a water supply sufficient for the operations and derived from a source that is a regulated water system. Private water supplies may be utilized if derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the facility's needs.
- (iv) Cultivation facilities must have and maintain plumbing of adequate size and design, installed and maintained to carry sufficient quantities of water and properly convey sewage and liquid disposable waste from the cultivation facility. There shall be no cross-connections between the potable and wastewater lines.
- (v) Cultivation facilities shall provide employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.
- (vi) Cultivation facilities must have and maintain hand-washing facilities that provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices. The hand-washing facilities must be located convenient to where operations are conducted that require employees to wash and/or sanitize their hands.
- (vii) Cultivation facilities must have and maintain screening or other protection against the entry of pests.

B. Operational Standards.

The following requirements apply to operations in a cultivation facility:

- (i) All cultivation operations must be conducted in a manner that does not adversely affect the health or safety of the employees, or the facility in which operations occur, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous because of the use or storage of materials, processes, products, or wastes.
- (ii) All persons working in direct contact with cannabis shall conform to hygienic practices while on duty, including but not limited to maintaining sufficient personal cleanliness.
- (iii) 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 cannabis shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected.
- (iv) All buildings, fixtures, and other facilities shall be maintained in a safe and sanitary condition.
- (v) Cannabis shall be stored in a manner that prevents the growth of bacterial or fungal contaminants.
- (vi) Pesticide, herbicide, fertilizer, and any other chemicals used by the Cultivation Operation shall be identified, held, and stored in a manner that protects against contamination of cannabis, and in a manner that is in accordance with this Title and any applicable tribal, state, or federal law, rule, or regulation.
- (vii) Cultivation operations, including the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of cannabis or cannabis product, shall be conducted in accordance with sanitation measures adequate to ensure the safety of the employees and product.
- (viii) Waste 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. Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination in areas where cannabis is exposed.

Section 7.3. Operating Procedures

A. Written Operating Procedures Required

Each cultivation facility shall establish written operating procedures for the cultivation of cannabis. At minimum, the operating procedures must provide for compliance with Section 7.2 and include the additional following information:

- (i) The equipment and methods employed in the cultivation of the cannabis;
- (ii) How the cultivated cannabis will be transported to a processing facility or distribution facility;

- (iii) The manner in which all pesticide and other agricultural chemicals, if any, are to be applied during its cultivation process;
 - (iv) The measures taken to minimize or offset energy use from the cultivation of cannabis;
 - (v) The manner in which chemicals will be stored and used at the premises;
 - (vi) The type and quantity of all effluent discharged into the Band's wastewater or storm-water system;
 - (vii) The hours and days of the week the cultivation facility will be open;
 - (viii) The number of persons per shift who will be working at the cultivation facility;
 - (ix) Plans and procedures for compliance with the facility security requirements under this ordinance;
 - (x) Plans and procedures for compliance with the safety testing requirements under this ordinance;
 - (xi) Plans and procedures for compliance with the inventory requirements under this ordinance; and
 - (xii) Any other information required by the Commission.
- B. A copy of all operating procedures must be maintained at every cultivation facility.
- C. A licensed cultivator may amend their operating procedures, subject to Commission approval.

Chapter 8. Commercial Processing

Section 8.1. Permitted Products and Activities.

- A. A processing facility may produce the following Adult Use Cannabis Concentrates:
 - (i) Water-Based Cannabis Concentrates;
 - (ii) Fat-Based Cannabis Concentrates;
 - (iii) Solvent-Based Cannabis Concentrate; and
 - (iv) Critical Fluid Extraction Cannabis Concentrates, provided the solvents used in this process only include N-Butane, Iso-Butane, Propane, Heptane, or Carbon Dioxide.
- B. A processing facility may produce edible products containing the permitted concentrates.
- C. A processing facility may produce products containing the permitted concentrates that are intended to be consumed by the inhalation of vapor.
- D. A processing facility may receive flower or concentrate; make permitted products; transfer permitted products in bulk packaging at wholesale, or in packaging for retail sale that complies with Chapter 6 of this Ordinance.

Section 8.2. Processing Facility Standards.

A. Processing Facility Standards

The following requirements apply to processing facilities:

- (i) Processing must be conducted within a structure that is kept in good repair and adequately ventilated, with odor-control measures for external venting.
- (ii) Processing facilities must comply with storm-water, wastewater, and other requirements of the Band.
- (iii) Processing facilities must have and maintain a water supply sufficient for the operations and derived from a source that is a regulated water system. Private water supplies may be utilized if derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the facility's needs.
- (iv) Processing facilities must have and maintain plumbing of adequate size and design, installed and maintained to carry sufficient quantities of water and properly convey sewage and liquid disposable waste from the cultivation facility. There shall be no cross-connections between the potable and wastewater lines.
- (v) Processing facilities shall provide employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.
- (vi) Processing facilities must have and maintain hand-washing facilities that provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices. The hand-washing facilities must be located convenient to where operations are conducted that require employees to wash and/or sanitize their hands.

- (vii) The space in which any Cannabis Concentrate is to be produced is a fully enclosed room and clearly designated.
- (viii) All equipment used in the production of a Cannabis Concentrate must be food-grade, and all counters and surface areas must be constructed in such a manner that it reduces the potential for the development of microbials and mold and can be easily cleaned.
- (ix) The space in which Cannabis Concentrate is produced must contain an emergency eye-wash station.

B. Operational Standards

The following requirements apply to operations in a processing facility:

- (i) All processing operations must be conducted in a manner that does not adversely affect the health or safety of the employees, or the facility in which operations occur, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous because of the use or storage of materials, processes, products, or wastes.
- (ii) All persons working in direct contact with cannabis shall conform to hygienic practices while on duty, including but not limited to maintaining sufficient personal cleanliness.
- (iii) 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 cannabis shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected.
- (iv) All buildings, fixtures, and other facilities shall be maintained in a safe and sanitary condition.
- (v) Cannabis shall be stored in a manner that prevents the growth of bacterial or fungal contaminants.
- (vi) All chemicals used by the Processing Operation shall be identified, held, and stored in a manner that protects against contamination of cannabis, and in a manner that is in accordance with this Title and any applicable tribal, state, or federal law, rule, or regulation.
- (vii) Processing operations shall be conducted in accordance with sanitation measures adequate to ensure the safety of the employees and product.
- (viii) Waste 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. Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination in areas where cannabis is exposed.
- (ix) Ensure that all equipment, counters, and surfaces used in the production of a Cannabis Concentrate are thoroughly cleaned after the completion of each production of a Cannabis Concentrate.

- (x) For any extraction method that involves the use of solvents, pressurized gas or chemicals, or flammable materials, the Facility must, as applicable to the extraction method:
 - i. Use a professional grade, closed-loop extraction system capable of recovering the solvent used;
 - ii. Implement a fume hood and exhaust system;
 - iii. Store flammable material in a storage-tank designed to hold flammable material and is outside of the room in which the concentrates are to be produced;
 - iv. for a pressurized extraction system is utilized, ensure that every vessel in the system is rated to a minimum of nine hundred pounds per square inch;
 - v. Store all flammable material used in the production in a storage-tank designed to hold flammable material and is outside of the room in which the concentrates are to be produced;
 - vi. Install and maintain a fire-suppression system in the room where extraction is conducted;
 - vii. Install and maintain a hydro-carbon gas and carbon dioxide gas monitoring system;
 - viii. Ensure that the room in which extraction is conducted is a spark-free environment;
 - ix. Install and maintain an emergency shower;
 - x. Ensure that all fluids used in the extraction process are food-grade and pure.

Section 8.3. Operating Procedures.

- A. Each processing facility shall establish written operating procedures for the processing of cannabis. The operating procedures must provide for compliance with Section 8.2 and include the minimum following information:
 - (i) If the processing facility engages in cultivation and/or distribution operations, then all applicable provisions contained in Sections 7.1 to 7.3 and 9.1 to 9.3, respectively, of this Ordinance.
 - (ii) Standard operating procedure for each method used to produce a Cannabis Concentrate.
 - (iii) Written quality control procedures designed to minimize any potential risks to employees or contamination of cannabis products.
 - (iv) A standard operating procedure for each type of concentrate to be produced that is designed to maximize employee safety and minimize potential contamination of products with residual solvents or microbials and mold.
 - (v) A comprehensive training manual that provides step-by-step instructions for each method used to produce a Cannabis Concentrate. The training manual must include, but need not be limited to, all standard operating procedures, quality control procedures and safety procedures for each method of production, instructions on the appropriate

- use and maintenance of all equipment involved in each process, and any cleaning required to comply with all applicable sanitary rules.
- (vi) Procedures for adequate training prior to an individual engaging the production of a Cannabis Concentrate. Adequate training must include, but need not be limited to, providing the appropriated employee or volunteer with the training manual and live, in-person instruction detailing safety procedures for each method of production, instructions on the appropriate use and maintenance of all equipment involved in the process, and any cleaning required to maintain compliance with all applicable sanitary rules.
 - (vii) Procedures for maintaining clear and comprehensive records that document every phase of each step in the production of the Cannabis Concentrate, which must include the name and license number of every employee or volunteer that worked on the production of that cannabis concentrate.
 - (viii) How the cannabis will be transported from a processing facility to a distribution facility.
 - (ix) The procedure and documentation process for determining patient dosage including testing for the major active agents in the cannabis product (e.g., cannabinoids Tetrahydrocannabinol (THC), Cannabidiol (CBD) and Cannabinol (CBN)).
 - (x) Require standards for the processing of cannabis into food and other edibles by cooking, baking, infusing, or grinding sufficient to ensure that such edibles are free of contaminants and safe for human consumption.
- B. A copy of all operating procedures must be maintained at every processing facility.
- C. A licensed processor may amend their operating procedures subject to the following conditions, subject to Commission approval.

Chapter 9. Retail Sale

Section 9.1. Permitted Activities.

- A. A licensed cannabis retailer may sell to adult use cannabis products to adults, but only if such products are packaged, labeled, and tested in compliance with this ordinance and acquired from a cannabis business licensed under this Ordinance, state law, or the law of a Minnesota Indian tribe.
- B. A retailer may not:
 - (i) Sell any cannabis products to visibly intoxicated persons; or
 - (ii) Knowingly sell any cannabis products under circumstances that would permit the consumer to possess cannabis products in excess of the legal possession limits.

Section 9.2. Facility Standards

- A. Facility Standards
 - (i) A cannabis retail facility must have a designated retail area where customers are permitted. The retail area shall include the portion of the premises where samples of cannabis flower and cannabis products available for sale are displayed. All other cannabis flower and cannabis products in inventory must be stored in a secure storage area.
 - (ii) A cannabis retail facility must have a designated secured storage area or areas where cannabis products, other than display sample, are stored. The secured storage area shall have ventilation, lighting, and climate control adequate to prevent mold or bacterial contamination of cannabis products. The secured storage areas may not be open to the public.
 - (iii) A cannabis retail facility must have a limited access area for receiving deliveries of cannabis products.
 - (iv) A cannabis retail facility must have designated areas for handling cash transactions and equipment sufficient for securely storing cash within the facility.
 - (v) A cannabis retail facility must be maintained in a clean and sanitary condition, free from infestation by insects, rodents, or other pests.
- B. Operational Standards
 - (i) Transfer or sale of cannabis product to retail customers may only be done in the retail area.
 - (ii) Display samples are permitted in the retail area, and may be opened for examination by customers.
 - (iii) Deliveries must be made through the designated limited access area and may not be accepted through the public access areas.

Section 9.3. Operating Procedures

- A. Each retail facility shall establish written operating procedures for the distribution of cannabis. The operating procedures must include the minimum following information:
 - (i) If the retail facility engages in cultivation and/or processing operations, then all applicable provisions contained in Sections 7.1 to 7.3 and 8.1 to 8.3, respectively, of this Ordinance.
 - (ii) A description of the age-verification process for consumers.
 - (iii) A description of measures implemented to prevent sale to intoxicated persons.
 - (iv) Internal controls and procedures for handling cash transactions.
 - (v) A description of any consumer records acquisition and retention procedures.
 - (vi) The process for tracking cannabis quantities and inventory controls.
 - (vii) The procedure and documentation process for ensuring that all cannabis and cannabis products offered for sale comply with applicable safety, packaging, and labeling requirements.
- B. A copy of all operating procedures must be maintained at every retail facility.
- C. A licensed retailer may amend their operating procedures subject to the following conditions, subject to Commission approval.

Chapter 10. Transportation of Cannabis Products

Section 10.1. Permitted Activities.

Subject to the conditions in this Chapter:

- A. A cannabis business licensed under this Ordinance may be endorsed for transportation of adult use cannabis products in compliance with this Section.
- B. A licensee may transport adult use cannabis products to and from other licensed cannabis businesses within the Band's Indian country.
- C. A licensee may transport adult use cannabis products to and from other licensed cannabis businesses located within the Indian country of another Minnesota Indian tribe, including transit through portions of the State that are not Indian country, so long as Minn. Stat. 3.9228, subd. 4(e), or equivalent authority, is in effect.
- D. A licensee may transport adult use cannabis products to and from State licensed cannabis businesses as permitted by a compact between the Band and State.
- E. A licensee may operate storage facility for adult use cannabis products that are packaged for transport between licensed cannabis businesses.

Section 10.2. Equipment, Facility, and Operational Standards.

A. Vehicles and Equipment.

Vehicles used for transportation of adult use cannabis products must:

- (i) Be maintained according to industry standards for fleet vehicles and in good working order;
- (ii) Not bear branding or other markings of a cannabis business;
- (iii) Have a secure area for cannabis products that is: (a) windowless; (b) lockable such that it cannot be accessed from the outside or by vehicle occupants; (c) climate controlled as necessary to ensure the good condition of cannabis products in transit.
- (iv) Have an alarm system and GPS tracking that can be remotely monitored.

B. Storage Facilities.

Storage facilities must:

- (i) Be secured and not open to the public
- (ii) Be within a structure that is kept in good repair and adequately ventilated, with odor-control measures for external venting.
- (iii) Have designated areas for loading and unloading adult use cannabis products that are obstructed from public view or access.
- (iv) have ventilation, lighting, and climate control adequate to prevent mold or bacterial contamination of cannabis products.
- (v) be maintained in a clean and sanitary condition, free from infestation by insects, rodents, or other pests.

(vi) Not bear any exterior signage, or similar indicia, of cannabis business operations.

C. Transport Procedures.

(i) Delivery and pick-up trips shall be scheduled to avoid any discernible pattern in route, sequence of stops, and time of pick-up or delivery.

(ii) A copy of the transport license must be kept in the delivery vehicle at all times.

(iii) Adult use Cannabis products may only be transported in retail packaging or in sealed containers.

(iv) Each trip shall be staffed, at minimum, by a driver and one other employee of the cannabis business. Any trip involving the transport of cannabis products with an aggregate retail value of \$50,000 shall also be staffed by a uniformed security guard or Band police officer.

(v) All cannabis product deliveries must include a bill of lading.

Section 10.3. Operating Procedures.

A. Each licensee endorsed for transportation of cannabis products shall establish written operating procedures for the transport of cannabis products. The operating procedures must include procedures for compliance with Section 10.2 and the minimum following information:

(i) Standards and procedures for screening and evaluating shipping containers prior to transportation and upon delivery at the distribution facility.

(ii) Standards and procedures for securing shipping containers and monitoring that security while in transit.

(iii) Standards and procedures for allowing government officials to ensure and validate compliance with this program.

(iv) Any other measures the Committee considers necessary to ensure the security and integrity of transporting adult use cannabis or cannabis products.

Chapter 11. On-Site Consumption Establishment and Events

Section 11.1. Licensing On-site Consumption of Adult Use Cannabis Products

The Commission may promulgate rules and regulations, subject to the minimum requirements provided in Section 11.2, for the licensing on-site consumption of adult use cannabis products at permanent establishments and temporary licensing for events.

Section 11.2. Minimum Standards.

Any regulations promulgated by the Commission regarding on-site consumption of adult use cannabis must provide that: (i) that under-age persons cannot access cannabis products; (ii) cannabis products may not be sold to visibly intoxicated persons; (iii) no outside cannabis products may be used or possessed at the site; and (iv) entry to the site is controlled.

Chapter 12. Safety and Security

Section 12.1. Facility Security. A cannabis business licensed under this ordinance shall provide and maintain adequate security for its facilities, which shall include at a minimum the following:

- A. All employees shall be required to hold and properly display a current identification badge issued by the Commission at all times. Proper display of the badge shall consist of wearing the badge in a plainly visible manner, at or above the waist, and with the photo of the holder visible. The holder shall not alter, obscure, damage, or deface the badge in any manner.
- B. Security surveillance cameras shall be installed and maintained in good working condition to monitor the main entrance and exterior of all facilities and laboratories to discourage loitering, crime, illegal, or nuisance activities. Security video shall be maintained for a minimum of seventy-two (72) hours.
- C. Professionally monitored robbery alarm and burglary alarm systems shall be installed and maintained in good working condition.
- D. Professionally monitored fire alarm and fire suppression systems shall be installed and maintained in good working condition.
- E. At all times, there shall be at least one uniformed security guard or a tribal police officer present and visible on the premises of all facilities and laboratories.
- F. All points of ingress and egress shall have commercial-grade, nonresidential door locks.

Section 12.2. Inventory

- A. Every cannabis business shall maintain an inventory control system.
- B. The inventory control system must be able to monitor and report information, including, without limitation:
 - (i) Insofar as is practicable, the chain of custody and current whereabouts, in real time, of cannabis from the point that it is harvested at a cultivation facility until it is sold at a distribution facility and, if applicable, if it is processed at a facility for the production of cannabis products;
 - (ii) A real time accounting of the total amount of product sold; and
 - (iii) Such other information as the Commission may require.
- C. Nothing in this section prohibits a cultivation facility, processing facility, or distribution facility from co-owning an inventory control system in cooperation with other facilities, or sharing the information obtained therefrom.

Chapter 13. Audits and Compliance

Section 13.1. Financial Audit. Each cannabis business shall cause to be prepared an annual financial statement using generally accepted accounting principles that are audited by an independent certified public accountant in conformity with generally accepted auditing standards.

Section 13.2. Health and Safety Audit. Every cannabis business shall undergo an annual health and sanitary audit of any facility by an independent consultant. The scope of the audit may include, but is not limited to, whether each facility and laboratory is in compliance with the requirements set forth in this Title and other applicable health, sanitary or food handling laws, rules and regulations. Failure to perform to the independent audit may result in suspension of operations until the completion of the independent audit and the implementation of any required remedial measures is made.

Chapter 14. Effective Date; Amendments; Severability

Section 14.1. Severability. If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby.

Section 14.2. Amendment or Repeal. The Reservation Business Committee may amend or repeal this Ordinance as it deems necessary to protect the public health, safety and welfare of the Fond du Lac Reservation. The provisions of this Ordinance may be amended or repealed by resolution of the Reservation Business Committee.

Section 14.3. The provisions of this Ordinance shall become effective immediately upon adoption by the Reservation Business Committee.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #02/24 was duly presented and adopted by Resolution #1087/24 by a vote of 3 for, 0 against, 0 silent, with a quorum of 4 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on February 27, 2024, on the Fond du Lac Reservation.



Kevin R. Dupuis, Sr.
Chairman



Robert Abramowski
Secretary/Treasurer