

TRIBAL CODE
CHAPTER 47:
COMMERCIAL MARIJUANA ORDINANCE

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HISTORY NOTE:

CURRENT ORDINANCE:

Resolution No. 2020-47, adopted April 14, 2020, adopts Tribal Code Chapter 47:
Commercial Marijuana Ordinance, effective immediately.

47.101 Title and Codification.

This ordinance shall be known as the Sault Ste. Marie Tribal Commercial Marijuana Ordinance, Tribal Code Chapter 47.

47.102 Purpose and Authority.

The purpose of this Chapter is to establish a legal framework for the authorization and regulation of commercial marijuana activities in the Tribe’s Indian country. Authorizing such businesses will create revenue for the Tribe to support Tribal governance; remove commercial production and distribution of marijuana from the illicit market; and promote the health, safety, and wellbeing of the Tribe, its members, and the citizens of the State of Michigan. This Chapter is adopted pursuant to Article VII, Sections 1(g) and (n) of the Tribal Constitution.

47.103 Definitions.

(1) “Applicant” means any individual, corporation, limited liability company, partnership, trust, or other legal entity, other than a wholly owned Tribal Enterprise, who applies or endeavors to apply for a Tribal License.

(2) “Commercial Marijuana Policy” means the Tribal policy containing the Tribe’s regulations concerning commercial marijuana activities within Indian Country.

(3) “Federal Enforcement Priorities” means preventing (a) the distribution of marijuana to minors; (b) revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels; (c) the diversion of marijuana from states where it is legal under state law in some form to other states; (d) state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; (e) violence and the use of firearms in the cultivation and distribution of marijuana; (f) drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use; (g) the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and (h) marijuana possession or use on federal property.

(4) “Indian Country,” means all lands as defined by 18 U.S.C. § 1151 within the Tribe’s Reservation and all lands held in trust or restricted fee status by the United States for the Tribe or its Tribal Members.

(5) “LARA” means the Michigan Department of Licensing and Regulatory Affairs and its staff, and includes the Marihuana Regulatory Agency (“MRA”).

(6) “Licensed Marijuana Establishment” means any individual, corporation, limited liability company, partnership, trust, or other legal entity who currently possesses or wishes to

apply for a State Marihuana Establishment License and a Tribal License to operate a Marijuana Establishment in the Tribe's Indian Country.

(7) "Marijuana" as used in this Chapter shall have the same meaning as "marihuana" in MCL 333.27953 or any amendments thereto.

(8) "Marijuana Establishment" as used in this Chapter shall have the same meaning as "marihuana establishment" in MCL 333.27953 or any amendments thereto.

(9) "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.*

(10) "State" means the State of Michigan.

(11) "State Marihuana Establishment License" means a license issued by LARA pursuant to MCL 333.27951 *et seq.* that permits an individual, corporation, limited liability company, partnership, trust, or other legal entity to operate a Marijuana Establishment.

(12) "Tribal Enterprise" means a business enterprise owned by the Tribe.

(13) "Tribal License" means a license issued by the Tribe to operate a Licensed Marijuana Establishment in the Tribe's Indian Country.

(14) "Tribal License Application" means the application that an Applicant must submit to the Tribe in order to be eligible to become a Licensed Marijuana Establishment.

(15) "Tribal License Renewal Application" means the application that a Licensed Marijuana Establishment must submit to the Tribe upon the expiration of its existing Tribal License in order to be eligible to continue operating as a Licensed Marijuana Establishment.

(16) "Tribe" means the Sault Ste. Marie Tribe of Chippewa Indians.

47.104 Authorized Commercial Marijuana Activities.

(1) Wholly owned Tribal Enterprises and Licensed Marijuana Establishments are the only persons or entities that may engage in commercial marijuana activities within Indian Country.

(2) Tribal Enterprises do not need to apply for a Tribal License.

(3) An Applicant wishing to become a Licensed Marijuana Establishment shall submit a Tribal License Application in accordance with the provisions of the Tribe's Commercial Marijuana Policy. At a minimum, the Tribal License Application must include a copy of the Applicant's background check performed in accordance with the terms of MRTMA; a designation indicating whether the Applicant is a member of the Tribe; and an application fee in the amount of no less than two thousand dollars (\$2,000.00). Each Tribal License Application shall be submitted to:

Secretary of Board of Directors
Sault Ste. Marie Tribe of Chippewa Indians
523 Ashmun Street
Sault Ste. Marie, MI 49783

With a copy to the Chief Law Enforcement Officer of the Tribe at:

Chief Law Enforcement Officer
Sault Ste. Marie Tribe of Chippewa Indians
523 Ashmun Street
Sault Ste. Marie, MI 49783

(4) All newly issued Tribal Licenses shall be for the remainder of the calendar year plus one year, regardless of the date of issuance. Licensed Marijuana Establishments must submit a Tribal License Renewal Application in accordance with Section 5.0 of this Chapter. Renewed Tribal Licenses shall be for one calendar year, from January 1 to December 31.

(5) Tribal Licenses are nonassignable and nontransferable.

47.105 Tribal License Renewal.

(1) Licensed Marijuana Establishments must submit a Tribal License Renewal Application at least 30 days prior to the expiration of the existing Tribal License in accordance with the provisions of the Tribe's Commercial Marijuana Policy.

(2) The Tribal License Renewal Application shall be accompanied by an application renewal fee in the amount of not less than one thousand dollars (\$1,000.00).

47.106 Buffer Requirements.

(1) Location. No Licensed Marijuana Establishment shall be located within one thousand feet of the perimeter of the grounds of any of the following (whether they are located within or outside of Indian Country):

(a) Public or private school providing education in kindergarten or any of grades 1 through 12, or

(b) Playground.

(2) Measurement. The distance shall be measured as the shortest straight line distance from the property line of the proposed location for the commercial marijuana activity to the property line of entities listed above in subsection (1).

47.107 Compliance and Enforcement.

(1) The Tribal Police may conduct premises checks of any Licensed Marijuana Establishment to observe compliance with this Chapter and the Tribe's Commercial Marijuana Policy and to ensure any problems are corrected.

(2) Nothing in this Chapter shall be deemed to prohibit the Tribe from imposing other civil regulatory penalties under its Commercial Marijuana Policy or any other Tribal ordinance.

47.108 Revocation of Tribal License.

(1) A Tribal License issued under this Chapter shall be automatically revoked if the Tribe learns that the license holder's State License has been revoked.

(2) The Board of Director's may revoke a Tribal License issued under this Chapter if a Licensed Marijuana Establishment:

(a) Engages in any conduct or actions that violate any provision of this Chapter and/or any provision of MRTMA;

(b) Misrepresents any material fact in its Tribal License Application, including any omission of any material fact, or false or misleading information, or the Applicant has provided the Tribe with any other false or misleading information;

(c) Engages in any conduct or actions that implicate Federal Enforcement Priorities, including, but not limited to, Marijuana diversion to the illicit market and the sale of Marijuana to individuals under the age of 21 years old;

(d) Transfers or distributes marijuana in violation of MRTMA;

(e) Attempts to transfer, sale, or other conveyance of an interest in a Tribal License; or

(f) Engages in any conduct that jeopardizes or threatens the safety or health of the Tribe's members, or patrons or employees of a Licensed Marijuana Establishment.

(3) Any Tribal License issued under this Chapter may be revoked by the Board of Directors on the grounds identified in subsection (2) above, but only after a hearing at which the Licensee shall be invited to attend and present argument. Any grounds for revocation must be provided in writing to the Licensed Marijuana Establishment at least 15 days prior to the date of the administrative hearing by first-class mail to the address provided on the Tribal License Application or to any address provided to the Board of Directors in writing subsequent to the filing of the Tribal License Application. The administrative hearing shall be conducted in accordance with Tribe's Commercial Marijuana Policy.

47.109 Applicability of State Law.

(1) MRTMA applies to all Licensed Marijuana Establishments.

(2) The Tribe unequivocally and irrevocably waives its right to exclude LARA inspectors, regulators, and/or staff from the Tribe's Indian Country, but only to the extent such LARA inspectors, regulators, and/or staff are seeking access to a Licensed Marijuana Establishment.

47.110 Indemnity.

(1) The Tribe indemnifies any director, officer or employee of the Tribe made party to any proceeding because of their role in licensing, regulating, or otherwise engaging with Licensed Marijuana Establishments against personal liability incurred in a proceeding if:

- (a) the individual acted in their official capacity;
- (b) the individual acted in good faith;
- (c) the individual believed their conduct was in the best interests of the Tribe;

and

(d) the individual acted in accordance with the Tribe's Memorandum of Understanding, this Code, and applicable policies and procedures.

(2) Proceeding means any threatened, pending, or completed action, suit, or proceeding whether civil, criminal, administrative, or investigative.

(3) Liability means the obligation to pay a judgment, settlement, penalty, or fine, or reasonable expenses, including legal expenses, incurred with respect to a proceeding.

47.111 Severability.

If any provision of this Chapter, or its application to any person under any circumstances, is held invalid by any court of competent jurisdiction, the remaining provisions of this Chapter will remain in full force and effect.

47.112 Tribal Sovereign Immunity and Jurisdiction Preserved.

Nothing in this Title shall be construed as a waiver of the sovereign immunity of the Tribe, the Board of Directors, or of any committee or corporation acting under the authority of the Tribe or the Board of Directors. Nothing in this Title shall be construed as a grant of jurisdiction to the United States or to a State, local, or other tribal government.

47.113 Effective Date.

This Act will take effect immediately upon approval by the Board of Directors and will supersede and replace any and all prior ordinances of the Tribe relating to the subject matter of this Act.

47.114 Repeal.

All other ordinances inconsistent with the provisions of this Chapter are, to the extent of such inconsistencies, hereby repealed.

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