

ORDINANCE NO. 36
COMMERCIAL MARIJUANA ORDINANCE

BE IT ENACTED, by the Tribal Council of the Saginaw Chippewa Indian Tribe of Michigan as follows:

SECTION 1. Statement of Purpose.

The purpose of this Ordinance is to establish the legal framework for the authorization and regulation of commercial marijuana activities on Saginaw Chippewa Tribal Lands.

SECTION 2. Ordinance Title.

This Ordinance shall be identified as the Commercial Marijuana Ordinance of the Saginaw Chippewa Indian Tribe of Michigan.

SECTION 3. Authority.

This Ordinance is enacted pursuant to authority granted to Tribal Council in Article VI Sections 1(e), (i), (j), (k), (n), and (o) of the Tribal Constitution of November 4, 1986.

SECTION 4. Definitions.

- a. "Applicant" means any, corporation, limited liability company, partnership, trust, or other legal entity, that applies for a Tribal Marijuana License.
- b. "Commercial Marijuana Activities" means the growing, processing, testing, sale, transportation, cooking, or the handling in any way of any portion of a marijuana plant that has a THC concentration of 0.3% or more on a dry weight basis.
- c. "Commercial Marijuana Regulations" means "regulations promulgated by the Business Regulations Department, and approved by Tribal Council, for the purpose of administering Commercial Marijuana Activities on Tribal Lands."
- d. "The Director" means the Director of Business Regulation position as established pursuant to Ordinance 26 Tax Administration Ordinance as amended June 1, 2011 and Ordinance 30 Business Corporation Ordinance as amended March 20, 2020.
- e. "Licensed Marijuana Establishment" means any corporation, limited liability company, partnership, trust, or other legal entity licensed under this Ordinance as a Commercial Marijuana Establishment and shall not include any department, agency or enterprise of the Tribe. The Tribe, its departments agencies or enterprises shall not be eligible for license and shall not conduct Commercial Marijuana Activities.

- f. "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, M.C.L. § 333.27951 *et seq* and authorized rules and regulations and any amendments thereto.
- g. "State" means the state of Michigan
- h. "Tribal Lands" means all lands and water located within the Tribe's Reservation, all lands now or hereafter held in trust by the United States of America for the benefit of the Tribe, and any allotments, the Indian titles to which have not been extinguished, over which the Tribe has jurisdiction. "Reservation" includes both of the following:
 - i. The meaning of reservation specified in the Order for Judgment entered by the United States District Court for the Eastern District of Michigan in *Saginaw Chippewa Indian Tribe of Michigan v. Granholm, et al.*, Case No. 05-10296-BC; and
 - ii. Any other lands or waters that the Secretary of the Interior declares is the Tribe's reservation.
- i. "Tribal Commercial Marijuana License" means a license issued for n Commercial Marijuana Activities as provided by this Ordinance.
- j. "Tribal Marijuana License Application" means the application required to be filed and approved in order to be a Licensed Marijuana Establishment.
- k. "Tribal Marijuana License Renewal Application" means the application required from a Licensed Marijuana Establishment prior to the expiration of its existing Commercial Tribal Marijuana License to continue operating as a Licensed Marijuana Establishment.
- l. "Tribe" means the Saginaw Chippewa Indian Tribe of Michigan.

SECTION 5. Administration of Ordinance.

- a. The Director shall administer this Ordinance. The Director shall be responsible for the implementation of the duties prescribed herein.
- b. Duties of the Director. In addition to those duties specified herein, Director shall have the general responsibility to implement, administer, and enforce the provisions of this Ordinance and the Commercial Marijuana Regulations. The Director shall develop the Commercial Marijuana Regulations, which shall be effective upon formal approval of the Tribal Council.

- c. Forms. The Director shall provide suitable applications and forms required or necessary to carry out the provisions of this Ordinance and the Commercial Marijuana Regulations.
- d. Review of Application by the Director. The Director shall examine and determine the genuineness and legality of all applications for a Tribal Marijuana License. The Director may investigate the information provided in the application and may require supplemental information as needed to ensure compliance with this Ordinance. The Director shall reject any application if he or she is not satisfied with the genuineness or legality thereof or the truth of any statement contained therein.
- e. Maintenance of Records. The Director shall maintain a central file of all correspondence, applications, suspensions and revocations sent or received by the Director or the Tribe under this Ordinance and shall preserve such records for a period of not less than five (5) years after the Department's receipt or distribution.

SECTION 6. Authorized Marijuana Activities.

- a. Marijuana Activities on Tribal Lands may only be conducted by entities duly licensed pursuant to this Ordinance.
- b. Prohibited Persons. The following persons may not receive any funds from or have any financial or ownership interest in any Licensed Marijuana Establishment:
 - i. Tribal Council Members;
 - ii. Employees of the Office of Business Regulation or of any Tribal department or agency with direct supervision, oversight or control over the Office of Business Regulation;
 - iii. Employees of any law enforcement agency, or any judge or magistrate;
 - iv. Any executive officer, director or manager of any Tribal gaming enterprise;
 - v. Any member of the Tribal Gaming Commission or any other person employed or working for any entity or agency with regulatory authority over the Tribe's gaming enterprises;
 - vi. Any funds received by the Tribe or any Tribal department , agency or enterprise from an Applicant or a Licensed Commercial Marijuana Establishment pursuant to this Ordinance shall be deposited or maintained separate from any funds or revenues derived from the a Tribal owned

gaming enterprise.

- c. All Tribal Marijuana Licenses shall be valid for a period of one year from the date of issuance. Licensed Marijuana Establishments may submit a Tribal Marijuana License Renewal Application in accordance with Section 7 of this Ordinance prior to the expiration of a valid license in accordance with this Ordinance and the Marijuana Regulations.
- d. All Tribal Commercial Marijuana License Applications shall be submitted in accordance with the provisions of the Marijuana Regulations. All Applicants and Licensed Marijuana Establishments must have a current license issued pursuant to the Marihuana Act, M.C.L. § 333.27951 a copy of which must be attached to the Commercial Marijuana Application upon its submission. Applications must also include, at minimum, the types of Commercial Marijuana Activities the Applicant intends to conduct (i.e., growing, selling, etc.); the physical address where all Commercial Marijuana Activities will be conducted; the physical address of the headquarters or corporate offices of the enterprise; and an application fee as provided in the Commercial Marijuana Regulations. Tribal Marijuana License Applications shall be submitted to:

Director of Business Regulations
Saginaw Chippewa Indian Tribe of Michigan
7500 Soaring Eagle Boulevard
Mount Pleasant Michigan. 48858

The Director shall issue a Tribal Commercial Marijuana License to an Applicant if the Commercial Tribal Marijuana License Application is in full compliance with this Ordinance and the Commercial Marijuana Regulations.

- e. A Licensed Marijuana Establishment may only conduct the Commercial Marijuana Activities at the location identified in the Tribal Commercial Marijuana License issued pursuant to this Ordinance.

SECTION 7. Tribal Marijuana License Renewal.

- a. Licensed Marijuana Establishments must submit a Tribal Marijuana License Renewal Application at least 30, but not more than 60 calendar days, before the expiration of an existing Tribal Commercial Marijuana License and otherwise in accordance with the provisions of the Commercial Marijuana Regulations.
- b. The Tribal Commercial Marijuana License Renewal Application shall accompany an application renewal fee as provided in the Tribal Commercial Marijuana Regulations.

SECTION 8. Buffer Requirements.

- a. No Licensed Marijuana Establishment engaged in Marijuana Activities shall be located within 750 feet of any school providing education in kindergarten or any of the grades 1-12.
- b. No Licensed Marijuana Establishment engaged in Marijuana Activities shall be located on any of the following:
 - i. On land or in any structure where gaming or gaming activity is permitted, performed, conducted, or operated.
 - ii. On land or in any structure that is managed or operated by Soaring Eagle Gaming.
- c. The distance shall be measured as the shortest straight line distance from the main entrance of the building where the Marijuana Activities are conducted to the main entrance of the entities requiring a buffer.
- d. The Marijuana Regulations may provide additional Buffer Requirements for Licensed Marijuana Establishments engaged in Marijuana Activities.

SECTION 9. Compliance and Enforcement.

- a. The Department, may conduct a premises check on any Licensed Marijuana Establishment engaged in Marijuana Activities during regular business hours to observe compliance with this Ordinance and the Marijuana Regulations. The Department shall conduct a premises check not less than four times per calendar year.
- b. Licensed Marijuana Establishments consent to the jurisdiction of the Tribe. Tribal Marijuana Licenses are conditioned upon compliance with the laws of the Tribe.
- c. The Director shall have the authority to enter any entity licensed under this Ordinance during regular business hours and shall have the right to inspect the records and all areas of the business and premises upon not less than 24 hours written notice.

SECTION 10. Revocation and Suspension of a Tribal Marijuana License.

- a. The Saginaw Chippewa Community Court shall have exclusive jurisdiction over all causes of actions under this Ordinance.
- b. The Director shall revoke or suspend a Tribal Marijuana License issued under this Ordinance if the license holder's State License has been revoked.
- c. The Director may suspend a Tribal Marijuana License under this Ordinance if a

Licensed Marijuana Establishment:

- i. Engages in any conduct or actions that violate any provision of this Ordinance, the Commercial Marijuana Regulations, or provisions of MRTMA; or
 - ii. Misrepresents any material fact in its Tribal Marijuana License Application, including the omission of any material fact or including any false or misleading information in the application; or
 - iii. Provided the Tribe with any false or misleading information on its Application; or
 - iv. Engages in any conduct or actions, including, but not limited to, Marijuana diversion to the illicit market, the sale of marijuana to individuals under 21 years of age, or any other activity that materially violates any existing Tribal Law, Ordinance, or Regulations; or
 - v. Transfers or distributes marijuana in a manner that materially violates MRTMA; or
 - vi. Attempts to transfer, sell, or otherwise convey an interest in a Tribal Marijuana License; or
 - vii. Engages in any conduct that jeopardizes, threatens or harms the safety or health of any person; or
 - viii. Refuses, either by words or conduct, to allow the Director access to the premises to perform an inspection.
- d. Suspensions of a Tribal Marijuana License by the Director shall be for a period of 7 to 30 calendar days.
- e. The Director shall revoke a Tribal Marijuana License under this Ordinance if a Licensed Marijuana Establishment:
- i. If, after the third suspension of such license under Section 10.c., the Licensed Marijuana Establishment violates Section 10.c.; or
 - ii. Engages in any conduct that jeopardizes, threatens the safety or health of any person or within one year after receiving a prior suspension for such conduct; or
 - iii. Engages in any conduct that causes serious injury or death to any person.
 - iv. If the Licensed Marijuana Establishment or any owner, partner or

fiduciary of such Establishment, is convicted of any felony or any crime involving the possession, sale or distribution of any drugs or substances.

- f. Revocation of a Tribal Marijuana License shall be effective upon issuance. Revocation under this Ordinance shall render such previously Licensed Marijuana Establishment and any other Establishment or Applicant owned, operated or financed in whole or in part by any person from the Establishment receiving the Revocation permanently ineligible for licensure under this Ordinance.
- g. Nothing in this Section shall be deemed to prohibit the Tribe from imposing other civil regulatory penalties under its Commercial Marijuana Regulations or any other Tribal Ordinance.
- h. The Licensed Marijuana Establishment may challenge the Director's revocation or suspension of its Tribal Commercial Marijuana License by bringing an action exclusively in the Saginaw Chippewa Community Court naming the Saginaw Chippewa Indian Tribe and the Director of Business Regulation in his or her official capacity as defendants. Any complaint filed under this Section shall comply with the procedures of the Saginaw Chippewa Civil Code, may not be heard by jury and must be served on the Tribe's General Counsel and the Director. The Tribal Council consents to suits seeking judicial review under this Section and hereby waives the Tribe's common law immunity from suit subject to the limitation that the relief granted may only include prospective injunctive relief, orders of remand, and declaratory judgments and shall not include any monetary damages. The Director's revocation or suspension shall be upheld absent a showing by the complainant, by clear and convincing evidence, that the revocation or suspension was arbitrary and capricious or contrary to law.

SECTION 11. Applicability of State Law.

A Licensed Marijuana Establishment shall comply with MRTMA as a condition of receiving and maintaining a Tribal License.

SECTION 12. Tribal Sovereign Immunity and Jurisdiction Preserved.

Nothing in this Ordinance shall be construed as a waiver of sovereign immunity of the Tribe, the Director, or any subordinate government unit or official except to the extent such immunity is explicitly waived in Section 10 of this Ordinance or unless otherwise waived by resolution of the Tribal Council.

SECTION 13. Severability.

If any portion of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 14. Effective Date.

This Ordinance shall take effect on the date certified by Certified Resolution.

LEGISLATIVE HISTORY

Enacted by Resolution 22-008 approved on November 3, 2021