



PUBLIC NOTICE

THE FALLON BUSINESS COUNCIL HAS COMPLETED A PROPOSED NEW TITLE TO THE LAW AND ORDER CODE TITLE 17 – USE OF MARIJUANA

The Code has been reviewed by the Tribal Attorney and recommended by the Fallon Business Council for approval.

This document is provided for a 30-Day Public Review and Comment Period at the following locations:

FPST ADMINISTRATION FRONT DESK
FALLON TRIBAL HEALTH CENTER
SENIOR CITIZENS CENTER
HOUSING AUTHORITY FRONT OFFICE
LAND & WATER RESOURCES OFFICE

IF YOU HAVE ANY COMMENTS, PLEASE SUBMIT THEM IN WRITING TO:

Margot Dyer, FBC Secretary
Fallon Tribal Administration Office
565 Rio Vista Drive
Fallon, Nevada 89406

Posted: September 11, 2020

Comment Period Ends: October 11, 2020

FALLON PAIUTE-SHOSHONE TRIBE



LAW AND ORDER CODE

Title 17

Use of Marijuana

Approved by FBC Resolution No.: 20-F-_____
Effective on _____, 2020

**FALLON PAIUTE SHOSHONE TRIBE
LAW AND ORDER CODE
TITLE 17
USE OF MARIJUANA**

17-10 GENERAL PROVISIONS

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17-20 LIMITED EXEMPTION FROM TRIBAL, STATE OR FEDERAL PROSECUTION; REGISTRY IDENTIFICATION CARDS

<u>SECTION 17-20-010</u>	Holder of valid registry identification card or medical marijuana establishment registration certificate exempt from Tribal, State or Federal prosecution for certain acts involving marijuana and paraphernalia; no crime for mere presence in vicinity of medical use of marijuana; limitation on exemption from Tribal, State or Federal prosecution; affirmative defense.
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- SECTION 17-40-090** Suspension of registration card or registration certificate for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of registration card or registration certificate. [Effective until the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support

	arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]
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<u>SECTION 17-40-210</u>	Operating documents; security measures; actions of establishment with respect to marijuana required to be for certain purpose; requirements for cultivation; dispensary and cultivation facility authorized to acquire marijuana from patient; allowing consumption on premises prohibited; inspection.
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17-50 SEARCH AND SEIZURE

<u>SECTION 17-50-010</u>	Possession of registry identification card, registration certificate or registration card not permissible grounds for search or inspection; care and return of seized property; determination that person is engaged in, facilitating or assisting in medical use of marijuana in accordance with provisions of Title.
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17-60 ACTIONS OF PROFESSIONAL LICENSING BOARDS

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17-70 RESEARCH; APPROVAL OF FEDERAL GOVERNMENT

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17-80 MISCELLANEOUS PROVISIONS

SECTION 17-80-010 Duties of Department concerning confidentiality; certain items of information not subject to subpoena, discovery or inspection.

SECTION 17-80-020 Addition of diseases and conditions to list of qualifying chronic or debilitating medical conditions: Petition; regulations.

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17-10 GENERAL PROVISIONS

SECTION 17-10-005 Findings and Purpose. The Fallon Paiute Shoshone Tribe hereby finds and declares that:

1. The Federal Controlled Substances Act, 21 U.S.C. §§ 801, *et seq.* classifies marijuana as a Schedule 1 drug and prohibits any possession or use of marijuana except in the course of federally approved research projects. The Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense marijuana.
2. On August 29, 2013, the U.S. Department of Justice Deputy Attorney General James M. Cole issued a memorandum (the “Cole Memorandum”) to all United States Attorneys providing updated guidance to federal prosecutors concerning marijuana enforcement under the federal Controlled Substances Act. The guidance memorandum applies to all of the Department of Justice’s federal enforcement activity, including civil enforcement and criminal investigations and prosecution, concerning marijuana in all states. The memorandum recognized marijuana as a dangerous drug that provided significant revenue to large-scale criminal enterprises, but at the same time recognized that states have

measures in place to address most marijuana issues within their jurisdictions. It directed federal prosecutors to focus their limited resources on certain enforcement priorities that had significant importance to the federal government. The memorandum listed the following eight specific enforcement priorities:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as cover or pretext for the trafficking of other illegal drugs or illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

The Cole Memorandum stated that outside of these enforcement priorities, the federal government has traditionally relied upon state and local governments to address marijuana activity through the enforcement of their own narcotics laws. However the Department of Justice stated that it would rely on local enforcement only if state and local governments have implemented strong and effective regulatory enforcement systems to address threats to public safety, public health and other law enforcement interests. The local governments must also strictly enforce the laws that they have in place by providing necessary resources and demonstrating a willingness to enforce the laws to ensure that the federal enforcement priorities are not undermined. If state and/or local governments do not have sufficient laws and regulations in place, or do not strictly enforce those laws and regulations, and one or more of the federal priorities are affected, then the federal government will enforce its existing marijuana laws.

The Cole Memorandum emphasized that the federal government retains sole and complete authority to enforce federal laws related to marijuana regardless of state or local laws. Evidence that particular activities threaten federal priorities will subject persons or entities to federal enforcement actions. The federal government retains its right to prosecute where a federal investigation and prosecution serves important federal interests.

3. On October 28, 2014, the United States Department of Justice, Executive Office for the United States Attorneys Director Monty Wilkinson issued a memorandum (the “Wilkinson Memorandum”) to all United States Attorneys entitled “Policy Statement Regarding Marijuana Issues in Indian Country.” This memorandum states the eight priorities in the Cole Memorandum will also guide United States Attorneys’ marijuana enforcement efforts in Indian Country, including in the event that sovereign tribes seek to legalize the cultivation and use of marijuana in Indian Country. The memorandum confirms that tribes, similar to

states, have sovereign authority to regulate and legalize marijuana within their jurisdictions as a matter of tribal law. Finally it directed each U.S. Attorney, when evaluating marijuana enforcement activities in Indian Country, to consult with the affected tribe on a government-to-government basis.

4. United States Attorney General Jefferson B. Sessions, III issued a memorandum on January 4, 2018 that rescinded the Cole Memorandum and the Wilkinson Memorandum, and stated that federal prosecutors should follow the previously established principles that govern all federal prosecutions. These principles are similar to the principles in the Cole Memorandum and the Wilkinson Memorandum in that they require federal prosecutors to weigh all relevant considerations, the seriousness of the crime, the deterrent effect of criminal prosecution, and the cumulative impact of particular crimes on the community.
5. The Fallon Paiute Shoshone Tribe, through its governing body the Fallon Business Council, intends to scrupulously comply with and abide by the letter and spirit of the Sessions Memorandum, as well as the Cole Memorandum and the Wilkinson Memorandum upon which many states have organized their marijuana enforcement regimes.
6. The Fallon Paiute Shoshone Tribe has decided to open lands within its jurisdiction to the possession, consumption, cultivation, processing and distribution of marijuana by enacting this Title 17 of the Tribe's Law and Order Code and regulations promulgated hereunder.
7. The Fallon Paiute Shoshone Tribe finds that the medical use of marijuana provides to many individuals a more humane and compassionate regimen of medical treatment for certain types of serious medical conditions, and in some cases enhances the effects of modern medicines and medical treatment, and possible cures, all of which lead to a healthier environment for Tribal members and other community members.
8. The Fallon Paiute Shoshone Tribe's decision through its Business Council to legalize the medical use of marijuana on the Fallon Paiute Shoshone Reservation and Colony was made to address the Tribe's concern for, and the promotion of, the general health and welfare of Tribal members as well as other community members, which the Business Council finds, as a matter of fact, is enhanced through the legalization of medical marijuana use on the Reservation and Colony.
9. The Fallon Paiute Shoshone Tribe has further determined that the recreational use of marijuana and the sale of recreational marijuana in a manner that is scrupulously consistent with the federal guidelines, as well as working in conjunction with the laws of the State of Nevada, is in the best interest of the Tribe and Tribal members.

SECTION 17-10-010 Effective Date. This Ordinance shall go into effect immediately.

SECTION 17-10-015 Control of Marijuana.

1. Law and Order Code Title 17 and the regulations promulgated hereunder shall govern the possession, consumption, cultivation, processing, distribution and sale of marijuana on the Reservation and Colony and will provide an additional source of revenue for the Tribe. Tribal regulation of the possession, consumption, cultivation, processing, distribution and sale of marijuana on the Reservation and Colony is necessary to protect the health, security and general welfare of the Tribal community.
2. Nothing in Law and Order Code Title 17 and any regulations that may be adopted hereunder shall be deemed to be in positive conflict with the federal Controlled Substances Act, 21 U.S.C. §§ 801, *et seq.*
3. Nothing in Law and Order Code Title 17 and any regulations that may be adopted hereunder shall be deemed to create a protected property interest in the possession, consumption, cultivation, processing, distribution and/or marketing of marijuana for medical or other use, or otherwise engaging in the compassionate medical Marijuana Business or Industry, even when authorized or licensed by the Tribe as provided for herein.
4. Law and Order Code Title 17 and any regulations that may be adopted hereunder shall be interpreted according to, deemed to be consistent with and applied consistently with the letter and spirit of the Sessions Memorandum, as well as the Cole Memorandum and Wilkinson Memorandum upon which many states have organized their marijuana enforcement regimes. Should additional guidance by the Department of Justice, or any related Agency thereof, be issued, this Title shall be interpreted and applied so that the additional guidance and this Title are not in conflict.

SECTION 17-10-020 Sovereign Immunity. Nothing in this Law and Order Code Title 17 and any regulations that may be adopted hereunder shall be construed to limit the jurisdiction of the Tribe, the Tribal Court or Tribal law enforcement personnel, and nothing herein shall limit or constitute a waiver of the sovereign immunity of the Tribe or its officers, instrumentalities, employees, officials or agents, or authorize any form of a waiver of such sovereign immunity.

SECTION 17-10-025 Authorization to Engage in the Marijuana Business and Industry. The Tribe is hereby authorized pursuant to this Title 17 to engage in or authorize the engagement in all facets of the Marijuana Business and Industry of any kind or nature whatsoever, either directly or indirectly through, but not limited to, the Tribe itself, wholly owned Tribal affiliates, political subdivisions of the Tribe, any other wholly owned Tribal business entity or arrangement, any entity majority owned by the Tribe or a Tribal entity, or any other entity approved by the Department and the Fallon Business Council.

SECTION 17-10-030 Recognition of State Licenses. The Fallon Business Council may by duly enacted resolution approve the recognition of licenses issued by the State of Nevada as meeting the requirements to obtain a license required by this Title. The recognized State license must be similar to the license required by this Title to authorize the licensee to perform the basic functions allowed by this Title. Each licensee will be required to file with the Department a copy of the State license and state which license required by this Title corresponds to the State issued license. The Tribe can then accept and recognize the State license as meeting the requirements

stated herein. No State licensee shall be allowed to perform any activities requiring a license under this Title unless and until they have received notification from the Department that the State license has been recognized and accepted for this purpose.

SECTION 17-10-100 Definitions. As used in this Title, unless the context otherwise requires, the words and terms defined in Section 17-10-105 to Section 17-10-300, inclusive, have the meanings ascribed to them in those sections.

SECTION 17-10-105 “Administer” defined. “Administer,” in relation to drugs, means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

1. A practitioner or, in the practitioner’s presence, by the practitioner’s authorized agent; or
2. The patient or research subject at the direction and in the presence of the practitioner.

SECTION 17-10-110 “Attending physician” defined. “Attending physician” means a physician who:

1. Is licensed to practice:
 - (a) Medicine pursuant to the provisions of Chapter 630 of NRS; or
 - (b) Osteopathic medicine pursuant to the provisions of Chapter 633 of NRS; and
2. Has responsibility for the care and treatment of a person diagnosed with a chronic or debilitating medical condition.

SECTION 17-10-115 “Board” defined. “Board” means the Board created by the Fallon Business Council with responsibilities as stated in this Title. The Fallon Business Council shall act as the Board unless and until another entity is created.

SECTION 17-10-120 “Cachexia” defined. “Cachexia” means general physical wasting and malnutrition associated with chronic disease.

SECTION 17-10-125 “Chronic or debilitating medical condition” defined. “Chronic or debilitating medical condition” means:

1. Acquired immune deficiency syndrome;
2. Cancer;
3. Glaucoma;
4. A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:
 - (a) Cachexia;
 - (b) Persistent muscle spasms, including, without limitation, spasms caused by multiple sclerosis;
 - (c) Seizures, including, without limitation, seizures caused by epilepsy;
 - (d) Severe nausea;
 - (e) Severe pain;
 - (f) Post traumatic stress disorder; or
 - (g) Symptoms associated with end of life or long term hospice care, which may include physical, mental, or emotional symptoms; or
5. Any other medical condition or treatment for a medical condition that is:

- (a) Classified as a chronic or debilitating medical condition by regulation of the Board; or
- (b) Approved as a chronic or debilitating medical condition pursuant to a petition submitted in accordance with Section 17-80-020.

SECTION 17-10-130 “Cultivation facility” defined. “Cultivation facility” means a business that:

- 1. Is registered with the Department pursuant to Section 17-40-020; and
- 2. Acquires, possesses, cultivates, delivers, transfers, transports, supplies or sells marijuana and related supplies to:
 - (a) Medical marijuana dispensaries;
 - (b) Facilities for the production of edible marijuana products or marijuana-infused products; or
 - (c) Other cultivation facilities.

SECTION 17-10-0135 “Deliver” and “delivery” defined. “Deliver” or “delivery” means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

SECTION 17-10-140 “Designated primary caregiver” defined.

- 1. “Designated primary caregiver” means a person who:
 - (a) Is 18 years of age or older;
 - (b) Has significant responsibility for managing the well-being of one person diagnosed with a chronic or debilitating medical condition; and
 - (c) Is designated as such in the manner required pursuant to Section 17-20-070.
- 2. The term does not include the attending physician of a person diagnosed with a chronic or debilitating medical condition.

SECTION 17-10-145 “Department” defined. “Department” means the entity responsible for the oversight and enforcement of the rules that govern the marijuana programs as adopted by the Fallon Paiute Shoshone Tribe. The Fallon Business Council may through a duly enacted resolution designate the entity or entities to operate as the “Department” or to undertake certain designated duties for the Department such as inspections and background checks. Until such designation occurs, the Fallon Business Council shall take all actions required or stated herein to be undertaken by the Department.

SECTION 17-10-150 “Drug paraphernalia” defined. See Section 17-10-120.

SECTION 17-10-155 “Edible marijuana products” defined. “Edible marijuana products” means products that:

- 1. Contain marijuana or an extract thereof;
- 2. Are intended for human or animal consumption by oral ingestion; and
- 3. Are presented in the form of foodstuffs, extracts, oils, tinctures and other similar products.

SECTION 17-10-160 “Electronic verification system” defined. “Electronic verification system” means an electronic database that:

1. Keeps track of data in real time;
2. Is accessible by the Department and by registered medical marijuana establishments; and
3. Keeps track of data from seed to sale.

SECTION 17-10-165 “Enclosed, locked facility” defined. “Enclosed, locked facility” means a closet, display case, room, greenhouse or other enclosed area that meets the requirements of Section 17-40-260 and is equipped with locks or other security devices that allow access only by a medical marijuana establishment agent and the holder of a valid registry identification card.

SECTION 17-10-170 “Excluded felony offense” defined. “Excluded felony offense” means the conviction of a felony crime under State or Federal law for distribution of a controlled substance.

SECTION 17-10-175 “Facility for the production of edible marijuana products or marijuana-infused products” defined. “Facility for the production of edible marijuana products or marijuana-infused products” means a business that:

1. Is registered with the Department pursuant to Section 17-40-020; and
2. Acquires, possesses, manufactures, delivers, transfers, transports, supplies or sells edible marijuana products or marijuana-infused products to medical marijuana dispensaries.

SECTION 17-10-180 “Inventory control system” defined. “Inventory control system” means a process, device or other contrivance that may be used to monitor the chain of custody of marijuana used for medical purposes from the point of seed or cutting to the end consumer.

SECTION 17-10-185 “Law and Order Code” defined. “Law and Order Code” means the Fallon Paiute Shoshone Tribe’s Law and Order Code.

SECTION 17-10-190 “Marijuana” defined.

1. “Marijuana” means:
 - (a) All parts of any plant of the genus Cannabis, whether growing or not;
 - (b) The seeds thereof;
 - (c) The resin extracted from any part of the plant, including concentrated cannabis; and
 - (d) Every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.
2. “Marijuana” does not include:
 - (a) Industrial hemp, as defined in NRS 557.040, which is grown or cultivated pursuant to the provisions of Chapter 557 of NRS; or
 - (b) The mature stems of the plant, fiber produced from the stems, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stems (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

SECTION 17-10-195 “Marijuana-infused products” defined.

1. “Marijuana-infused products” means products that:
 - (a) Are infused with marijuana or an extract thereof; and

- (b) Are intended for use or consumption by humans or animals through means other than inhalation or oral ingestion.
2. The term includes, without limitation, topical products, ointments, oils and tinctures.

SECTION 17-10-200 “Medical marijuana dispensary” defined. “Medical marijuana dispensary” means a business that:

1. Is registered with the Department pursuant to Section 17-40-020; and
2. Acquires, possesses, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to the holder of a valid registry identification card.

SECTION 17-10-205 “Medical marijuana establishment” defined. “Medical marijuana establishment” means an entity licensed by the Tribe including:

1. A testing laboratory;
2. A cultivation facility;
3. A facility for the production of edible marijuana products or marijuana-infused products;
4. A medical marijuana dispensary; or
5. A business that has registered with the Department and paid the requisite fees to act as more than one of the types of businesses listed in subsections 1, 2, 3, and 4.

SECTION 17-10-210 “Medical marijuana establishment agent” defined. “Medical marijuana establishment agent” means an owner, officer, board member, employee or volunteer of a medical marijuana establishment.

SECTION 17-10-215 “Medical marijuana establishment agent registration card” defined. “Medical marijuana establishment agent registration card” means a registration card that is issued by the Department pursuant to Section 17-40-060 to authorize a person to volunteer or work at a medical marijuana establishment.

SECTION 17-10-220 “Medical marijuana establishment registration certificate” defined. “Medical marijuana establishment registration certificate” means a registration certificate that is issued by the Department pursuant to Section 17-40-020 to authorize the operation of a medical marijuana establishment.

SECTION 17-10-225 “Medical use of marijuana” defined. “Medical use of marijuana” means:

1. The possession, delivery, production or use of marijuana;
2. The possession, delivery or use of paraphernalia used to administer marijuana; or
3. Any combination of the acts described in subsections 1 and 2, as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of his or her chronic or debilitating medical condition.

SECTION 17-10-230 “NRS” defined. “NRS” means the Nevada Revised Statutes.

SECTION 17-10-235 “Paraphernalia” defined. “Paraphernalia” or “drug paraphernalia” means accessories, devices and other equipment that is necessary or useful for a person to engage in the medical use of marijuana.

SECTION 17-10-240 “Production” defined. “Production” or “produce” includes the manufacturing of a controlled substance and the planting, cultivation, growing or harvesting of a plant from which a controlled substance is derived.

SECTION 17-10-245 “Registry identification card” defined. “Registry identification card” means a document issued by the Department or its designee that identifies:

1. A person who is exempt from Tribal, State or Federal prosecution for engaging in the medical use of marijuana (however this exemption does not apply to Federal or State prosecution initiated or maintained by a State or Federal entity); or
2. The designated primary caregiver, if any, of a person described in Subsection 1.

SECTION 17-10-250 “Remote medical care” defined. “Remote medical care” means that an attending physician may employ nontraditional means of reaching patients in need of medical care. “Remote medical care” is limited to conducting house calls or telemedicine care.

SECTION 17-10-253 “Retail Marijuana Store” defined. “Retail marijuana store” means a marijuana store authorized to sell marijuana to any person over 21 years of age in accordance with applicable FPST regulations.

SECTION 17-10-255 “Telemedicine care” defined. “Telemedicine care” means that an attending physician may employ electronic methods such as, but not limited to: interactive video, store and forward, smartphone interfaces, and voice calling, along with associated devices, to reach patients in need of medical care, in lieu of face to face encounters.

SECTION 17-10-260 “Testing laboratory” defined. “Testing laboratory” means a facility described in Section 17-40-320.

SECTION 17-10-265 “Tribe” defined. “Tribe” means the Fallon Paiute Shoshone Tribe, a federally recognized Indian tribe.

SECTION 17-10-270 “Tribal Court” defined. “Tribal Court” means the court system created and administered by the Tribe through its Law and Order Code.

SECTION 17-10-275 “Tribal Lands” defined. “Tribal Lands” means all the lands owned by the Fallon Paiute Shoshone, including fee lands, restricted fee lands, and any lands that are held in trust by the United States for the benefit of the Tribe or a Tribal member.

SECTION 17-10-280 “Tribal Police Department” defined. “Tribal Police Department” means the Fallon Paiute Shoshone Tribal Police Department. Background investigations, such as criminal history and fingerprint activities, stated herein to be conducted by the Tribal Police Department may be conducted by another governmental entity designated by the Fallon Business Council.

SECTION 17-10-285 “Tribal, State or Federal prosecution” defined. “Tribal, State or Federal prosecution” means prosecution initiated or maintained by the Tribe or an agency or political subdivision of the Tribe. This does not include State or Federal prosecution initiated or maintained by a State or Federal entity.

SECTION 17-10-290 “THC” defined. “THC” means delta-9-tetrahydrocannabinol, which is the primary active ingredient in marijuana.

SECTION 17-10-295 “Usable marijuana” defined. “Usable marijuana” means the dried leaves and flowers of a plant of the genus Cannabis, and any mixture or preparation thereof, that are appropriate for the medical use of marijuana; and

SECTION 17-10-300 “Written documentation” defined. “Written documentation” means:

1. A statement signed by the attending physician of a person diagnosed with a chronic or debilitating medical condition; or
2. Copies of the relevant medical records of a person diagnosed with a chronic or debilitating medical condition.

17-20 LIMITED EXEMPTION FROM TRIBAL, STATE OR FEDERAL PROSECUTION; REGISTRY IDENTIFICATION CARDS

SECTION 17-20-010 Holder of valid registry identification card or medical marijuana establishment registration certificate exempt from Tribal, State or Federal prosecution for certain acts involving marijuana and paraphernalia; no crime for mere presence in vicinity of medical use of marijuana; limitation on exemption from Tribal, State or Federal prosecution; affirmative defense.

1. Except as otherwise provided in this Section and Section 17-30-010, a person who holds a valid registry identification card issued to the person pursuant to Section 17-20-030 or 17-20-070 is exempt from Tribal, State or Federal prosecution for:
 - (a) Possession, production, cultivation or delivery of marijuana;
 - (b) Possession or delivery of paraphernalia;
 - (c) Aiding and abetting another in the possession, production, cultivation or delivery of marijuana;
 - (d) Aiding and abetting another in the possession or delivery of paraphernalia;
 - (e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and
 - (f) Any other criminal offense in which the possession, production, cultivation or delivery of marijuana or the possession or delivery of paraphernalia is an element.
2. In addition to the provisions of Subsections 1 and 5, no person may be subject to Tribal, State or Federal prosecution for constructive possession, conspiracy or any other criminal offense solely for being in the presence or vicinity of the medical use of marijuana in accordance with the provisions of this Title.
3. The exemption from Tribal, State or Federal prosecution set forth in Subsection 1 applies only to the extent that a person who holds a registry identification card issued to the person pursuant to Section 17-20-030.1(a) and the designated primary caregiver, if any, of such a person:

- (a) Engage in or assist in, as applicable, the medical use of marijuana in accordance with the provisions of this Title as justified to mitigate the symptoms or effects of the person's chronic or debilitating medical condition; and
 - (b) Do not, at any one time, collectively possess or deliver more than:
 - (1) Two and one-half ounces of usable marijuana;
 - (2) Six marijuana plants per card holder, twelve plants maximum per residence not matter the number of cardholders or designated primary caregivers that reside at the address; and
 - (3) A maximum allowable quantity of edible marijuana products and marijuana-infused products as established by regulation of the Board.

The persons described in this Subsection must ensure that the usable marijuana described in this Subsection is safeguarded in an enclosed, secure location.
4. If the persons described in Subsection 3 possess, produce, cultivate or deliver marijuana in an amount that exceeds the amount described in paragraph (b) of that Subsection, those persons:
 - (a) Are not exempt from Tribal, State or Federal prosecution for possession, cultivation, delivery or production of marijuana.
 - (b) May not establish an affirmative defense to charges of possession, cultivation, delivery or production of marijuana, or any combination of those acts, in the manner set forth in Section 17-30-020.
 5. A person who holds a valid medical marijuana establishment registration certificate issued to the person pursuant to Section 17-40-020 or a valid medical marijuana establishment agent registration card issued to the person pursuant to Section 17-40-060, and who confines his or her activities to those authorized by Sections 17-40-010 to 17-40-330, inclusive, and the regulations adopted by the Board pursuant thereto, is exempt from Tribal, State or Federal prosecution for:
 - (a) Possession, cultivation, delivery or production of marijuana;
 - (b) Possession or delivery of paraphernalia;
 - (c) Aiding and abetting another in the possession, cultivation, delivery or production of marijuana;
 - (d) Aiding and abetting another in the possession or delivery of paraphernalia;
 - (e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and
 - (f) Any other criminal offense in which the possession, cultivation, delivery or production of marijuana or the possession or delivery of paraphernalia is an element.
 6. As used in this Section, "marijuana" includes, without limitation, edible marijuana products and marijuana-infused products.
 7. Except as authorized in this Title, a person who holds a valid registry identification card issued to the person pursuant to Section 17-20-030 or 17-20-070, or pursuant to NRS 453A.220 or 453A.250, and any designated primary caregiver, are prohibited from, and not authorized to cultivate or grow marijuana on Tribal lands for any reason.
 8. The exemption stated in this Section does not apply to Federal or State prosecution initiated or maintained by a State or Federal entity.

SECTION 17-20-020 Registry identification cards: Program for issuance; application; required accompanying information; distribution of copies of application; verification of information contained in application; permissible grounds for denial of application; judicial

review of decision to deny application; reapplication; applicant and caregiver deemed to hold card pending approval or denial of application.

1. The Department shall establish and maintain a program for the issuance of registry identification cards to persons who meet the requirements of this Section.
2. Except as otherwise provided in Subsections 3 and 5 and Section 17-20-040, the Department or its designee shall issue a registry identification card to a Native American who is member of a federally recognized Indian tribe and who submits an application on a form prescribed by the Department accompanied by the following:
 - (a) Valid, written documentation from the person's attending physician after a qualified medical examination, which may be conducted in person or through remote medical care, stating that:
 - (1) The person has been diagnosed with a chronic or debilitating medical condition;
 - (2) The medical use of marijuana may mitigate the symptoms or effects of that condition; and
 - (3) The attending physician has explained the possible risks and benefits of the medical use of marijuana;
 - (b) The name, address, telephone number, social security number and date of birth of the person;
 - (c) Proof satisfactory to the Department of that person's residency.
 - (d) The name, address and telephone number of the person's attending physician;
 - (e) If the person elects to designate a primary caregiver at the time of application:
 - (1) The name, address, telephone number and social security number of the designated primary caregiver; and
 - (2) A written, signed statement from the person's attending physician in which the attending physician approves of the designation of the primary caregiver; and
 - (f) If the person elects to designate a medical marijuana dispensary at the time of application, the name of the medical marijuana dispensary.
3. The Department or its designee shall issue a registry identification card to a person who is under 18 years of age if:
 - (a) The person submits the materials required pursuant to Subsection 2; and
 - (b) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age signs a written statement setting forth that:
 - (1) The attending physician of the person under 18 years of age has explained to that person and to the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age the possible risks and benefits of the medical use of marijuana;
 - (2) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age consents to the use of marijuana by the person under 18 years of age for medical purposes;
 - (3) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to serve as the designated primary caregiver for the person under 18 years of age; and
 - (4) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to control the acquisition of marijuana and the dosage and frequency of use by the person under 18 years of age.

4. Upon receipt of an application on the form prescribed by the Department that is completed and submitted pursuant to this Section, the Department shall:
 - (a) Record on the application the date on which it was received; and
 - (b) Retain the form of the application for the records of the Department.
5. The Department shall verify the information contained in an application submitted pursuant to this Section and shall approve or deny an application within 30 days after receiving the application. The Department may contact an applicant, the applicant's attending physician and designated primary caregiver, if any, by telephone to determine that the information provided on or accompanying the application is accurate. The Department may deny an application only on the following grounds:
 - (a) The applicant failed to provide the information required pursuant to Subsections 2 and 3 to:
 - (1) Establish the applicant's chronic or debilitating medical condition; or
 - (2) Document the applicant's consultation with an attending physician regarding the medical use of marijuana in connection with that condition;
 - (b) The applicant failed to comply with regulations adopted by the Board;
 - (c) The Department determines that the information provided by the applicant was falsified;
 - (d) The Department determines that the attending physician of the applicant is not licensed to practice medicine or osteopathic medicine or is not in good standing, as reported by the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable;
 - (e) The Department has prohibited the applicant from obtaining or using a registry identification card pursuant to Subsection 17-30-010.2;
 - (f) The Department determines that the applicant, or the applicant's designated primary caregiver, if applicable, has had a registry identification card revoked pursuant to Section 17-20-040; or
 - (g) In the case of a person under 18 years of age, the custodial parent or legal guardian with responsibility for health care decisions for the person has not signed the written statement required pursuant to paragraph (b) of Subsection 3.
6. The decision of the Department to deny an application for a registry identification card is a final decision for the purposes of judicial review. Only the person whose application has been denied or, in the case of a person under 18 years of age whose application has been denied, the person's parent or legal guardian, has standing to contest the determination of the Department. A judicial review authorized pursuant to this Subsection must be limited to a determination of whether the denial was arbitrary, capricious or otherwise characterized by an abuse of discretion and must be conducted in accordance with the procedures set forth in the Tribe's Law and Order Code for reviewing a final decision of an agency, or if no such provisions are provided, as any other civil case.
7. A person whose application has been denied may not reapply for 6 months after the date of the denial, unless the Department or the Tribal Court authorizes reapplication in a shorter time.
8. Except as otherwise provided in this Subsection, if a person has applied for a registry identification card pursuant to this Section and the Department has not yet approved or denied the application, the person, and the person's designated primary caregiver, if any,

shall be deemed to hold a registry identification card upon the presentation to a law enforcement officer of the copy of the application.

SECTION 17-20-030 Registry identification cards: Issuance to applicant; issuance to primary caregiver if primary caregiver has been designated at time of application; required contents; duration; renewal.

1. If the Department approves an application pursuant to Subsection 17-20-020.5, the Department or its designee shall, as soon as practicable after the Department approves the application,
 - (a) Issue a serially numbered registry identification card to the applicant; and
 - (b) If the applicant has designated a primary caregiver, issue a serially numbered registry identification card to the designated primary caregiver that lists both the patient and the caregiver's information as described in Section 17-20-030(2).
2. A registry identification card issued pursuant to Subsection 1(a) must set forth:
 - (a) The name, address, photograph and date of birth of the applicant;
 - (b) The date of issuance and date of expiration of the registry identification card;
 - (c) The name, address, and date of birth of the designated primary caregiver, if any;
 - (d) The name of the applicant's designated medical marijuana dispensary, if any; and
 - (e) Any other information prescribed by regulation of the Board.
3. A registry identification card issued pursuant to Subsection 1(b) must set forth:
 - (a) The name, address and photograph of the designated primary caregiver;
 - (b) The date of issuance and date of expiration of the registry identification card;
 - (c) The name and address of the applicant for whom the person is the designated primary caregiver; and
 - (d) Any other information prescribed by regulation of the Board.
4. Except as otherwise provided in Section 17-20-040, Subsection 17-20-050.3 and Subsection 17-30-010.2, a registry identification card issued pursuant to Subsection 17-20-030.1(a) is valid for a period of 1 year and may be renewed in accordance with regulations adopted by the Board.

SECTION 17-20-040 Registry identification cards: Revocation; duties; judicial review; reapplication prohibited for 12 months.

1. If, at any time after the Department or its designee has issued a registry identification card to a person pursuant to Subsection 17-20-030.1(a) or pursuant to Section 17-20-070, the Department determines, on the basis of official documents or records or other credible evidence, that the person:
 - (a) Provided falsified information on his or her application to the Department or its designee, as described in Subsection 17-20-020.5(c), or
 - (b) Has been convicted of an excluded felony offense after issuance of the registry identification card,the Department/Board shall immediately revoke the registry identification card issued to that person and shall immediately revoke the registry identification card issued to that person's designated primary caregiver, if any.
2. Upon the revocation of a registry identification card or letter of approval pursuant to this Section:

- (a) The Department shall send, by certified mail, return receipt requested, notice to the person whose registry identification card or letter of approval has been revoked, advising the person of the requirements of paragraph (b); and
 - (b) The person shall return his or her registry identification card or letter of approval to the Department within 7 days after receiving the notice sent pursuant to paragraph (a).
3. The decision of the Department or Board to revoke a registry identification card pursuant to this Section is a final decision for the purposes of judicial review.
 4. A person whose registry identification card has been revoked pursuant to this Section may not reapply for a registry identification card pursuant to Section 17-20-020 for 12 months after the date of the revocation, unless the Department or the Tribal Court authorizes reapplication in a shorter time.

SECTION 17-20-050 Registry identification card: Holder to notify Department of certain changes in information; required annual update of documentation from attending physician; designation of primary caregiver after initial issuance of card; deemed expiration of card.

1. A person to whom the Department or its designee has issued a registry identification card pursuant to Subsection 17-20-030.1(a) shall, in accordance with regulations adopted by the Board:
 - (a) Notify the Department of any change in the person's name, address, telephone number, designated medical marijuana dispensary, attending physician or designated primary caregiver, if any; and
 - (b) Submit annually to the Department:
 - (1) Updated written documentation from the person's attending physician in which the attending physician sets forth that:
 - (I) The person continues to suffer from a chronic or debilitating medical condition;
 - (II) The medical use of marijuana may mitigate the symptoms or effects of that condition; and
 - (III) The attending physician has explained to the person the possible risks and benefits of the medical use of marijuana; and
 - (2) If the person elects to designate a primary caregiver for the subsequent year and the primary caregiver so designated was not the person's designated primary caregiver during the previous year, the name, address, telephone number and social security number of the designated primary caregiver.
2. If a person fails to comply with the provisions of Subsection 1, the registry identification card issued to the person shall be deemed expired. If the registry identification card of a person to whom the Department or its designee issued the card pursuant to Subsection 17-20-030.1(a) is deemed expired pursuant to this Subsection, a registry identification card issued to the person's designated primary caregiver, if any, shall also be deemed expired.

SECTION 17-20-060 Registry identification cards: Card to be returned to Department following diagnosis of absence of chronic or debilitating medical condition. If a person to whom the Department or its designee has issued a registry identification card pursuant to Subsection 17-20-030.1(a) is diagnosed by the person's attending physician as no longer having a chronic or debilitating medical condition, the person and his or her designated primary caregiver,

if any, shall return their registry identification cards to the Department within 7 days after notification of the diagnosis.

SECTION 17-20-070 Registry identification cards: General requirements concerning designation of primary caregiver; user of medical marijuana not to have more than one designated primary caregiver; designated primary caregiver may not be a caregiver for more than one registered medical marijuana patient; timing of issuance of card to caregiver if caregiver designated after initial issuance of card to patient.

1. If a person who applies to the Department for a registry identification card or to whom the Department or its designee has issued a registry identification card pursuant to Subsection 17-20-030.1(a) desires to designate a primary caregiver, the person must:
 - (a) To designate a primary caregiver at the time of application, submit to the Department the information required pursuant to Subsection 17-20-020.2(e); or
 - (b) To designate a primary caregiver after the Department or its designee has issued a registry identification card to the person, submit to the Department the information required pursuant to Subsection 17-20-050.1(b)(2).
2. A person may have only one designated primary caregiver at any one time.
3. If a person designates a primary caregiver after the time that the person initially applies for a registry identification card, the Department or its designee shall, except as otherwise provided in Subsection 17-20-020.5, issue a new serially numbered registry card that will list both the patient and the designated primary caregiver's information as described in section 17-20-030(2) to the designated primary caregiver as soon as practicable after receiving the information submitted pursuant to Subsection 1(b).

17-30 PROHIBITED ACTS; AFFIRMATIVE DEFENSES

SECTION 17-30-010 Acts for which registry identification cardholder is not exempt from Tribal, State or Federal prosecution and may not raise affirmative defense; additional penalty.

1. A person who holds a registry identification card issued to him or her pursuant to Section 17-20-030 or 17-20-070 is not exempt from Tribal, State or Federal prosecution for, nor may the person establish an affirmative defense to charges arising from, any of the following acts:
 - (a) Driving, operating or being in actual physical control of a vehicle, vessel or aircraft under power or sail while at the same instant, in the actual act of using marijuana, or while under the influence of marijuana determined by an accepted and recognized testing method.
 - (b) Engaging in any other conduct prohibited by Law and Order Code Section 3.04.304.
 - (c) Possessing a firearm while under the influence of alcohol or a controlled substance.
 - (d) Possessing marijuana in violation of Law and Order Code Section 3.04.268 or possessing paraphernalia in violation of any section of the Law and Order Code, if the possession of the marijuana or paraphernalia is discovered because the person engaged or assisted in the medical use of marijuana in:
 - (1) Any place exposed to public view not so authorized by or registered with the Board; or

- (2) Any local detention facility, county jail, state prison, reformatory or other correctional facility, including, without limitation, any facility for the detention of juvenile offenders.
 - (e) Delivering marijuana to another person who he or she knows does not lawfully hold a registry identification card issued by the Department or its designee pursuant to Sections 17-20-030 or 17-20-070.
 - (f) Delivering marijuana for consideration to any person, regardless of whether the recipient lawfully holds a registry identification card issued by the Department or its designee pursuant to Section 17-20-030 or 17-20-070.
2. Except as otherwise provided in Section 17-20-040 and in addition to any other penalty provided by law, if the Department determines that a person has willfully violated a provision of this Title or any regulation adopted by the Department to carry out the provisions of this Title, the Department may, at its own discretion, prohibit the person from obtaining or using a registry identification card for a period of up to 6 months.

SECTION 17-30-020 Affirmative defenses.

1. Except as otherwise provided in this Section and Section 17-30-010, it is an affirmative defense to a criminal charge of possession, cultivation, delivery or production of marijuana, or any other criminal offense in which possession, cultivation, delivery or production of marijuana is an element, that the person charged with the offense:
 - (a) Is a person who:
 - (1) Has been diagnosed with a chronic or debilitating medical condition within the 12-month period preceding his or her arrest and has been advised by his or her attending physician that the medical use of marijuana may mitigate the symptoms or effects of that chronic or debilitating medical condition;
 - (2) Is engaged in the medical use of marijuana; and
 - (3) Possesses, cultivates, delivers or produces marijuana only in the amount described in Subsection 17-20-010.3(b) or in excess of that amount if the person proves by a preponderance of the evidence that the greater amount is medically necessary as determined by the person's attending physician to mitigate the symptoms or effects of the person's chronic or debilitating medical condition; or
 - (b) Is a person who:
 - (1) Is assisting a person described in paragraph (a) in the medical use of marijuana; and
 - (2) Possesses, delivers or produces marijuana only in the amount described in Subsection 17-20-010.3(b) or in excess of that amount if the person proves by a preponderance of the evidence that the greater amount is medically necessary as determined by the assisted person's attending physician to mitigate the symptoms or effects of the assisted person's chronic or debilitating medical condition.
2. A person need not hold a registry identification card issued to the person by the Department or its designee pursuant to Section 17-20-030 or 17-20-070 to assert an affirmative defense described in this Section.
3. Except as otherwise provided in this Section and in addition to the affirmative defense described in Subsection 1, a person engaged or assisting in the medical use of marijuana who is charged with a crime pertaining to the medical use of marijuana is not precluded from:

- (a) Asserting a defense of medical necessity; or
- (b) Presenting evidence supporting the necessity of marijuana for treatment of a specific disease or medical condition,

if the amount of marijuana at issue is not greater than the amount described in Subsection 17-20-010.3(b) and the person has taken steps to comply substantially with the provisions of this Title.

- 4. A defendant who intends to offer an affirmative defense described in this Section shall, not less than 5 days before trial or at such other time as the court directs, file and serve upon the prosecutor a written notice of the defendant's intent to claim the affirmative defense.

The written notice must:

- (a) State specifically why the defendant believes he or she is entitled to assert the affirmative defense; and
- (b) Set forth the factual basis for the affirmative defense.

A defendant who fails to provide notice of his or her intent to claim an affirmative defense as required pursuant to this Subsection may not assert the affirmative defense at trial unless the court, for good cause shown, orders otherwise.

17-40 PRODUCTION AND DISTRIBUTION OF MEDICAL MARIJUANA

Registration of Medical Marijuana Establishments and Medical Marijuana Establishment Agents

SECTION 17-40-010 Purpose of registration; no vested right acquired by holder of registration certificate or registration card. The purpose for registering medical marijuana establishments and medical marijuana establishment agents is to protect the public health and safety and the general welfare of the members of the Tribe, and the people in adjoining jurisdictions. Any medical marijuana establishment registration certificate issued pursuant to Section 17-40-020 and any medical marijuana establishment agent registration card issued pursuant to Section 17-40-020 is a revocable privilege and the holder of such a certificate or card, as applicable, does not acquire thereby any vested right.

SECTION 17-40-020 Registration of establishments: Requirements; expiration and renewal.

- 1. Each medical marijuana establishment must register with the Department.
- 2. An entity that wishes to operate a medical marijuana establishment must submit to the Department an application on a form prescribed by the Department.
- 3. Except as otherwise provided in Section 17-40-030, 17-40-040, 17-40-050 and 17-40-100, not later than 90 days after receiving an application to operate a medical marijuana establishment, the Department shall register the medical marijuana establishment and issue a medical marijuana establishment registration certificate identification number if:
 - (a) The entity that wishes to operate the proposed medical marijuana establishment has submitted to the Department all of the following:
 - (1) The application fee, as set forth in Section 17-40-120;
 - (2) An application, which must include:
 - (I) The legal name of the proposed medical marijuana establishment;

- (II) The physical address where the proposed medical marijuana establishment will be located and the physical address of any co-owned additional or otherwise associated medical marijuana establishments, the locations of a medical marijuana dispensary may not be within 1,000 feet of a public school that provides formal education traditionally associated with preschool or kindergarten through grade 12 and that existed on the date on which the application for the proposed medical marijuana dispensary was submitted to the Department, or within 300 feet of a community facility that existed on the date on which the application for the proposed medical marijuana establishment was submitted to the Department. The 1000 feet is measured from the wall of the unit housing the dispensary to the wall of the public school;
 - (III) Evidence that the applicant owns or controls (such as where the property is owned in trust for the Tribe) the property on which the proposed medical marijuana establishment will be located or has the written permission of the property owner to operate the proposed medical marijuana establishment on that property;
 - (IV) For the applicant and each person who is proposed to be an officer or board member of the proposed medical marijuana establishment, a complete set of the person's fingerprints and written permission of the person authorizing the Department to forward the fingerprints to the Tribal Police Department for submission to the Federal Bureau of Investigation for its report;
 - (VI) The name, address and date of birth of each person who is proposed to be an officer or board member of the proposed medical marijuana establishment; and
 - (VII) The name, address and date of birth of each person who is proposed to be employed by or otherwise provide labor at the proposed medical marijuana establishment as a medical marijuana establishment agent;
- (3) Operating procedures consistent with rules of the Department for oversight of the proposed medical marijuana establishment, including, without limitation:
- (I) Procedures to ensure the use of adequate security measures; and
 - (II) The use of an electronic verification system and an inventory control system, pursuant to Sections 17-40-220 and 17-40-230;
- (4) If the proposed medical marijuana establishment will sell or deliver edible marijuana products or marijuana-infused products, proposed operating procedures for handling such products which must be preapproved by the Department;
- (5) Such other information as the Department may require by regulation;
- (b) None of the persons who are proposed to be officers or board members of the proposed medical marijuana establishment have been convicted of an excluded felony offense;
- (c) None of the persons who are proposed to be officers or board members of the proposed medical marijuana establishment have:
- (1) Served as an owner, officer or board member for a medical marijuana establishment that has had its medical marijuana establishment registration certificate revoked; or
 - (2) Previously had a medical marijuana establishment agent registration card revoked; and

- (d) None of the persons who are proposed to be officers or board members of the proposed medical marijuana establishment are under 21 years of age.
- 4. For each person who is proposed to be an officer or board member of a proposed medical marijuana establishment, the Department shall submit the fingerprints of the person to the Tribal Police Department for submission to determine the criminal history of that person.
- 5. Except as otherwise provided in Subsection 6, if an application for registration as a medical marijuana establishment satisfies the requirements of this Section and the establishment is not disqualified from being registered as a medical marijuana establishment pursuant to this Section or other applicable law, the Department shall issue to the establishment a medical marijuana establishment registration certificate. A medical marijuana establishment registration certificate expires 1 year after the date of issuance and may be renewed upon:
 - (a) Resubmission of the information set forth in this Section; and
 - (b) Payment of the renewal fee set forth in Section 17-40-120.
- 6. In determining whether to issue a medical marijuana establishment registration certificate pursuant to this Section, the Department shall consider the criteria of merit set forth in Section 17-40-050.
- 7. As used in this Section, “community facility” means:
 - (a) A facility that provides day care to children.
 - (b) A public park.
 - (c) A playground.
 - (d) A public swimming pool.
 - (e) A center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents.
 - (f) A church, synagogue or other building, structure or place used for religious worship or other religious purpose.

SECTION 17-40-030 Registration of establishments: Limitation on total number of certificates that can be issued.

- 1. The Department shall issue the appropriate number of medical marijuana establishment registration certificates for medical marijuana dispensaries as are necessary to serve and supply the needs of the medical marijuana patients.
- 2. With respect to medical marijuana establishments that are not medical marijuana dispensaries, the Department shall determine the appropriate number of such establishments as are necessary to serve and supply the medical marijuana dispensaries to which the Department has granted a medical marijuana establishment registration certificates. This determination shall take into consideration whether the medical marijuana dispensaries have access to and/or contracts to obtain marijuana with non-Tribal medical marijuana establishments.
- 3. In addition to the Department’s approval, all initial licenses and/or certificates need to be approved by the Fallon Business Council.

SECTION 17-40-040 Registration of establishments: Certificates deemed provisional pending compliance with requirements and issuance of business license. All licenses and registration certificates are provisional until finalized and a business license has been issued.

SECTION 17-40-050 Registration of establishments: Considerations in determining whether to issue registration certificate. In determining whether to issue a medical marijuana establishment registration certificate pursuant to Section 17-40-020, the Department shall, in addition to the factors set forth in that Section, consider the following criteria of merit:

1. Whether the proposed location of the proposed medical marijuana establishment would be convenient to serve the needs of persons who are authorized to engage in the medical use of marijuana;
2. The likely impact of the proposed medical marijuana establishment on the community in which it is proposed to be located;
3. The adequacy of the size of the proposed medical marijuana establishment to serve the needs of persons who are authorized to engage in the medical use of marijuana;
4. Whether the applicant has an integrated plan for the care, quality and safekeeping of medical marijuana from seed to sale;
5. The amount of taxes paid to, or other beneficial financial contributions made to, the Fallon Paiute Shoshone Tribe or its political subdivisions by the applicant or the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment; and
6. Whether the applicant has an integrated plan to avoid diversion to surrounding communities.
7. Any other criteria of merit that the Department determines to be relevant.

SECTION 17-40-060 Agents required to register with Department; requirements for registration; establishment required to notify Department if agent ceases to be employed by or volunteer at establishment; expiration and renewal of registration.

1. Except as otherwise provided in this Section, a person shall not volunteer or work at a medical marijuana establishment as a medical marijuana establishment agent unless the person is registered with the Department pursuant to this Section.
2. A medical marijuana establishment that wishes to retain as a volunteer or employ a medical marijuana establishment agent shall submit to the Department an application on a form prescribed by the Department. The application must be accompanied by:
 - (a) The name, address and date of birth of the prospective medical marijuana establishment agent;
 - (b) A statement signed by the prospective medical marijuana establishment agent pledging not to dispense or otherwise divert marijuana to any person who is not authorized to possess marijuana in accordance with the provisions of this Title;
 - (c) A statement signed by the prospective medical marijuana establishment agent asserting that he or she has not previously had a medical marijuana establishment agent registration card revoked;
 - (d) A complete set of the fingerprints and written permission of the prospective medical marijuana establishment agent authorizing the Department to forward the fingerprints to the Tribal Police Department to determine the Criminal History of the applicant.
 - (e) The application fee, as set forth in Section 17-40-120; and
 - (f) Such other information as the Department may require by regulation.
3. A medical marijuana establishment shall notify the Department within 10 days after a medical marijuana establishment agent ceases to be employed by or volunteer at the medical marijuana establishment.

4. A person who:
 - (a) Has been convicted of a felony offense for which the sentence, including any term of probation, incarceration or supervised release, was completed less than 5 years before; or
 - (b) Has been convicted of an excluded felony offense; or
 - (c) Is less than 21 years of age;
 shall not serve as a medical marijuana establishment agent.
5. The Department shall submit the fingerprints of an applicant for registration as a medical marijuana establishment agent to the Tribal Police Department, to determine the criminal history of the applicant.
6. The provisions of this Section do not require a person who is an owner, officer or board member of a medical marijuana establishment to resubmit information already furnished to the Department at the time the establishment was registered with the Department.
7. If an applicant for registration as a medical marijuana establishment agent satisfies the requirements of this Section and is not disqualified from serving as such an agent pursuant to this Section or any other applicable law, the Department shall issue to the person a medical marijuana establishment agent registration card. If the Department does not act upon an application for a medical marijuana establishment agent registration card within 30 days after the date on which the application is received, the application shall be deemed conditionally approved until such time as the Department acts upon the application. A medical marijuana establishment agent registration card expires 1 year after the date of issuance and may be renewed upon:
 - (a) Resubmission of the information set forth in this Section; and
 - (b) Payment of the renewal fee set forth in Section 17-40-120.

SECTION 17-40-070 Registration cards and registration certificates nontransferable.

The following are nontransferable:

1. A medical marijuana establishment agent registration card.
2. A medical marijuana establishment registration certificate.

SECTION 17-40-080 Payment of child support: Statement by applicant for registration card or registration certificate; grounds for denial; duties of Department. [Effective until the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. In addition to any other requirements set forth in this Title, an applicant for the issuance or renewal of a medical marijuana establishment agent registration card or medical marijuana establishment registration certificate shall:
 - (a) Include the social security number of the applicant in the application submitted to the Department.
 - (b) Submit to the Department a statement completed and signed by the applicant that:
 - (1) The applicant is not subject to a court order for the support of a child;
 - (2) The applicant is subject to a court order for the support of one or more children and is in compliance with the order or is in compliance with a plan approved by the

- Tribal Court, Tribal prosecutor, district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order; or
- (3) The applicant is subject to a court order for the support of one or more children and is not in compliance with the order or a plan approved by the Tribal Court, Tribal prosecutor, district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.
2. The Department shall include the statement required pursuant to Subsection 1 in:
 - (a) The application or any other forms that must be submitted for the issuance or renewal of the medical marijuana establishment agent registration card or medical marijuana establishment registration certificate; or
 - (b) A separate form prescribed by the Department.
 3. A medical marijuana establishment agent registration card or medical marijuana establishment registration certificate may not be issued or renewed by the Department if the applicant:
 - (a) Fails to submit the statement required pursuant to Subsection 1; or
 - (b) Indicates on the statement submitted pursuant to Subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the Tribal Court, Tribal prosecutor, district attorney, or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.
 4. If an applicant indicates on the statement submitted pursuant to Subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the Tribal Court, Tribal prosecutor, district attorney, or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Department shall advise the applicant to contact the entity enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

SECTION 17-40-090 Suspension of registration card or registration certificate for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of registration card or registration certificate. [Effective until the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. If the Department receives a copy of a court order that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a medical marijuana establishment agent registration card or medical marijuana establishment registration certificate because the person failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish, modify or enforce an obligation for the support of a child; or is in arrears in the payment for the support of one or more children, then the Department shall deem the card or certificate issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Department receives a letter issued to the holder of the card or certificate by the Tribal Court, Tribal prosecutor, district attorney or other public agency stating that the holder of the card or certificate has complied with the subpoena or warrant or has satisfied the arrearage.

2. The Department shall reinstate a medical marijuana establishment agent registration card or medical marijuana establishment registration certificate that has been suspended by a court if the Department receives a letter issued by the Tribal Court, Tribal prosecutor, district attorney or other public agency to the person whose card or certificate was suspended stating that the person whose card or certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage.

SECTION 17-40-100 Grounds for immediate revocation of registration certificate. The following acts constitute grounds for immediate revocation of a medical marijuana establishment registration certificate:

1. Dispensing, delivering or otherwise transferring marijuana to a person other than a medical marijuana establishment agent, another medical marijuana establishment, a patient who holds a valid registry identification card or the designated primary caregiver of such a patient.
2. Acquiring usable marijuana or mature marijuana plants from any person other than a medical marijuana establishment agent, another medical marijuana establishment, a patient who holds a valid registry identification card or the designated primary caregiver of such a patient.
3. Violating a regulation of the Department or Board, the violation of which is stated to be grounds for immediate revocation of a medical marijuana establishment registration certificate.

SECTION 17-40-110 Grounds for immediate revocation of registration card. The following acts constitute grounds for the immediate revocation of the medical marijuana establishment agent registration card of a medical marijuana establishment agent:

1. Having been convicted of any excluded felony offense.
2. Dispensing, delivering or otherwise transferring marijuana to a person other than a medical marijuana establishment agent, another medical marijuana establishment, a patient who holds a valid registry identification card or the designated primary caregiver of such a patient.
3. Violating a regulation of the Department or Board, the violation of which is stated to be grounds for immediate revocation of a medical marijuana establishment agent registration card.

SECTION 17-40-120 Fees.

1. Except as otherwise provided in Subsection 2, the Department shall collect not more than the following maximum fees:
 - (a) For the initial issuance of a medical marijuana establishment registration certificate for a Medical marijuana dispensary \$2000.00
 - (b) For the renewal of a medical marijuana establishment registration certificate for a medical marijuana dispensary \$1000.00
 - (c) For the initial issuance of a medical marijuana establishment registration certificate for a cultivation facility \$2000.00
 - (d) For the renewal of a medical marijuana establishment registration certificate for a cultivation facility \$1000.00

- (e) For the initial issuance of a medical marijuana establishment registration certificate for a facility for the production of edible marijuana products or marijuana-infused products.....\$2000.00
 - (f) For the renewal of a medical marijuana establishment registration certificate for a facility for the production of edible marijuana products or marijuana-infused products \$1000.00
 - (g) For the initial issuance of a medical marijuana establishment agent registration card \$100.00
 - (h) For the renewal of a medical marijuana establishment agent registration card\$100.00
 - (i) For the initial issuance of a medical marijuana establishment registration certificate for an independent Testing laboratory..... \$1000.00
 - (j) For the renewal of a medical marijuana establishment registration certificate for an independent testing laboratory..... \$500.00
2. In addition to the fees described in Subsection 1, each applicant for a medical marijuana establishment registration certificate must pay to the Department:
 - (a) A one-time, nonrefundable application fee of \$1000.00; and
 - (b) The actual costs incurred by the Department in processing the application, including, without limitation, conducting background checks.
 3. Any revenue generated from the fees imposed pursuant to this Section:
 - (a) Must be expended first to pay the costs of the Department in carrying out the provisions of this Ordinance, inclusive; and
 - (b) If any excess revenue remains after paying the costs described in paragraph (a), such excess revenue must be paid over to the Tribal Finance Department.
 4. Fees may be deferred until the approved establishment has opened. Once open the establishment shall pay all license fees within 60 days.

Requirements Concerning Operation of Medical Marijuana Establishments

SECTION 17-40-200 Location, land use, appearance and signage. Each medical marijuana establishment must:

1. Be located in a commercial or industrial zone or overlay; or have received a variance from the Fallon Business Council. A cultivation facility can be located in an agriculture or rural zone.
2. Comply with all Tribal ordinances and rules pertaining to zoning, land use and signage;
3. Have an appearance, both as to the interior and exterior, that is professional, orderly and dignified.
4. Have discreet and professional signage.

SECTION 17-40-210 Operating documents; security measures; actions of establishment with respect to marijuana required to be for certain purpose; requirements for cultivation; dispensary and cultivation facility authorized to acquire marijuana from patient; allowing consumption on premises prohibited; inspection.

1. The operating documents of a medical marijuana establishment must include procedures:
 - (a) For the oversight of the medical marijuana establishment; and

- (b) To ensure accurate recordkeeping, including, without limitation, the provisions of Section 17-40-220 and 17-40-230.
2. Except as otherwise provided in this Subsection, a medical marijuana establishment:
- (a) That is a medical marijuana dispensary must have a single entrance for patrons, which must be secure, and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.
 - (b) That is not a medical marijuana dispensary must have a single secure entrance and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.
- The provisions of this Subsection do not supersede any applicable state or local requirements relating to minimum numbers of points of entry or exit, or any applicable state or local requirements relating to fire safety.
3. A medical marijuana establishment is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to:
- (a) Directly or indirectly assist patients who possess valid registry identification cards; and
 - (b) Assist patients who possess valid registry identification cards by way of those patients' designated primary caregivers.
- For the purposes of this Subsection, a person shall be deemed to be a patient who possesses a valid registry identification card if he or she qualifies for nonresident reciprocity pursuant to Section 17-40-300.
4. All cultivation or production of marijuana that a cultivation facility carries out or causes to be carried out must take place in a locked facility at the physical address provided to the Department during the registration process for the cultivation facility. Such a locked facility must be accessible only by medical marijuana establishment agents who are lawfully associated with the cultivation facility, except that limited access by persons necessary to perform construction or repairs or provide other labor is permissible if such persons are supervised by a medical marijuana establishment agent.
5. Each cultivation facility must have an adequate security plan and a resource plan approved by the Department.
6. A medical marijuana dispensary and a cultivation facility may acquire usable marijuana or marijuana plants from a patient who holds a valid registry identification card, or the designated primary caregiver of such a patient. Except as otherwise provided in this Subsection, the patient or caregiver, as applicable, must receive no compensation for the marijuana. A patient who holds a valid registry identification card, and the designated primary caregiver of such a patient, may sell usable marijuana to a medical marijuana dispensary one time and may sell marijuana plants to a cultivation facility one time.
7. A medical marijuana establishment shall not allow a person to consume marijuana on the property or premises of the establishment.
8. Medical marijuana establishments are subject to reasonable inspection by the Department at any time, and a person who holds a medical marijuana establishment registration certificate must make himself or herself, or a designee thereof, available and present for any inspection by the Department of the establishment.

SECTION 17-40-220 Electronic verification system.

1. Each medical marijuana establishment, in consultation with the Department, shall maintain an electronic verification system.
2. The electronic verification system required pursuant to Subsection 1 must be able to monitor and report information, including, without limitation:
 - (a) In the case of a medical marijuana dispensary, for each person who holds a valid registry identification card and who purchased marijuana from the dispensary in the immediately preceding 14 day period:
 - (1) The number of the card;
 - (2) The date on which the card was issued; and
 - (3) The date on which the card will expire.
 - (b) For each medical marijuana establishment agent who is employed by or volunteers at the medical marijuana establishment, the number of the person's medical marijuana establishment agent registration card.
 - (c) In the case of a medical marijuana dispensary, such information as may be required by the Department by regulation regarding persons who are not residents of the Fallon Paiute Shoshone Reservation and Colony, or the State of Nevada, and who have purchased marijuana from the dispensary.
 - (d) Verification of the identity of a person to whom marijuana, edible marijuana products or marijuana-infused products are sold or otherwise distributed.
 - (e) Such other information as the Department may require.
3. Nothing in this Section prohibits more than one medical marijuana establishment from co-owning an electronic verification system in cooperation with other medical marijuana establishments, or sharing the information obtained therefrom.
4. A medical marijuana establishment must exercise reasonable care to ensure that the personal identifying information of persons who hold registry identification cards which is contained in an electronic verification system is protected and not divulged for any purpose not specifically authorized by law.

SECTION 17-40-230 Inventory control system.

1. Each medical marijuana establishment, in consultation with the Department, shall maintain an inventory control system.
2. The inventory control system required pursuant to Subsection 1 must be able to monitor and report information, including, without limitation:
 - (a) Insofar as is practicable, the chain of custody and current whereabouts, in real time, of medical marijuana from the point that it is harvested at a cultivation facility until it is sold at a medical marijuana dispensary and, if applicable, if it is processed at a facility for the production of edible marijuana products or marijuana-infused products;
 - (b) The name of each person or other medical marijuana establishment, or both, to which the establishment sold marijuana;
 - (c) In the case of a medical marijuana dispensary, the date on which it sold marijuana to a person who holds a registry identification card and, if any, the quantity of edible marijuana products or marijuana-infused products sold; and
 - (d) Such other information as the Department may require.

3. Nothing in this Section prohibits more than one medical marijuana establishment from co-owning an inventory control system in cooperation with other medical marijuana establishments, or sharing the information obtained therefrom.
4. A medical marijuana establishment must exercise reasonable care to ensure that the personal identifying information of persons who hold registry identification cards that is contained in an inventory control system is protected and not divulged for any purpose not specifically authorized by law.

SECTION 17-40-240 Duties of medical marijuana dispensaries relating to sale of medical marijuana and related products and relating to notice of legal limits on possession of medical marijuana. Each medical marijuana dispensary shall ensure all of the following:

1. The weight of all marijuana, edible marijuana products and marijuana-infused products that the dispensary sells are clearly and accurately stated on the product sold.
2. That the dispensary does not sell to a person an amount of marijuana for medical purposes that exceeds the limits set forth in Section 17-20-010.
3. That, posted clearly and conspicuously within the dispensary, are the legal limits on the possession of marijuana for medical purposes, as set forth in Section 17-20-010.
4. That, posted clearly and conspicuously within the dispensary, is a sign stating unambiguously the State of Nevada's legal limits on the possession of marijuana for medical purposes, as set forth in the NRS 453A.200.

SECTION 17-40-250 Requirements concerning edible marijuana products and marijuana-infused products. Each medical marijuana dispensary and facility for the production of edible marijuana products or marijuana-infused products shall, in consultation with the Department, cooperate to ensure that all edible marijuana products and marijuana-infused products offered for sale:

1. Are labeled clearly and unambiguously as medical marijuana.
2. Are not presented in packaging that is appealing to children.
3. Are regulated and sold on the basis of the concentration of THC in the products and not by weight.
4. Are packaged and labeled in such a manner as to allow tracking by way of an inventory control system.

SECTION 17-40-260 Requirements concerning storage and removal of medical marijuana.

1. At each medical marijuana establishment, medical marijuana must be stored only in an enclosed, locked facility.
2. Except as otherwise provided in Subsection 3, at each medical marijuana dispensary, medical marijuana must be stored in a secure, locked device, display case, cabinet or room within the enclosed, locked facility. The secure, locked device, display case, cabinet or room must be protected by a lock or locking mechanism that meets at least the security rating established by Underwriters Laboratories for key locks.
3. At a medical marijuana dispensary, medical marijuana may be removed from the secure setting described in Subsection 2:
 - (a) Only for the purpose of dispensing the marijuana;
 - (b) Only immediately before the marijuana is dispensed; and

- (c) Only by a medical marijuana establishment agent who is employed by or volunteers at the dispensary.

Miscellaneous Provisions

SECTION 17-40-300 Recognition of nonresident cards.

1. The Fallon Paiute Shoshone Tribe and the medical marijuana dispensaries located on Tribal lands that hold valid medical marijuana establishment registration certificates will recognize a nonresident card only under the following circumstances:
 - (a) The state or jurisdiction from which the holder or bearer obtained the nonresident card grants an exemption from criminal prosecution for the medical use of marijuana;
 - (b) The state or jurisdiction from which the holder or bearer obtained the nonresident card requires, as a prerequisite to the issuance of such a card, that a physician advise the person that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition;
 - (c) The nonresident card has an expiration date and has not yet expired;
 - (d) The holder or bearer of the nonresident card signs an affidavit in a form prescribed by the Department which sets forth that the holder or bearer is entitled to engage in the medical use of marijuana in the state or jurisdiction of the holder or bearer's residence; and authorizes release of this information to the Department and Tribal Police Department;
 - (e) The state or jurisdiction where the nonresident card was obtained maintains a database that preserves such information as may be necessary to verify the authenticity or validity of the nonresident card;
 - (f) The Department determines that the database described in paragraph (e) is capable of providing to the Department or the Tribal Police Department, information that is sufficiently accurate, current and specific as to allow those dispensaries to verify that a person who holds or bears a nonresident card is entitled to lawfully do so; and
 - (g) The holder or bearer of the nonresident card agrees to abide by, and does abide by, the legal limits on the possession of marijuana for medical purposes on the Tribal lands of the Fallon Paiute Shoshone Tribe, as set forth in Section 17-20-010, and in the State of Nevada, as set forth in NRS 453A.200.
2. For the purposes of the reciprocity described in this Section:
 - (a) The amount of medical marijuana that the holder or bearer of a nonresident card is entitled to possess in his or her state or jurisdiction of residence is not relevant; and
 - (b) Under no circumstances, while on Tribal lands, may the holder or bearer of a nonresident card possess marijuana for medical purposes in excess of the limits set forth in Section 17-20-010.
3. As used in this Section, "nonresident card" means a card or other identification that:
 - (a) Is issued by a state or jurisdiction other than the Fallon Paiute Shoshone Tribe; and
 - (b) Is the functional equivalent of a registry identification card, as determined by the Department.

SECTION 17-40-320 Testing laboratories.

1. The Board shall establish standards for one or more private testing laboratories to test marijuana, edible marijuana products and marijuana-infused products that are to be sold.

2. Such a testing laboratory must be able to determine accurately, with respect to marijuana, edible marijuana products and marijuana-infused products that are sold or will be sold at medical marijuana dispensaries on Tribal lands:
 - (a) The concentration therein of THC and cannabidiol.
 - (b) Whether the tested material is organic or inorganic
 - (c) The presence of molds and fungus.
3. To obtain certification by the Department on behalf of a testing laboratory, an applicant must:
 - (a) Apply successfully as required pursuant to Section 17-40-020.
 - (b) Pay the fees required pursuant to Section 17-40-120.

SECTION 17-40-330 Regulations. The Department shall adopt such regulations as it determines to be necessary or advisable to carry out the provisions of this Ordinance, inclusive. Such regulations are in addition to any requirements set forth in statute and must, without limitation:

1. Prescribe the form and any additional required content of registration and renewal applications submitted pursuant to Section 17-40-020 and 17-40-060.
2. Set forth rules pertaining to the safe and healthful operation of medical marijuana establishments, including, without limitation:
 - (a) The manner of protecting against diversion and theft without imposing an undue burden on medical marijuana establishments or compromising the confidentiality of the holders of registry identification cards.
 - (b) Minimum requirements for the oversight of medical marijuana establishments.
 - (c) Minimum requirements for the keeping of records by medical marijuana establishments.
 - (d) Provisions for the security of medical marijuana establishments, including, without limitation, requirements for the protection by a fully operational security alarm system of each medical marijuana establishment.
 - (e) Procedures pursuant to which medical marijuana dispensaries must use the services of an independent testing laboratory to ensure that any marijuana, edible marijuana products and marijuana-infused products sold by the dispensaries to end users are tested for content, quality and potency in accordance with standards established by the Department.
3. Set forth the amount of usable marijuana that a medical marijuana dispensary may dispense to a person who holds a valid registry identification card, or the designated primary caregiver of such a person. Such an amount must not exceed the limits set forth in Section 17-20-010.
4. As far as possible while maintaining accountability, protect the identity and personal identifying information of each person who receives, facilitates or delivers services in accordance with this Title.
5. Establish different categories of medical marijuana establishment agent registration cards, including, without limitation, criteria for training and certification, for each of the different types of medical marijuana establishments at which such an agent may be employed or volunteer.
6. Address such other matters as may assist in implementing the program of dispensation contemplated by Section 17-40-010 to 17-40-330, inclusive.

17-50 SEARCH AND SEIZURE

SECTION 17-50-010 Possession of registry identification card, registration certificate or registration card not permissible grounds for search or inspection; care and return of seized property; determination that person is engaged in, facilitating or assisting in medical use of marijuana in accordance with provisions of Title.

1. The fact that a person possesses a registry identification card issued to the person by the Department or its designee pursuant to Section 17-20-030 or 17-20-070, a medical marijuana establishment registration certificate issued to the person by the Department or its designee pursuant to Section 17-40-020 or a medical marijuana establishment agent registration card issued to the person by the Department or its designee pursuant to Section 17-40-060 does not, alone:
 - (a) Constitute probable cause to search the person or the person's property; or
 - (b) Subject the person or the person's property to inspection by any governmental agency.
2. Except as otherwise provided in this Subsection, if Tribal law enforcement officers, or State or local law enforcement officers seize marijuana, paraphernalia or other related property from a person engaged in, facilitating or assisting in the medical use of marijuana:
 - (a) The Tribal Police Department, or State or local law enforcement agency shall ensure that the marijuana, paraphernalia or other related property is not destroyed while in the possession of the Tribal Police Department.
 - (b) Any property interest of the person from whom the marijuana, paraphernalia or other related property was seized must not be forfeited pursuant to any provision of law providing for the forfeiture of property, except as part of a sentence imposed after conviction of a criminal offense.
 - (c) Upon a determination by the Tribal prosecutor or district attorney of the county in which the marijuana, paraphernalia or other related property was seized, or their designee, that the person from whom the marijuana, paraphernalia or other related property was seized is engaging in or assisting in the medical use of marijuana in accordance with the provisions of this Title, the law enforcement agency shall immediately return to that person any usable marijuana, marijuana plants, paraphernalia or other related property that was seized.

The provisions of this Subsection do not require any law enforcement agency to care for live marijuana plants.
3. For the purposes of Subsection 2(c), the determination of the Tribal prosecutor or a district attorney or their designee, that a person is engaging in or assisting in the medical use of marijuana in accordance with the provisions of this Title shall be deemed to be evidenced by:
 - (a) A decision not to prosecute;
 - (b) The dismissal of charges; or
 - (c) Acquittal.

SECTION 17-50-020 Forfeiture of assets seized.

1. If a law enforcement agency legally and justly seizes evidence from a medical marijuana establishment on a basis that, in consideration of due process and viewed in the manner

most favorable to the establishment, would lead a reasonable person to believe that a crime has been committed, the relevant provisions of any Tribal law allowing for the forfeiture of property, inclusive, apply insofar as they do not conflict with the provisions of this Title.

2. As used in this Section, “law enforcement agency” means the Tribal Police Department or a state entity as described in NRS 239C.065.

17-60 ACTIONS OF PROFESSIONAL LICENSING BOARDS

SECTION 17-60-010 Board of Medical Examiners and State Board of Osteopathic Medicine prohibited from taking disciplinary action against attending physician on basis of physician’s participation in certain activities in accordance with Title. The Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, shall not take any disciplinary action against an attending physician on the basis that the attending physician:

1. Advised a person whom the attending physician has diagnosed as having a chronic or debilitating medical condition, or a person whom the attending physician knows has been so diagnosed by another physician licensed to practice medicine pursuant to the provisions of chapter 630 of NRS or licensed to practice osteopathic medicine pursuant to the provisions of chapter 633 of NRS:
 - (a) About the possible risks and benefits of the medical use of marijuana; or
 - (b) That the medical use of marijuana may mitigate the symptoms or effects of the person’s chronic or debilitating medical condition,
if the advice is based on the attending physician’s personal assessment of the person’s medical history and current medical condition.
2. Provided the written documentation required pursuant to Subsection 17-20-020.2(a) for the issuance of a registry identification card or pursuant to Subsection 17-20-050.1(b)(1) for the renewal of a registry identification card, if:
 - (a) Such documentation is based on the attending physician’s personal assessment of the person’s medical history and current medical condition; and
 - (b) The physician has advised the person about the possible risks and benefits of the medical use of marijuana.

SECTION 17-60-020 Professional licensing board prohibited from taking disciplinary action against licensee on basis of licensee’s participation in certain activities in accordance with Title. A professional licensing board shall not take any disciplinary action against a person licensed by the board on the basis that:

1. The person engages in or has engaged in the medical use of marijuana in accordance with the provisions of this Title; or
2. The person acts as or has acted as the designated primary caregiver of a person who holds a registry identification card issued to him or her pursuant to Subsection 17-20-030.1(a).

17-70 RESEARCH; APPROVAL OF FEDERAL GOVERNMENT

Section 17-70-010 Program for evaluation and research of medical use of marijuana: Establishment by the Department; federal approval; participants and subjects; annual report to the Board.

1. The Department shall establish a program, and may contract with a private company, for the evaluation and research of the medical use of marijuana in the care and treatment of persons or animals, who have been diagnosed with a chronic or debilitating medical condition, or other condition that marijuana may be used for care and treatment.
2. Before the Department establishes a program pursuant to Subsection 1, the Department, or its appointed designee, or its contracted designee, shall aggressively seek and must receive approval and funding of the program by the Federal Government pursuant to 21 U.S.C. § 823 or other applicable provisions of federal law, to allow the creation of a federally approved research program for the use and distribution of marijuana for medical purposes.
3. A research program established pursuant to this Section must include residents who volunteer to act as participants and subjects, as determined by the Department or its appointed designee, or contracted designee.
4. A resident who wishes to serve as a participant and subject in a research program established pursuant to this Section may notify the Department, or its appointed designee, or its contracted designee, and may apply to participate by submitting an application on a form prescribed by the Department.
5. The Department shall, on an annual basis, report to the Board with respect to:
 - (a) The progress made in obtaining federal approval for the research program; and
 - (b) If the research program receives federal approval, the status of, activities of and information received from the research program.

SECTION 17-70-020 Program for evaluation and research of medical use of marijuana: Duties of the Department, or its appointed designee, or its contracted designee, concerning confidentiality; certain items of information not subject to subpoena, discovery or inspection.

1. Except as otherwise provided in this Section and NRS 239.0115, the Department shall maintain the confidentiality of and shall not disclose:
 - (a) The contents of any applications, records or other written materials that the Department creates or receives pursuant to the research program described in Section 17-70-010; or
 - (b) The name or any other identifying information of a person who has applied to or who participates in the research program described in Section 17-70-010.
 Except as otherwise provided in NRS 239.0115, the items of information described in this Subsection are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.
2. Notwithstanding the provisions of Subsection 1, the Department may release the name and other identifying information of a person who has applied to or who participates in the research program described in Section 17-70-010 to:
 - (a) Authorized employees of the Fallon Paiute Shoshone Tribe, or its contracted designee, as necessary to perform official duties related to the research program; and
 - (b) Authorized employees of state and local law enforcement agencies, only as necessary to verify that a person is a lawful participant in the research program.

SECTION 17-70-030 Program for evaluation and research of medical use of marijuana: Authority of the Department and The Board concerning gifts, grants, donations and contributions; deposit of money in Tribal Finance Department.

1. The Department, its appointed designee, or its contracted designee, may apply for or accept any gifts, grants, donations or contributions from any source to carry out the provisions of Section 17-70-010.
2. Any money received pursuant to Subsection 1 must be deposited with the Tribe's Finance Department pursuant to Section 17-70-040.

SECTION 17-70-040 Program for evaluation and research of medical use of marijuana: Deposit, use and disposition of money; Department of Tribal Finance to administer account.

1. Any money the Department receives pursuant to Section 17-70-030 or that is appropriated to carry out the provisions of Section 17-70-010:
 - (a) Must be deposited in and accounted for separately by the Tribe's Finance Department;
 - (b) May only be used to carry out the provisions of Section 17-70-010, including the dissemination of information concerning the provisions of that Section and such other information as is determined appropriate by the Department.
2. The Tribe's Finance Department shall administer the account. Any interest or income earned on the money in the account must be credited to the account. Any claims against the account must be paid as other claims against the Tribe are paid.

17-80 MISCELLANEOUS PROVISIONS

SECTION 17-80-010 Duties of Department concerning confidentiality; certain items of information not subject to subpoena, discovery or inspection.

1. Except as otherwise provided in this Section and Subsection 17-20-020.4, the Department and any designee of the Department shall maintain the confidentiality of and shall not disclose:
 - (a) The contents of any applications, records or other written documentation that the Department or its designee creates or receives pursuant to the provisions of this Title; or
 - (b) The name or any other identifying information of:
 - (1) An attending physician; or
 - (2) A person who has applied for or to whom the Department or its designee has issued a registry identification card.

The items of information described in this Subsection are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.
2. Notwithstanding the provisions of Subsection 1, the Department or its designee may release the name and other identifying information of a person to whom the Department or its designee has issued a registry identification card to:
 - (a) Authorized employees of the Department or its designee as necessary to perform official duties of the Department, and
 - (b) Authorized employees of state and local law enforcement agencies, only as necessary to verify that a person is the lawful holder of a registry identification card issued to him or her pursuant to Sections 17-20-030 or 17-20-070.

SECTION 17-80-020 Addition of diseases and conditions to list of qualifying chronic or debilitating medical conditions: Petition; regulations.

1. A person may submit to the Department a petition requesting that a particular disease or condition be included among the diseases and conditions that qualify as chronic or debilitating medical conditions pursuant to Section 17-10-125.
2. The Department shall adopt regulations setting forth the manner in which the Board will accept and evaluate petitions submitted pursuant to this Section. The regulations must provide, without limitation, that:
 - (a) The Board will approve or deny a petition within 180 days after the Board receives the petition; and
 - (b) The decision of the Board to deny a petition is a final decision for the purposes of judicial review.

SECTION 17-80-030 Authority of the Department concerning gifts, grants, donations and contributions; deposit of money in Tribal Finance Department.

1. The Department may apply for or accept any gifts, grants, donations or contributions from any source to carry out the provisions of this Title.
2. Any money the Department receives pursuant to Subsection 1 must be deposited with the Tribe's Finance Department pursuant to Section 17-80-040.

SECTION 17-80-040 Deposit, use and disposition of money; administration of account.

1. Any money the Department receives pursuant to Section 17-80-030 or that is appropriated to carry out the provisions of this Title:
 - (a) Must be deposited with the Tribe's Finance Department;
 - (b) May only be used to carry out:
 - (1) The provisions of this Title, including the dissemination of information concerning the provisions of this Title and such other information as determined appropriate by the Department; and
 - (2) Alcohol and drug abuse programs approved by the Business Council; and
 - (c) Does not revert to the Tribal General Fund at the end of any fiscal year.
2. The Tribe's Finance Department shall administer the account. Any interest or income earned on the money in the account must be credited to the account. Any claims against the account must be paid as other claims against the Tribe are paid.

SECTION 17-80-050 Regulations. The Board shall adopt such regulations as the Board determines are necessary to carry out the provisions of this Title.

SECTION 17-80-060 Costs associated with medical use of marijuana not required to be paid or reimbursed; medical use of marijuana not required to be allowed in workplace; medical needs of employee who engages in medical use of marijuana to be accommodated by employer in certain circumstances. The provisions of this Title do not:

1. Require an insurer, organization for managed care or any person or entity who provides coverage for a medical or health care service to pay for or reimburse a person for costs associated with the medical use of marijuana.
2. Require any employer to allow the medical use of marijuana in the workplace.
3. Require an employer to modify the job or working conditions of a person who engages in the medical use of marijuana that are based upon the reasonable business purposes of the employer but the employer must attempt to make reasonable accommodations for the

medical needs of an employee who engages in the medical use of marijuana if the employee holds a valid registry identification card, provided that such reasonable accommodation would not:

- (a) Pose a threat of harm or danger to persons or property or impose an undue hardship on the employer; or
 - (b) Prohibit the employee from fulfilling any and all of his or her job responsibilities.
4. Require any employer to modify policies applying to employees related to compliance with Federal laws that may prohibit the use of marijuana by employees, even if an employee who engages in the medical use of marijuana holds a valid registry identification card.

SECTION 17-80-070 Tribe not responsible for deleterious outcomes; no waiver of sovereign immunity. The Tribe will not be held responsible for any deleterious outcomes from the medical or recreational use of marijuana by any person. Nothing contained in this Title shall be construed for any reason as a waiver of the Tribe's sovereign immunity.

SECTION 17-80-080 Agreements with State of Nevada. The Tribe, with the approval of the Business Council, may enter into one or more agreements with the State of Nevada to efficiently coordinate the cross-jurisdictional administration of the Tribe's laws and the laws of the State of Nevada relating to the use of marijuana.

SECTION 17-80-090 Severability. If any provision of this Title, or the application thereof to any person, thing or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this Title as a whole or any provision or application of this Title which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Title are declared to be severable.

17-90 REGULATION AND TAXATION OF RETAIL MARIJUANA

SECTION 17-90-010 Findings and declarations.

1. In the interest of public health and public safety, and in order to better focus tribal, state and local law enforcement resources on crimes involving violence and personal property, the Fallon Paiute Shoshone Tribe finds and declares that the use of marijuana should be legal for persons 21 years of age or older, and its cultivation and sale should be regulated similar to other legal businesses.
2. The Fallon Paiute Shoshone Tribe finds and declares that the cultivation and sale of marijuana should be taken from the domain of criminals and regulated under a controlled system, where businesses will be taxed and the revenue will be dedicated to public education and the enforcement of the regulations of this Title.
3. The Fallon Paiute Shoshone Tribe proclaims that marijuana should be regulated in a manner similar to alcohol so that:
 - (a) Marijuana may only be purchased from a business that is licensed by the Fallon Paiute Shoshone Tribe or a marijuana facility that is licensed by the state of Nevada and governed by the compact between the State of Nevada and the Fallon Paiute Shoshone Tribe;

- (b) Business owners are subject to a review by the Fallon Paiute Shoshone Tribe to confirm that the business owners and the business location are suitable to produce or sell marijuana;
- (c) Cultivating, manufacturing, testing, transporting and selling marijuana will be strictly controlled through Tribal licensing and regulation;
- (d) Selling or giving marijuana to persons under 21 years of age shall remain illegal;
- (e) Individuals will have to be 21 years of age or older to purchase marijuana;
- (f) Driving under the influence of marijuana will remain illegal; and
- (g) Marijuana sold on the Fallon Paiute Shoshone Reservation and Colony will be tested and labeled.

SECTION 17-90-020 Definitions. As used in Sections 17-90-010 through 17-90-150, unless the context otherwise requires:

1. "Community facility" means a facility licensed to provide day care to children, a public park, a public playground, a public swimming pool, a center or facility the primary purpose of which is to provide recreational opportunities or services to children or adolescents, or a church, synagogue, or other building, structure, or place used for religious worship or other religious purpose.
2. "Concentrated marijuana" means the separated resin, whether crude or purified, obtained from marijuana.
3. "Consumer" means a person who is 21 years of age or older who purchases marijuana or marijuana products for use by persons 21 years of age or older, but not for resale to others.
4. "Department" means the Tribal Department responsible for the oversight and enforcement of the rules that govern the marijuana programs as adopted by the Fallon Paiute Shoshone Tribe. The Fallon Business Council may through a duly enacted resolution designate the entity or entities to operate as the "Department" or to undertake certain designated duties for the Department such as inspections and background checks. Until such designation occurs, the Fallon Business Council shall take all actions required or stated herein to be undertaken by the Department.
5. "Dual licensee" means a person or group of persons who possess a current, valid registration certificate to operate a medical marijuana establishment and a license to operate a retail marijuana pursuant to this Title 17 of the Law and Order Code.
6. "Locality" means a city or town, or, in reference to a location outside the boundaries of a city or town, a county.
7. "Marijuana cultivation facility" means an entity licensed to cultivate, process, and package marijuana, to have marijuana tested by a marijuana testing facility, and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.
8. "Marijuana distributor" means an entity licensed to transport marijuana from a marijuana establishment to another marijuana establishment.
9. "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, a marijuana distributor, or a retail marijuana store.
10. "Marijuana product manufacturing facility" means an entity licensed to purchase marijuana, manufacture, process, and package marijuana and marijuana products, and sell

marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

11. "Marijuana products" means products comprised of marijuana or concentrated marijuana and other ingredients that are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.
12. "Marijuana paraphernalia" means any equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repackaging, storing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.
13. "Marijuana testing facility" means an entity licensed to test marijuana and marijuana products, including for potency and contaminants.
14. "Process" means to harvest, dry, cure, trim, and separate parts of the marijuana plant by manual or mechanical means, such as sieving or ice water separation, but not by chemical extraction or chemical synthesis.
15. "Public place" means an area to which the public is invited or in which the public is permitted regardless of age. "Public place" does not include a retail marijuana store.
16. "Retail marijuana store" means an entity licensed to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities and retail marijuana stores, and to sell marijuana and marijuana products to consumers 21 years of age or older.
17. "Tribal lands" or "Fallon Paiute Shoshone Tribal Lands" means lands within the Fallon Paiute Shoshone Reservation and Colony, and lands added thereto, and includes the lands addressed in Section 17-10-275.
18. "Unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

SECTION 17-90-030 Effect of Sections 17-90-010 through 17-90-150.

1. The provisions of Sections 17-90-010 through 17-90-150 do not permit any person to engage in and do not prevent the imposition of any civil, criminal, or other penalty for:
 - (a) Driving, operating, or being in actual physical control of a vehicle, aircraft, or vessel under power or sail while under the influence of marijuana or while impaired by marijuana;
 - (b) Knowingly delivering, giving, selling, administering, or offering to sell, administer, give, or deliver marijuana to a person under 21 years of age, unless:
 - (1) The recipient is permitted to possess marijuana pursuant to the medical marijuana sections of this Title; or
 - (2) The person demanded and was shown bona fide documentary evidence of the majority and identity of the recipient issued by a Tribal, federal, state, county, or municipal government, or subdivision or agency thereof;
 - (c) Possession or use of marijuana or marijuana paraphernalia on the grounds of, or within, any correctional facility or correctional institution.
 - (d) Possession or use of marijuana on the grounds of, or within, a public school providing instruction in preschool, kindergarten, or any grades 1 through 12; or

- (e) Possession, cultivation or production of marijuana without a medical marijuana card and in compliance with this Title.
2. The provisions of Sections 17-90-010 through 17-90-150 do not prohibit:
 - (a) A public or private employer from maintaining, enacting, and enforcing a workplace policy prohibiting or restricting actions or conduct otherwise permitted under this Title;
 - (b) A tribal, state or local government agency that occupies, owns, or controls a building from prohibiting or otherwise restricting the consumption, cultivation, processing, manufacture, sale, delivery, or transfer of marijuana in that building;
 - (c) A person who occupies, owns, or controls a privately owned property from prohibiting or otherwise restricting the smoking, cultivation, processing, manufacture, sale, delivery, or transfer of marijuana on that property; or
3. Nothing in the provisions of Sections 17-90-010 through 17-90-150 of this Title 17 shall be construed as in any manner affecting the provisions of Title 17 of the Law and Order Code relating to the medical use of marijuana.

SECTION 17-90-040 Exemption from Tribal and State or local prosecution for certain acts involving marijuana and marijuana paraphernalia. Notwithstanding any other provision of Tribal law, except as otherwise provided in this Title, it is lawful, on Fallon Paiute Shoshone Tribal Lands, and must not be used as the basis for prosecution or penalty by the Tribe, or the State of Nevada or a political subdivision of the State of Nevada, and must not, on Fallon Paiute Shoshone Tribal Lands, be a basis for seizure or forfeiture of assets for persons 21 years of age or older to:

1. Possess, use, consume, purchase, obtain, process, or transport marijuana paraphernalia, one ounce or less of marijuana, other than concentrated marijuana, or one-eighth of an ounce or less of concentrated marijuana;
2. Give or otherwise deliver one ounce or less of marijuana, other than concentrated marijuana, or one-eighth of an ounce or less of concentrated marijuana without remuneration to a person provided that the transaction is not advertised or promoted to the public; or
3. Assist another person who is 21 years of age or older in any of the acts described in this section.

SECTION 17-90-050 Additional exemptions from Tribal prosecution for certain acts involving marijuana and marijuana products. Notwithstanding any other provision of Tribal law, except as otherwise provided in this Title or the regulations adopted pursuant to this Title, it is lawful and must not, on Fallon Paiute Shoshone Tribal Lands, be used as the basis for prosecution or penalty by this Tribe and must not, on Fallon Paiute Shoshone Tribal Lands, be a basis for seizure or forfeiture of assets for persons 21 years of age or older to:

1. Possess marijuana and marijuana products, purchase marijuana from a marijuana cultivation facility, purchase marijuana and marijuana products from a marijuana product manufacturing facility, return marijuana or marijuana products to a facility from which they were purchased, transport marijuana and marijuana products to or from a marijuana testing facility, use the services of a marijuana distributor to transport marijuana or marijuana products to or from marijuana establishments, or sell marijuana and marijuana products to consumers, if the person conducting the activities described in this subsection

has a current, valid license to operate a retail marijuana store or is acting in the person's capacity as an agent of a retail marijuana store.

2. Cultivate, harvest, process, package, or possess marijuana, sell marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a retail marijuana store, transport marijuana to or from a marijuana cultivation facility, a marijuana product manufacturing facility, or a marijuana testing facility, use the services of a marijuana distributor to transport marijuana to or from marijuana establishments, or purchase marijuana from a marijuana cultivation facility, if the person conducting the activities described in this subsection has a current, valid license to operate a marijuana cultivation facility or is acting in his or her capacity as an agent of a marijuana cultivation facility.
3. Package, process, manufacture, or possess marijuana and marijuana products, transport marijuana and marijuana products to or from a marijuana testing facility, a marijuana cultivation facility, or a marijuana product manufacturing facility, use the services of a marijuana distributor to transport marijuana or marijuana products to or from marijuana establishments, sell marijuana and marijuana products to a retail marijuana store or a marijuana product manufacturing facility, purchase marijuana from a marijuana cultivation facility, or purchase marijuana and marijuana products from a marijuana product manufacturing facility, if the person conducting the activities described in this subsection has a current, valid license to operate a marijuana product manufacturing facility or is acting in his or her capacity as an agent of a marijuana product manufacturing facility.
4. Possess marijuana and marijuana products and transfer and transport marijuana and marijuana products between marijuana establishments, if the person transporting the marijuana and marijuana products has a current, valid license to operate as a marijuana distributor or is acting in his or her capacity as an agent of a marijuana distributor.
5. Possess, process, repackage, transport, or test marijuana and marijuana products if the person has a current, valid license to operate a marijuana testing facility or is acting in his or her capacity as an agent of a marijuana testing facility.
6. Lease or otherwise allow property owned, occupied, or controlled by any person, corporation, or other entity to be used for any of the activities conducted lawfully in accordance with this Title.

SECTION 17-90-060 No crime for certain acts involving marijuana paraphernalia.

Notwithstanding any other provision of Tribal law, it is not unlawful and shall not be an offense or be a basis for seizure or forfeiture of assets for persons 21 years of age or older to manufacture, possess, use, transport, or purchase marijuana paraphernalia, or to distribute or sell marijuana paraphernalia to a person who is 21 years of age or older.

SECTION 17-90-070 Enforcement of contracts. It is the policy of the Fallon Paiute Shoshone Tribe that contracts related to the operation of marijuana establishments under this Title should be enforceable, and no contract entered into by a licensee, its employees, or its agents as permitted pursuant to a valid license issued by the Department, or by those who allow property to be used by a licensee, its employees, or its agents as permitted pursuant to a valid license issued by the Department, shall be deemed unenforceable on the basis that the actions or conduct permitted pursuant to the license are prohibited by federal law.

SECTION 17-90-080 Duties of Department relating to regulation and licensing of marijuana establishments; information about consumers.

1. The Department shall adopt all regulations necessary or convenient to carry out the provisions of Sections 17-90-010 through 17-90-150 of this Title. The regulations must not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. The regulations shall include:
 - (a) Procedures for the issuance, renewal, suspension, and revocation of a license to operate a marijuana establishment;
 - (b) Qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment;
 - (c) Requirements for the security of marijuana establishments;
 - (d) Requirements to prevent the sale or diversion of marijuana and marijuana products to persons under 21 years of age;
 - (e) Requirements for the packaging of marijuana and marijuana products, including requirements for child-resistant packaging;
 - (f) Requirements for the testing and labeling of marijuana and marijuana products sold by marijuana establishments including a numerical indication of potency based on the ratio of THC to the weight of a product intended for oral consumption;
 - (g) Requirements for record keeping by marijuana establishments;
 - (h) Reasonable restrictions on signage, marketing, display, and advertising;
 - (i) Procedures for the collection of taxes, fees, and penalties imposed by Tribal law related to the marijuana;
 - (j) Procedures and requirements to enable the transfer of a license for a marijuana establishment to another qualified person and to enable a licensee to move the location of its establishment to another suitable location;
 - (k) Procedures and requirements to enable a dual licensee to operate medical marijuana establishments and marijuana establishments at the same location;
 - (l) Procedures to establish the fair market value at wholesale of marijuana; and
 - (m) Penalties for the failure to comply with any regulation adopted pursuant to this section or for any violation of the provisions of Section 17-90-120.
2. The Department shall approve or deny applications for licenses pursuant to Section 17-90-090.
3. The Department may by motion or on complaint, after investigation, notice of the specific violation, and an opportunity for a hearing, pursuant to the provisions of this Title, suspend, revoke, or fine a licensee for the violation of Sections 17-90-010 through 17-90-150 or for a violation of a regulation adopted by the Department pursuant to Sections 17-90-010 through 17-90-150.
4. The Department may immediately suspend the license of any marijuana establishment if the marijuana establishment knowingly sells, delivers, or otherwise transfers marijuana in violation of this Title or knowingly purchases marijuana from any person not licensed pursuant to this Title. The Department must provide an opportunity for a hearing within a reasonable time from a suspension pursuant to this subsection.
5. To ensure that individual privacy is protected:
 - (a) The Department shall not require a consumer to provide a retail marijuana store with identifying information other than government-issued identification to determine the consumer's age; and

- (b) A retail marijuana store must not be required to acquire and record personal information about consumers other than information typically acquired in a financial transaction conducted at a retail liquor store.
- 6. The Department shall conduct a background check of each prospective owner, officer, and board member of a marijuana establishment license applicant.
- 7. The Department shall inspect marijuana establishments as necessary to enforce Sections 17-90-010 through 17-90-150, or the regulations adopted pursuant to this Sections 17-90-010 through 17-90-150.

SECTION 17-90-090 Acceptance of applications for licensing; priority in licensing; conditions for approval of application; limitations on issuance of licenses to retail marijuana stores; competing applications.

- 1. The Department shall begin receiving applications for marijuana establishments upon adoption of this Title. The Department shall have the discretion to decide whether or not to issue any license under this Title to any person or entity, and no person or entity shall have any right to be issued a license under this Title.
- 2. The Department shall only accept applications for licenses for retail marijuana stores, marijuana product manufacturing facilities, and marijuana cultivation facilities pursuant to Sections 17-90-010 through 17-90-150 of this Title from persons holding a medical marijuana establishment registration certificate issued pursuant to this Title.
- 3. The Department shall issue licenses for marijuana distributors pursuant to this Title only to persons holding a wholesale dealer license, unless the Board determines that an insufficient number of marijuana distributors will result from this limitation.
- 4. Upon receipt of a complete marijuana establishment license application, the Department shall, within 90 days:
 - (a) Issue the appropriate license if the license application is approved; or
 - (b) Send a notice of rejection setting forth the reasons why the Department did not approve the license application.
- 5. The Department shall approve a license application if:
 - (a) The prospective marijuana establishment has submitted an application in compliance with regulations adopted by the Department and the application fee required pursuant to Section 17-90-110;
 - (b) The physical address where the proposed marijuana establishment will operate is owned by the applicant or the applicant is the trust beneficiary owner of the property or the applicant has the written permission of the property owner to operate the proposed marijuana establishment on that property;
 - (c) The property is not located within:
 - (1) One thousand feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12 and that existed on the date on which the application for the proposed marijuana establishment was submitted to the Department; or
 - (2) Three hundred feet of a community facility that existed on the date on which the application for the proposed marijuana establishment was submitted to the Department;
 - (d) The proposed marijuana establishment is a proposed retail marijuana store and there are not more than one license issued per township; and

- (e) The persons who are proposed to be owners, officers, or board members of the proposed marijuana establishment:
 - (1) Have not been convicted of an excluded felony offense; and
 - (2) Have not served as an owner, officer, or board member for a medical marijuana establishment or a marijuana establishment that has had its registration certificate or license revoked.

SECTION 17-90-100 Expiration and renewal of licenses.

- 1. All licenses expire one year after the date of issue.
- 2. The Department shall issue a renewal license within 10 days of receipt of the prescribed renewal application and renewal fee from a marijuana establishment if its license is not under suspension or has not been revoked.

SECTION 17-90-110 Fees.

- 1. The Department shall require each applicant for a marijuana establishment license to pay a one-time application fee of \$500.
- 2. The Department may require payment of an annual licensing fee not to exceed:

- (a) For the initial issuance of a license for a retail marijuana store \$2000
- (b) For a renewal license for a retail marijuana store \$1000
- (c) For the initial issuance of a license for a marijuana cultivation facility \$2000
- (d) For a renewal license for a marijuana cultivation \$1000
- (e) For the initial issuance of a license for a marijuana product manufacturing facility \$2000
- (f) For a renewal license for a marijuana product manufacturing facility \$1000
- (g) For the initial issuance of a license for a marijuana distributor \$1000
- (h) For a renewal license for a marijuana distributor \$600
- (i) For the initial issuance of a license for a marijuana testing facility \$1000
- (j) For a renewal license for a marijuana testing facility \$500

- 3. In addition to the fees described in Subsection 1, each applicant for a marijuana establishment registration certificate must pay to the Department:
 - (a) A one-time, nonrefundable application fee of \$1000.00; and
 - (b) The actual costs incurred by the Department in processing the application, including, without limitation, conducting background checks.
- 4. Any revenue generated from the fees imposed pursuant to this Section:

- (a) Must be expended first to pay the costs of the Department in carrying out the provisions of Section this Ordinance, inclusive; and
 - (b) If any excess revenue remains after paying the costs described in paragraph (a), such excess revenue must be paid over to the Tribal Finance Department.
5. Fees may be deferred until the approved establishment has opened. Once open the establishment has 60 days to pay all license fees.

SECTION 17-90-120 Requirements for operation of marijuana establishment; inspection of establishment. In addition to requirements established by regulations adopted by the Department pursuant to this Title:

1. Marijuana establishments shall:
 - (a) Secure every entrance to the establishment so that access to areas containing marijuana is restricted to persons authorized to possess marijuana;
 - (b) Secure the inventory and equipment of the marijuana establishment during and after operating hours to deter and prevent theft of marijuana;
 - (c) Determine the criminal history of any person before the person works or volunteers at the operational marijuana establishment and prevent any person who has been convicted of an excluded felony offense or who is not 21 years of age or older from working or volunteering for the operational marijuana establishment.
2. All cultivation, processing, and manufacture of marijuana must take place at a physical address approved by the Department and within an area that is enclosed and locked in a manner that restricts access only to persons authorized to access the area. The area may be uncovered only if it is enclosed with security fencing that is designed to prevent unauthorized entry and that is at least 8 feet high.
3. All cultivation, processing, and manufacture of marijuana must not be visible from a public place by normal unaided vision.
4. All cultivation, processing, and manufacture of marijuana must take place on property in the marijuana establishment's lawful possession or with the consent of the person in lawful physical possession of the property.
5. A marijuana establishment is subject to reasonable inspection by the Department, and a person who holds a marijuana establishment license must make himself or herself, or an agent thereof, available and present for any inspection required by the Department. The Department shall make reasonable accommodations so that ordinary business is not interrupted and safety and security procedures are not compromised by the inspection.

SECTION 17-90-130 Violations and penalties.

1. Restrictions on personal cultivation: No personal cultivation is allowed on Tribal lands.
2. An Indian who smokes or otherwise consumes marijuana in a public place, in a retail marijuana store, or in a moving vehicle shall be guilty of an offense, and upon conviction be sentenced to a maximum fine of not more than \$500.
3. An Indian under 21 years of age who falsely represents himself or herself to be 21 years of age or older to obtain marijuana shall be guilty of an offense, and upon conviction be sentenced to a maximum fine of not more than \$500.
4. An Indian under 21 years of age who knowingly enters, loiters, or remains on the premises of a marijuana establishment shall be guilty of an offense, and upon conviction be sentenced to a maximum fine of not more than \$200, unless the person is authorized to

possess marijuana pursuant to the medical marijuana provisions in this Title and the marijuana establishment is a dual licensee.

5. An Indian who manufactures marijuana by chemical extraction or chemical synthesis, unless done pursuant to a marijuana product manufacturing license issued by the Department or authorized by this Title, shall be guilty of an offense, and upon conviction be sentenced to a maximum of six months of confinement or a maximum fine of not more than \$5000, or both.
6. An Indian who knowingly gives marijuana to any person under 21 years of age, or who knowingly leaves or deposits any marijuana in any place with the intent that it will be procured by any person under 21 years of age shall be guilty of an offense, and upon conviction be sentenced to a maximum of six months of confinement or a maximum fine of not more than \$5000, or both. This subsection shall not apply if the person under 21 years of age is authorized to use marijuana pursuant to the medical marijuana provisions of this Title and the actions taken are in compliance with the medical marijuana provisions of this Title.
7. Any non-Indian committing any of the acts referred to in this Section shall be charged under applicable State or Federal laws.

SECTION 17-90-140 Imposition of tax on wholesale sales of marijuana by marijuana cultivation facility; imposition of taxes on retail sales of marijuana.

1. An excise tax is hereby imposed and must be collected by the Tribe respecting wholesale sales of marijuana on Tribal lands by a marijuana cultivation facility at a rate of 15 percent of the fair market value at wholesale of the marijuana. The tax imposed pursuant to this section:
 - a. Is the obligation of the marijuana cultivation facility; and
 - b. Is separate from and in addition to any general sales and use taxes that apply to retail sales of tangible personal property.
2. An excise tax is hereby imposed and must be collected by the Tribe on marijuana or marijuana products by a retail marijuana store at the rate of 10 percent of the sales price of the marijuana or marijuana products. The tax imposed pursuant to this section:
 - (a) Is the obligation of the retail marijuana store; and
 - (b) Is separate from and in addition to any general sales and use taxes that apply to retail sales of tangible personal property.
3. The Tribe shall impose and maintain a Tribal Tax on all sales of marijuana occurring on Tribal lands that that is equal to or greater than the sales tax imposed by the State of Nevada for sales within its jurisdiction.
 - (a) The Business Council or its designee shall utilize the fair market value at wholesale calculation adopted by the State of Nevada as a basis for this tax. If no consideration is paid to the cultivation facility upon the transfer of marijuana to the facility for the production of edible marijuana products or marijuana infused products or the marijuana dispensary, the product sold at the dispensary must be priced in a manner that realizes the amount of this wholesale tax for the Tribe.
 - (b) The inventory of marijuana, edible marijuana products and marijuana infused products must be segregated at the marijuana dispensary according to whether the products are intended for sale for the medical use of marijuana or for general use in

order to allow for the separate tax systems. The inventory control Section 17-40-230 system shall account for both types of uses.

SECTION 17-90-150 Use of proceeds of tax, fees and penalties. Any tax revenues, fees, or penalties collected pursuant to this Title first must be expended to pay the costs of the Department and Tribe in carrying out this Title and the regulations adopted pursuant thereto. The Department shall remit any remaining money to the Tribal Treasurer to be deposited into the Tribe's General Fund.