

# FALLON PAIUTE-SHOSHONE TRIBE



## LAW AND ORDER CODE

### Title 17

### Use of Marijuana

ADOPTED: 12/14/2021  
RESOLUTION: 21-F-153

**Law and Order Code  
TITLE 17  
USE OF MARIJUANA**

**New Title 17 Approved by FBC December 14, 2021  
Resolution No. 21-F-153  
Effective January 14, 2022**

<b>17 010 GENERAL PROVISIONS .....</b>	<b>4</b>
17-010-010 EFFECTIVE DATE.....	6
17-010-015 CONTROL OF MARIJUANA .....	7
17-010-020 SOVEREIGN IMMUNITY .....	7
17-10-025 AUTHORIZATION TO ENGAGE IN THE MARIJUANA BUSINESS AND INDUSTRY .....	7
17-010-030 RECOGNITION OF STATE OF NEVADA LICENSES .....	8
17-010-030 DEFINITIONS.....	8
<b>17 020 REGISTRY IDENTIFICATION CARDS.....</b>	<b>14</b>
17-020-020 REGISTRY IDENTIFICATION CARDS: APPLICATION PROCESS.....	16
17-020-030 ISSUING REGISTRY IDENTIFICATION CARDS: DURATION; RENEWAL.....	19
17-020-040 REGISTRY IDENTIFICATION CARDS: REVOCATION; JUDICIAL REVIEW .....	19
17-020-050 REGISTRY IDENTIFICATION CARD: HOLDER RESPONSIBILITIES .....	20
17-020-060 RETURNING REGISTRY IDENTIFICATION CARDS .....	20
17-020-070 REGISTRY IDENTIFICATION CARDS; PRIMARY CAREGIVER.....	21
<b>17 040 PRODUCTION AND DISTRIBUTION OF MEDICAL MARIJUANA .....</b>	<b>21</b>
<u><b>A. REGISTRATION OF MEDICAL MARIJUANA ESTABLISHMENTS AND MEDICAL MARIJUANA ESTABLISHMENT AGENTS</b></u>	
17-040-010 PURPOSE OF REGISTRATION .....	21
17-040-020 REGISTRATION OF ESTABLISHMENTS: REQUIREMENTS; EXPIRATION AND RENEWAL .....	21
17-040-030 LIMITATION ON TOTAL NUMBER OF MEDICAL MARIJUANA ESTABLISHMENT REGISTRATION CERTIFICATES ISSUED.....	23
17-040-040 PROVISIONAL CERTIFICATES.....	24
17-040-050 CONSIDERATIONS IN DETERMINING WHETHER TO ISSUE REGISTRATION CERTIFICATE .....	24
17-040-060 AGENT REQUIREMENTS.....	24
17-040-070 REGISTRATION CARDS AND REGISTRATION CERTIFICATES NONTRANSFERABLE.....	25
17-040-090 SUSPENSION OF REGISTRATION CARD OR REGISTRATION; REINSTATEMENT OF REGISTRATION CARD OR REGISTRATION CERTIFICATE .....	26
17-040-100 IMMEDIATE REVOCATION OF REGISTRATION CERTIFICATE.....	27
17-040-110 IMMEDIATE REVOCATION OF REGISTRATION CARD .....	27
17-040-120 FEES .....	27
<u><b>B. REQUIREMENTS CONCERNING OPERATION OF MEDICAL MARIJUANA ESTABLISHMENTS</b></u>	

17-040-200 LOCATION, LAND USE, APPEARANCE, AND SIGNAGE .....	28
17-040-210 OPERATING DOCUMENTS FOR MEDICAL MARIJUANA ESTABLISHMENT .....	29
17-040-220 ELECTRONIC VERIFICATION SYSTEM.....	30
17-040-230 INVENTORY CONTROL SYSTEM.....	30
17-040-240 DUTIES OF MEDICAL MARIJUANA DISPENSARIES.....	31
17-040-250 EDIBLE MARIJUANA PRODUCTS AND MARIJUANA-INFUSED PRODUCTS .....	31
17-040-260 STORAGE AND REMOVAL OF MEDICAL MARIJUANA.....	31
<b><u>C. MISCELLANEOUS PROVISIONS</u></b>	
17-040-300 RECOGNITION OF NONRESIDENT CARDS.....	32
17-040-310 DESIGNATION OF MEDICAL MARIJUANA DISPENSARY.....	33
17-040-320 TESTING LABORATORIES.....	33
17-040-320 REGULATIONS.....	33
<b>17 050 SEARCH AND SEIZURE .....</b>	<b>34</b>
17-050-010 POSSESSION OF REGISTRY IDENTIFICATION CARD .....	34
17-050-020 FORFEITURE OF ASSETS SEIZED .....	35
<b>17 080 REGULATION AND TAXATION OF RETAIL MARIJUANA .....</b>	<b>35</b>
17-080-010 FINDINGS AND DECLARATIONS .....	35
17-080-020 RESERVED .....	36
17-080-030 EFFECT OF SECTIONS 17-80-010 THROUGH 17-80-150.....	36
17-080-040 MARIJUANA AND MARIJUANA PARAPHERNALIA; EXEMPTIONS FROM PROSECUTION.....	37
17-080-050 MARIJUANA AND MARIJUANA PRODUCTS; EXEMPTIONS FROM TRIBAL PROSECUTION.....	37
17-080-060 MARIJUANA PARAPHERNALIA .....	38
17-080-070 ENFORCEMENT OF CONTRACTS.....	38
17-080-080 DEPARTMENT RESPONSIBILITIES FOR THE REGULATION AND LICENSING OF MARIJUANA ESTABLISHMENTS. ....	38
17-080-090 APPLICATIONS FOR LICENSING.....	39
17-080-100 EXPIRATION AND RENEWAL OF LICENSES.....	40
17-080-110 FEES .....	41
17-080-120 REQUIREMENTS FOR OPERATION OF MARIJUANA ESTABLISHMENT; INSPECTION OF ESTABLISHMENT.....	41
17-080-130 VIOLATIONS AND PENALTIES .....	42
17-080-140 TAXATION ON WHOLESALE SALES OF MARIJUANA BY MARIJUANA CULTIVATION FACILITY; RETAIL SALES OF MARIJUANA.....	43
17-080-150 USE OF PROCEEDS OF TAX, FEES, AND PENALTIES .....	43
<b>17 090 MISCELLANEOUS PROVISIONS .....</b>	<b>43</b>
17-090-010 DEPARTMENT RESPONSIBILITIES CONCERNING CONFIDENTIALITY.....	43
17-090-020 PETITION TO ADD DISEASES AND CONDITIONS TO LIST OF QUALIFYING CHRONIC OR DEBILITATING MEDICAL CONDITIONS .....	44
17-090-030 DEPARTMENT AUTHORITY CONCERNING GIFTS, GRANTS, DONATIONS, AND CONTRIBUTIONS.....	44
17-090-040 ADMINISTRATION OF ACCOUNT .....	44
17-090-050 RESERVED .....	45
17-090-060 MEDICAL USE OF MARIJUANA COSTS AND IN THE WORKPLACE .....	45
17-090-070 SOVEREIGN IMMUNITY .....	45
17-090-080 AGREEMENTS WITH STATE OF NEVADA .....	45
17-090-090 SEVERABILITY.....	45

## **17 010 GENERAL PROVISIONS**

### **17-010-005 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 I 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 (U.S.) 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 U. S. 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 Wilkinson 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 Fallon Paiute Shoshone 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.

### **17-010-010 Effective Date**

This Title 17 shall go into effect January 14, 2022.

**17-010-015 Control of Marijuana**

1. Title 17 and the regulations promulgated hereunder shall govern the possession, consumption, cultivation, processing, distribution, and sale of marijuana on the Fallon Paiute Shoshone 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 Fallon Paiute Shoshone Reservation and Colony is necessary to protect the health, security, and general welfare of the Tribal community.
2. Nothing in this 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 this 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. 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 U.S. Department of Justice, or any related Agency thereof, be issued, this Title 17 shall be interpreted and applied so that the additional guidance and this Title are not in conflict.

**17-010-020 Sovereign Immunity**

Nothing in this 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.

**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.

**17-010-030 Recognition of State of Nevada 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 17. The recognized State of Nevada license must be similar to the license required by this Title 17 to authorize the licensee to perform the basic functions allowed by this Title 17. Each licensee will be required to file with the Department a copy of the State of Nevada license and state which license required by this Title 17 corresponds to the State of Nevada issued license. The Tribe can then accept and recognize the State of Nevada license as meeting the requirements stated herein. No State of Nevada licensee shall be allowed to perform any activities requiring a license under this Title 17 unless and until they have received notification from the Department that the State of Nevada license has been recognized and accepted for this purpose.

**17-010-030 Definitions**

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

"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.

"Attending physician" means a physician who:

1. Is licensed to practice:
  - (a) Medicine pursuant to the provisions of Chapter 630 of the Nevada Revised Statutes (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.

"Board" means the Marijuana Control Board created by the Fallon Business Council with responsibilities as stated in this Title 17. The Fallon Business Council shall act as the Board unless and until another entity is created.

"Cachexia" means general physical wasting and malnutrition associated with chronic disease.

"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.

"Community facility" means:

1. A facility that provides day care to children.
2. A public park.
3. A playground.
4. A public swimming pool.
5. A center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents.
6. A church, synagogue or other building, structure or place used for religious worship or other religious purpose.

"Concentrated marijuana" means the separated resin, whether crude or purified, obtained from marijuana.

"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.

"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.

"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.

"Designated primary caregiver" means a person who:

1. Is 18 years of age or older;
2. Has significant responsibility for managing the well-being of one person diagnosed with a chronic or debilitating medical condition; and
3. Is designated as such in the manner required pursuant to Section 17-20-070.

The term does not include the attending physician of a person diagnosed with a chronic or debilitating medical condition.

"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.

"Drug paraphernalia" See Section 17-10-235120.

"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.

"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.

"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.

"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.

"Excluded felony offense" means the conviction of a felony crime under State or Federal law for distribution of a controlled substance.

"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.

"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.

"Law and Order Code" means the Fallon Paiute Shoshone Tribe's Law and Order Code.

"Locality" means a city or town, or, in reference to a location outside the boundaries of a city or town, a county.

"Marijuana".

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.

"Marijuana distributor" means an entity licensed to transport marijuana from a marijuana establishment to another marijuana establishment

"Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, a marijuana distributor, or a retail marijuana store.

"Marijuana-infused products" means products that:

1. Are infused with marijuana or an extract thereof; and
2. Are intended for use or consumption by humans or animals through means other than inhalation or oral ingestion.

The term includes, without limitation, topical products, ointments, oils, and tinctures.

"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.

"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.

"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.

"Marijuana testing facility" means an entity licensed to test marijuana and marijuana products, including for potency and contaminants

"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.

"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 17-10-202(1), (2), (3), and (4).

"Medical marijuana establishment agent" means an owner, officer, board member, employee, or volunteer of a medical marijuana establishment.

"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.

"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.

"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 17-10-225(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.

"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.

"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.

"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.

"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.

"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 17-10-245(1).

"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.

"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 in accordance with this Title 17applicable FPST regulations.

"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.

"Testing laboratory" means a facility described in Section 17-40-320.

"Tribe" means the Fallon Paiute Shoshone Tribe, a federally recognized Indian tribe.

"Tribal Court" means the court system created and administered by the Tribe through its Law and Order Code.

"Tribal Lands" or "Fallon Paiute Shoshone 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.

"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.

"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.

"THC" means delta-9-tetrahydrocannabinol, which is the primary active ingredient in marijuana.

"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.

"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

"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.

## **17 020 REGISTRY IDENTIFICATION CARDS**

---

### **17-020-010 Holder of valid registry identification card or medical marijuana establishment registration certificate**

1. Except as otherwise provided in this Section 17-20-010 and Section 17-30-010, a person who holds a valid registry identification card issued to the person pursuant to Sections 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 Subsections 17-20-010(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 17-20-010(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 17.
3. The exemption from Tribal, State or Federal prosecution set forth in Subsection 17-20-010(1) applies only to the extent that a person who holds a registry identification card issued to the person pursuant to Subsection 17-20-030(l)(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 no 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 manners 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 17-20-010, "marijuana" includes, without limitation, edible marijuana products and marijuana-infused products.
- 7. Except as authorized in this Title 17, a person who holds a valid registry identification card issued to the person pursuant to Sections 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 17-20-010 does not apply to Federal or State prosecution initiated or maintained by a State or Federal entity.

### **17-020-020 Registry identification cards: Application process**

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 17-20-020 for the medical use of marijuana.
2. Except as otherwise provided in Subsections 17-20-020(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 17-20-020(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:
    - (I) 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 17-20-020, 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 calendar 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 17-20-020(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 Subsection 17-20-020(b)(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 Section, if a person has applied for a registry identification card pursuant to this Section 17-20-020 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.

### **17-020-030 Issuing Registry identification cards: 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 Subsection 17-20-030(2).
2. A registry identification card issued pursuant to Subsection 17-20-030(l)(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 17-20-030(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.

### **17-020-040 Registry identification cards: Revocation; judicial review**

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(l)(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 or /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 Subsection 17-20-040(2)(b); and

(b) The person shall return his or her registry identification card or letter of approval to the Department within 7 calendar days after receiving the notice sent pursuant to paragraph Subsection 17-20-040(2)(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.

### **17-020-050 Registry identification card: Holder responsibilities**

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 17-20-050(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.

### **17-020-060 Returning Registry identification cards**

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.

### **17-020-070 Registry identification cards; primary caregiver**

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(l)(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 Subsection 17-20-030(2) to the designated primary caregiver as soon as practicable after receiving the information submitted pursuant to Subsection 17-20-070(1)(b).

## **17 040 PRODUCTION AND DISTRIBUTION OF MEDICAL MARIJUANA**

---

### **A. REGISTRATION OF MEDICAL MARIJUANA ESTABLISHMENTS AND MEDICAL MARIJUANA ESTABLISHMENT AGENTS**

#### **17-040-010 Purpose of registration**

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 any vested right.

#### **17-040-020 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 Sections 17-40-030, 17-40-040, 17-40-050 and 17-40-100, not later than 90 calendar days after receiving an application to operate a medical marijuana

establishment, the Department shall register the medical marijuana establishment and issue an identification number of the medical marijuana establishment registration certificate if:

(a) The entity that wishes to operate the proposed medical marijuana establishment or renew a medical marijuana establishment registration certificate has submitted to the Department all 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 medical marijuana dispensary to the wall of the public school; the 300 feet is measured from the wall of the unit housing the medical marijuana dispensary to the wall of the community facility.
  - (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 background report;
  - (V) 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
  - (VI) 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 regulations 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.
5. 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 the Federal Bureau of Investigations to determine if that person has a criminal history.
6. Except as otherwise provided in Subsection 17-40-020(6), if an application for registration as a medical marijuana establishment satisfies the requirements of this Section 17-40-020 and the establishment is not disqualified from being registered as a medical marijuana establishment pursuant to this Section 17-40-020 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 Subsection 17-40-020(3)(a); and
  - (b) Payment of the renewal fee set forth in Section 17-40-120.
7. In determining whether to issue a medical marijuana establishment registration certificate pursuant to this Section 17-40-020, the Department shall consider the criteria of merit set forth in Section 17-40-050.

### **17-040-030 Limitation on total number of medical marijuana establishment registration certificates 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 certificate. 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.

### **17-040-040 Provisional Certificates**

All licenses and registration certificates are provisional until finalized and a business license has been issued.

### **17-040-050 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.

### **17-040-060 Agent requirements**

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 calendar 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 17-40-060; and
  - (b) Payment of the renewal fee set forth in Section 17-40-120.

### **17-040-070 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.

### **17-040-080 Child support requirements**

1. In addition to any other requirements set forth in this Title 17, 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.

### **17-040-090 Suspension of registration card or registration; reinstatement of registration card or registration certificate**

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.

### **17-040-100 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.

### **17-040-110 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.

### **17-040-120 Fees**

1. Except as otherwise provided in Subsection 17-40-120(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 17-40-120(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 17-40-120:
- (a) Must be expended first to pay the costs of the Department in carrying out the provisions of this Title 17, inclusive; and
  - (b) If any excess revenue remains after paying the costs described in Subsection 17-40-120(3)(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 calendar days.

## **B. REQUIREMENTS CONCERNING OPERATION OF MEDICAL MARIJUANA ESTABLISHMENTS**

### **17-040-200 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.

### **17-040-210 Operating documents for medical marijuana establishment**

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 Sections 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.

### **17-040-220 Electronic verification system**

Each medical marijuana establishment, in consultation with the Department, shall maintain an electronic verification system.

1. The electronic verification system required pursuant to Subsection 17-40-220(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.

2. 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.

3. 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.

### **17-040-230 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 17-40-230(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.

### **17-040-240 Duties of medical marijuana dispensaries**

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.

### **17-040-250 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.

### **17-040-260 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 17-40-260(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 17-40-260(2):
  - (a) Only for the purpose of dispensing the marijuana;
  - (b) Only immediately before the marijuana is dispensed; and
  - (c) d by or volunteers at the dispensary.

## C. MISCELLANEOUS PROVISIONS

### 17-040-300 Recognition of nonresident cards

1. The 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 infom1ation 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 Subsection 17-50-300(1)(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, 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 17-40-300:



- (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 17-40-300, "nonresident card" means a card or other identification that:
  - (a) Is issued by a state or jurisdiction other than the Tribe; and
  - (b) Is the functional equivalent of a registry identification card, as determined by the Department.

### **17-040-310 Designation of medical marijuana dispensary**

#### **17-040-320 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.

#### **17-040-320 Regulations**

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

1. Prescribe the form and any additional required content of registration and renewal applications submitted pursuant to Sections 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 17.
  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 production and distribution of medical marijuana contemplated by Sections 17-40-010 to 17-40-330, inclusive.

## **17 050 SEARCH AND SEIZURE**

### **17-050-010 Possession of registry identification card**

1. The fact that a person possesses a registry identification card issued to the person by the Department or its designee pursuant to Sections 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 17-050-010(2), 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 17, 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 17-50-010(2) do not require any law enforcement agency to care for live marijuana plants.

3. For the purposes of Subsection 17-50-010(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 17 shall be deemed to be evidenced by:

- (a) A decision not to prosecute;
- (b) The dismissal of charges; or
- (c) Acquittal.

### **17-050-020 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 17.

2. As used in this Section 17-50-020, "law enforcement agency" means the Tribal Police Department or a law enforcement agency as described in NRS 239C.065.

## **17 080 REGULATION AND TAXATION OF RETAIL MARIJUANA**

### **17-080-010 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 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 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 Essential Government Services or Community Social Programs and the enforcement of the regulations of this Title.

3. The 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 Tribe or a marijuana facility that is licensed by the State of Nevada and governed by the February 2018 compact between the State of Nevada and the Tribe;

- (b) Business owners are subject to a review by the 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.

## **17-080-020 RESERVED**

### **17-080-030 Effect of Sections 17-80-010 through 17-80-150**

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 Chapter 17-40 of this Title 17; 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 1000 feet of, 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 17.
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 17;
  - (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 17-80-010 through 17-80-150 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.

**17-080-040 Marijuana and marijuana paraphernalia; exemptions from prosecution**

Notwithstanding any other provision of Tribal law, except as otherwise provided in this Title 17, it is lawful, on 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 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.

**17-080-050 Marijuana and marijuana products; exemptions from Tribal prosecution**

Notwithstanding any other provision of Tribal law, except as otherwise provided in this Title or the regulations adopted pursuant to this Title 17, it is lawful and must not, on Tribal Lands, be used as the basis for prosecution or penalty by this Tribe and must not, on 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. 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.
2. 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.

3. 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.

4. 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.

5. 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 17.

### **17-080-060 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.

### **17-080-070 Enforcement of Contracts**

It is the policy of the Tribe that contracts related to the operation of marijuana establishments under this Title 17 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.

### **17-080-080 Department responsibilities for the regulation and licensing of marijuana establishments.**

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 17. 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 17-80-120.
2. The Department shall approve or deny applications for licenses pursuant to Section 17-80-090.
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 17-80-010 through 17-80-150 or for a violation of a regulation adopted by the Department pursuant to Sections 17-80-010 through 17-80-150.
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 17 or knowingly purchases marijuana from any person not licensed pursuant to this Title 17. The Department must provide an opportunity for a hearing within a reasonable time from a suspension pursuant to this Subsection 17-80-080(4).
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 17-80-150, or the regulations adopted pursuant to this Sections 17-90-010 through 17-80-150.

### **17-080-090 Applications for licensing**

1. The Department shall begin receiving applications for marijuana establishments upon adoption of this Title 17. The Department shall have the discretion to decide whether to issue any

license under this Title 17 to any person or entity, and no person or entity shall have any right to be issued a license under this Title 17.

2. The Department shall only accept applications for licenses for retail marijuana stores, marijuana product manufacturing facilities, and marijuana cultivation facilities pursuant to Sections 17-80-010 through 17-80-150 of this Title 17 from persons holding a medical marijuana establishment registration certificate issued pursuant to this Title 17.
3. The Department shall issue licenses for marijuana distributors pursuant to this Title 17 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 calendar 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 Subsection 17-80-110(1);
  - (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 is 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.

### **17-080-100 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 business 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.



**17-080-110 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 facility \$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 17-80-110(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 17-80-110:
  - (a) Must be expended first to pay the costs of the Department in carrying out the provisions of this Chapter 17-80, inclusive; and
  - (b) If any excess revenue remains after paying the costs described in Subsection 17-80-110(4)(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 calendar days to pay all license fees.

**17-080-120 Requirements for operation of marijuana establishment; inspection of establishment**

In addition to requirements established by regulations adopted by the Department pursuant to this Title 17:

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.

### **17-080-130 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 17 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 17, 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 17-90-130(6) 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 17 and the actions taken are in compliance with the medical marijuana provisions of this Title 17.

7. Any non-Indian committing any of the acts referred to in this Section 17-80-130 shall be charged under applicable State or Federal laws.

**17-080-140 Taxation on wholesale sales of marijuana by marijuana cultivation facility; 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 17-80-140:

- (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 and/or marijuana products. The tax imposed pursuant to this Section 17-80-140:

- (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 medical use 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 marijuana 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 Tribal 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.

**17-080-150 Use of proceeds of tax, fees, and penalties**

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

**17 090 MISCELLANEOUS PROVISIONS****17-090-010 Department responsibilities concerning confidentiality**

1. Except as otherwise provided in this Chapter 17-90 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 17; 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 17-90-010(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.

### **17-090-020 Petition to add diseases and conditions to list of qualifying chronic or debilitating medical conditions**

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 17-90-020. 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.

### **17-090-030 Department authority concerning gifts, grants, donations, and contributions**

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 17.
2. Any money the Department receives pursuant to Subsection 17-90-030(1) must be deposited with the Tribe's Finance Department pursuant to Section 17-90-040.

### **17-090-040 Administration of account**

1. Any money the Department receives pursuant to Section 17-90-030 or that is appropriated to carry out the provisions of this Title 17:
  - (a) Must be deposited with the Tribal Finance Department;
  - (b) May only be used to carry out:

- (1) The provisions of this Title 17, including the dissemination of information concerning the provisions of this Title 17 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 Tribal Finance Department shall administer the account created by this Section 17-80-040. 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.

### **17-090-050 Reserved**

### **17-090-060 Medical use of marijuana costs and in the workplace**

The provisions of this Title 17 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.

### **17-090-070 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 17 shall be construed for any reason as a waiver of the Tribe's sovereign immunity.

### **17-090-080 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.

### **17-090-090 Severability**

If any provision of this Title 17, 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 17 as a whole or any provision or application of this Title 17 which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Title 17 are declared to be severable.