

**WAGANAKISING ODAWAK STATUTE # 2021-\_\_\_\_\_**  
**AUTHORIZATION of the MARIJUANA PROGRAM STATUTE**

**SECTION I. PURPOSE**

The purpose of this Statute is to authorize the regulating of marijuana, and authorize the Department of Commerce to license, regulate, inspect and have enforcement regulatory power for the Marijuana Program.

**SECTION II. DEFINITIONS**

- A.** “Applicant” means a person, or a person who is authorized to sign for a business entity, who submits an application to participate in the Marijuana Program.
- B.** “Cannabis” means a genus of flowering plants in the family Cannabaceae of which *Cannabis sativa* is a species, and *Cannabis indica* and *Cannabis ruderalis* are subspecies thereof. Cannabis refers to any form of the plant in which the delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined.
- C.** “Criminal History Report” means the Federal Bureau of Investigation’s Identity History Summary, state criminal history, or other criminal history access tool.
- D.** “Department” means the Department of Commerce.
- E.** “Designated consumption establishment” means a commercial space that is licensed by the Department and authorized to permit adults, 21-years of age and older, to consume marijuana products at the location indicated on the license issued under these regulations.
- F.** “Eligible property” means commercial or agricultural property wholly owned by the Tribe, majority owned by the Tribe, or located on land held in trust by the Secretary of Interior.
- G.** “Entity” means a person, corporation, joint stock company, association, limited partnership, limited liability partnership, limited liability company, irrevocable trust, estate,

charitable organization, or other similar organization, including any such organization participating in the hemp production as a partner in a general partnership, a participant in a joint venture, or a participant in a similar organization.

**H.** “Executive” means the Executive Branch of government under Article VIII of the LTBB Constitution the power of which is vested in the Tribal Chairperson and the Vice-Chairperson.

**I.** “Grower” means an entity authorized to grow, harvest, handle, and store Marijuana plant parts prior to the delivery of such plants or plant parts for further processing, at one (1) or more specified locations. This also includes the disposal of cannabis plants that are not Marijuana for purposes of chemical analysis and disposal of such plants.

**J.** “Licenses” means any of the following held by a person: (1) marijuana grower license, (2) marijuana processor license, (3) marijuana retailer license, (4) marijuana secure transporter license, (5) marijuana safety compliance facility license, or (6) designated marijuana consumption establishment, or (7) temporary event license.

**K.** “Location” or “Land” means the particular land, building or buildings where Marijuana will be grown, handled, stored, or processed, which can include a field name or building name.

**L.** “Marijuana” or “marihuana” means all parts of the plant *Cannabis sativa* L., 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.

**M.** “Producer” means a an owner, operator, landlord, tenant, or sharecropper, who shares in the risk of producing a crop for market, or cultivation for market and who is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. A Producer includes a grower of marijuana seed.

**N.** “Program” means the Marijuana Program.

**O.** “Retail Establishment” means an entity that provides for retail sale of marijuana.

**P.** “Temporary Event” means an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the license.

**Q.** “Territory of the Tribe” has the same meaning as “Indian Country” in 18 U.S.C. 1151.

**R.** “Tribe” or “LTBB” means the Little Traverse Bay Bands of Odawa Indians which was reaffirmed in Public Law 103-324 is recognized as eligible by the Secretary of the Interior for the special programs and services provided by the United States to Indians because of their status as a federally recognized tribe, and are recognized as possessing powers of self-government.

**S.** “Tribal Citizen” means a person who is enrolled with the Little Traverse Bay Bands of Odawa Indians Tribe.

**T.** "Tribal Council" means the Legislative body of the Little Traverse Bay Bands of Odawa Indians.

### **SECTION III. MARIJUANA PROGRAM AUTHORIZED**

This Statute authorizes the Marijuana Program for marijuana grower licenses, marijuana processor licenses, marijuana retailer licenses, marijuana secure transporter licenses, marijuana safety compliance facility licenses, designated marijuana consumption establishment licenses, temporary event licenses within eligible properties located within the Territory of the Tribe and the authorizes the Department of Commerce to license, regulate, inspect and have enforcement regulatory power for the Marijuana Program.

### **SECTION IV. DEPARTMENT OF COMMERCE DUTIES AND AUTHORITY**

**A.** The purpose of the Department is to ensure compliance with Tribal laws and regulations. The Department will serve as the licensing authority for the Marijuana Program within the Territory of the Tribe. The Department shall have authority to take all actions authorized by this Statute.

**B.** In order to carry out its regulatory duties, the Department shall have unrestricted access to all areas of a marijuana operation and to all records. The Department shall have authority to take enforcement actions as authorized by this Statute.

C. The Department shall:

1. Approve the permitting of a “Location” or “Land”;
2. Ensure that criminal history checks are conducted in accordance with this Statute;
3. Make suitability determinations, and sign an approved license;
4. Issue marijuana grower licenses, marijuana processor licenses, marijuana retailer licenses, marijuana secure transporter licenses, marijuana safety compliance facility licenses, designated marijuana consumption establishment, temporary event licenses, consistent with the suitability determination;
5. Inspect, examine and monitor all license holders, and have immediate access to review, inspect, examine, photocopy and audit all marijuana related records of any marijuana producer;
6. Ensure compliance with all Tribal laws, and regulations regarding marijuana;
7. Levying of fees associated with marijuana license applications;
8. Promulgate and issue regulations on suspension or revocation of marijuana licenses for violations of this Statute, or any related Marijuana Program Regulations;
9. Perform such other duties for the proper licensing and regulating of the Marijuana Program;
10. The Department shall ensure that all records and information obtained as a result of a background investigation or criminal history check shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process;
11. Establish a process and specify the information to be included in an Marijuana Program application that allows an owner of eligible property to become a qualified applicant;
12. To review and approve applications for the Program;
13. To enter into contracts and agreements needed for its functions or operations;
14. To contract for professional services;
15. Retain a collection fee for each assessment and other allowable fees that it collects as part of the Program.

**SECTION V. APPLICATION**

A. The Marijuana Program shall be administered by the Department of Commerce within the Executive Branch.

- B.** Completed applications and electronic signatures shall be accepted by email or other forms of electronic transmission.
- C.** The Department shall deny any License Application that fails to meet the deadline established in the application, or does not meet the requirements set forth by law or regulation.
- D.** Each Applicant shall pay an application fee in the amount established by the Department and approved by Tribal Council.
- E.** Any License Application that is missing required information shall be subject to denial.
- F.** Criminal History Reports. Each applicant, and if the applicant is an entity, persons with a financial interest in the applicant, and all key participants of the applicant/producer shall submit a criminal history report with the application or provide the necessary information for the Department to conduct a criminal history report.
- G.** The Department shall review the criminal history report to determine eligibility.
- H.** The application may require any or all of the following:
1. Business plan;
  2. Operations plan;
  3. Site plan;
  4. Facility description;
  5. Anticipated or actual number of employees;
  6. Name of the proposed manager of the facility;
  7. Security plan including security systems(s), lighting plan, outside lighting, and alarmed and monitored security systems;
  8. A list of pesticides, and other chemicals proposed for use;
  9. Environmental safeguards;
  10. Previous business or farming experience; and/or
  11. Product sources such for retail or growing.

## **SECTION VI. DEPARTMENT FUNDING**

The Department may collect a fee for each Program application submission and issuance of a license.

## **SECTION VII. LICENSES**

**A.** The Department has the authority to issue grower licenses, marijuana processor licenses, marijuana retailer licenses, marijuana secure transporter licenses, marijuana safety compliance facility licenses, designated marijuana consumption establishment, temporary event licenses.

**B.** The Department has the authority to deny, suspension or revoke a license.

## **SECTION VIII. ELIGIBILITY**

In order for an applicant to be eligible, they must be a Tribal Citizen, a Tribal entity or the entity must be owned by the Tribal Citizen by at least fifty-one (51) percent.

## **SECTION IX. APPEALS**

**A.** Any person who would like to challenge a fine, denial of a license, suspension or revocation of a license must request a hearing before the Department, prior to an appeal being filed in Tribal Court. The Department Hearing shall be open to the public and occur at a time and date and location designated by the Department.

**B.** The Court shall uphold the decision of the Department unless the Court determines that the Department's decision is clearly arbitrary, capricious, or otherwise not in accordance with applicable laws or regulations.

## **SECTION X. REGULATIONS**

The Department shall develop Regulations for this statute for Tribal Council approval; however, the implementation of the statute shall not be delayed by approval of Regulations.

**SECTION XI. SAVINGS CLAUSE**

In the event that any phrase, provision, part, paragraph, subsection or section of this Statute is found by a court of competent jurisdiction to violate the Constitution, laws or Statutes of the Little Traverse Bay Bands of Odawa Indians or federal law, such phrase, provision, part, paragraph, subsection or section shall be considered to stand alone and to be deleted from this Statute, the entirety of the balance of this Statute remain in full and binding force and effect.

**SECTION XIII. EFFECTIVE DATE**

Effective upon signature of the Executive or 30 days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

## CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Statute was duly adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on June 24, 2021 at which a quorum was present, by a vote of 6 in favor, 2 opposed, 0 abstentions, and 1 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Fred Harrington Jr.	X			
Fred Kiogima	X			
Tamara Kiogima		X		
Melissa Pamp	X			
Leroy Shomin	X			
Marty Van De Car	X			
Marcella R. Reyes				X
Julie Shananaquet	X			
Emily Proctor		X		

Date: \_\_\_\_\_  
 \_\_\_\_\_  
 Emily Proctor, Legislative Leader

Date: \_\_\_\_\_  
 \_\_\_\_\_  
 Julie Shananaquet, Tribal Council Secretary

Received by the Executive Office on \_\_\_\_\_ by \_\_\_\_\_

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

Date: \_\_\_\_\_  
 \_\_\_\_\_  
 Regina Gasco Bentley, Tribal Chairperson

Received from the Executive on \_\_\_\_\_ by \_\_\_\_\_