

WAGANAKISING ODAWAK STATUTE # 2021-XXX
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.

D. “Department” means the Department of Commerce.

E. "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.

F. "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

1 venture, or a participant in a similar organization.

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

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6 **H.** "Grower" means a document executed by a person and the Department authorizing the
7 person to grow, handle, and store Marijuana at one (1) or more specified locations.

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9 **I.** "Handle" or “Distributor” means to harvest or store Marijuana or Marijuana plant parts
10 prior to the delivery of such plants or plant parts for further processing. "Handle" also includes
11 the disposal of cannabis plants that are not Marijuana for purposes of chemical analysis and
12 disposal of such plants.

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

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17 **K.** “Marijuana” or “marihuana” means all parts of the plant *Cannabis sativa* L., whether
18 growing or not; the seeds thereof; the resin extracted from any part of such plant; and every
19 compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin.

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

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26 **M.** “Program” means the Marijuana Program.

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

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

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32 **P.** "Tribe" or "LTBB" means the Little Traverse Bay Bands of Odawa Indians which was
33 reaffirmed in Public Law 103-324 is recognized as eligible by the Secretary of the Interior for the
34 special programs and services provided by the United States to Indians because of their status as a

1 federally recognized tribe, and are recognized as possessing powers of self-government.

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3 **Q.** “Tribal Citizen” means a person who is enrolled with the Little Traverse Bay Bands of
4 Odawa Indian Tribe.

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6 **R.** "Tribal Council" means the Legislative body of the Little Traverse Bay Bands of Odawa
7 Indians (LTBB).

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10 **SECTION III. MARIJUANA PROGRAM AUTHORIZED**

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12 This Statute authorizes the Marijuana Program that includes the licenses for Grower, Production,
13 Handling and Retail Establishment of Marijuana within eligible properties located within the
14 Territory of the Tribe and the authority of the Department of Commerce to license, regulate,
15 inspect and have enforcement regulatory power for the Marijuana Program.

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

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20 The purpose of the Department is to ensure compliance with Tribal laws and regulations. The
21 Department will serve as the licensing authority for the Marijuana Program within the Territory
22 of the Tribe. The Department shall have authority to take all actions authorized by this Statute.
23 In order to carry out its regulatory duties, the Department shall have unrestricted access to all
24 areas of a Marijuana operation and to all records. The Department shall have authority to take
25 enforcement actions as authorized by this Statute.

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27 The Department shall:

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29 **1.** Approve the permitting of a “Location” or “Land”.
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31 **2.** Ensure that Criminal History checks are conducted in accordance with this
32 Statute.
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34 **3.** Make suitability determinations, and sign an approved license.

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- 2 **4.** Issue Marijuana licenses to Marijuana Grower, Production, Handling and Retail
- 3 Establishment, consistent with the suitability determination.
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- 5 **5.** Inspect, examine and monitor all Marijuana Grower, Production, Handling and
- 6 Retail Establishment, and have immediate access to review, inspect, examine, photocopy
- 7 and audit all Marijuana related records of any Marijuana Producer.
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- 9 **6.** Ensure compliance with all Tribal laws, and regulations regarding Marijuana.
- 10
- 11 **7.** Promulgate and issue regulations on the levying of fees associated with Marijuana
- 12 license applications.
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- 14 **8.** Promulgate and issue regulations on suspension or revocation of Marijuana
- 15 licenses for violations of this Statute, or any other Tribal laws
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- 17 **9.** Perform such other duties for the proper regulation of the Marijuana Program.
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- 19 **10.** The Department shall ensure that all records and information obtained as a result
- 20 of a background investigation or criminal history check shall remain confidential and
- 21 shall not be disclosed to persons who are not directly involved in the licensing process.
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- 23 **11.** Establish a process and specify the information to be included in an Marijuana
- 24 Program application that allows an owner of eligible property to become a qualified
- 25 applicant.
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- 27 **12.** To review and approve applications for the Program.
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- 29 **13.** To enter into contracts and agreements needed for its functions or operations.
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- 31 **14.** To contract for professional services.
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- 33 **15.** Retain a collection fee for each assessment and other allowable fees that it collects
- 34 as part of the Program.

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3 **SECTION V. APPLICATION**
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5 **A.** The Program shall be administered by the Department of Commerce within the Executive
6 Branch.

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8 **B.** Completed applications and electronic signatures shall be accepted by email or other
9 forms of electronic transmission.

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12 **C.** The Department shall deny any Grower, Production, Handling and Retail Establishment
13 License Application that fails to meet the deadline established in the application.

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15 **D.** Each Applicant shall pay an application fee in the amount established by the Department
16 and approved by Tribal Council.

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18 **E.** Any License Application that is missing required information shall be subject to denial.

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20 **F.** Criminal History Reports. Each Applicant, and if the Applicant is an entity, persons with
21 a financial interest in the applicant, and all Key Participants of the Applicant/Producer shall
22 submit Criminal History Reports with the application.

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24 **G.** The criminal History Report must indicate that the applicant shall not have had a felony
25 conviction related to a controlled substance within the past five (5) years.

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27 **H.** A business plan and operations plan shall be included with the application for Handling
28 and Retail Establishment licenses.

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30 **I.** Applications for Grower or Producer shall include at a minimum the following:

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32 **1.** The proposed acreage or greenhouse or indoor square footage to be planted or
33 used for processing.
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- 2. A description of the type of facility proposed and the anticipated or actual number of employees. The name of the proposed Manager of the Facility.
- 3. A security plan which shall include a general description of the security systems(s) and lighting plan showing the outside lighting, and current centrally alarmed and monitored security system service agreements.
- 4. A list of pesticides, and other chemicals proposed for use.
- 5. A description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including assurances that no odor will be detected from outside the Location.
- 6. A statement of previous farming experience.
- 7. Planned source of seeds or propagules.

SECTION VI. DEPARTMENT FUNDING

- A. The Department may collect a fee for each Program application submission and issuance of a license.
- B. The Department shall collect, and retain for a period of at least three calendar years, Location ID information for every site or location where the Department has approved a Grower, Production, Handling and Retail Establishment license for Marijuana.
- C. The Department shall issue Marijuana licenses authorized by this Statute, consistent with the suitability determination, and shall assign a unique identifier to each Grower, Production, Handling and Retail Establishment with a license.

SECTION VII. LICENSES

1 **A. Grower, Production, Handling and Retail Establishment License.**

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3 **1.** Any person who wishes to Grower, Production, Handling and Retail
4 Establishment Marijuana at any location within the Territory of the Tribe shall submit to
5 the Department a completed License Application no less than once every three (3) years.

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7 **2.** A person who does not hold a license from the Department shall not Grower,
8 Production, Handling and Retail Establishment Marijuana at any location within the
9 Territory of the Tribe.

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12 **SECTION VIII. ELIGIBILITY**

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14 In order for a person or Entity to be eligible for the Marijuana Program, the person must be a
15 Tribal Citizen or the Entity must be owned by the Tribal Citizen by at least fifty-one (51)
16 percent.

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19 **SECTION IX. APPEALS**

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

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

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31 **SECTION X. REGULATIONS**

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

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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