

**LEECH LAKE BAND OF OJIBWE  
PERSONAL CANNABIS USE, HOME CULTIVATION, AND POSSESSION ACT**

DRAFT

# Table of Contents

CHAPTER 1: GENERAL PROVISIONS.....	3
Section 1.01: Short Title.....	3
Section 1.03: Purpose .....	3
Section 1.04: Findings .....	3
Section 1.05: Construction.....	4
Section 1.06: Definitions .....	4
Section 1.07: Applicability.....	4
Section 1.08: No Waiver of Sovereign Immunity .....	4
Section 1.09: Severability.....	4
CHAPTER 2: PERSONAL USE, HOME CULTIVATION, AND POSSESSION .....	5
Section 2.01: Possession by Adults Permitted .....	5
Section 2.02: Use by Adult Permitted .....	5
Section 2.03 Prohibitions .....	5
Section 2.04: Home Cultivation Permitted.....	6
Section 2.05 Possession, Cultivation, and Use by Patients Enrolled in a Medical-Use Registry.....	6
Section 2.06 Home Extraction of Cannabis Concentrate .....	6
Section 2.07 Sale of Cannabis Flower and Cannabis Products Prohibited.....	6
CHAPTER 3: PENALTIES.....	7
Section 3.01: Violation by Member .....	7
Section 3.02: Violation by Non-Member .....	7
Section 3.03: Relation to Other Offenses and Penalties .....	7
Section 3.04: Enforcement Authority .....	7
Section 3.05: Citations .....	7
CHAPTER 4: PROCESS.....	8
Section 4.01: Procedure for Adjudication of Citation .....	8
Section 4.02: Appeals.....	8
Section 4.03: Jurisdiction .....	8
Section 4.04: Penalties Civil in Nature .....	8

## CHAPTER 1: GENERAL PROVISIONS

### Section 1.01: Short Title

This Act shall be known and may be cited as the Leech Lake Band of Ojibwe Cannabis Personal Use, Home Cultivation, and Possession Act (the “Act”).

### Section 1.02: Authority

- a. The Leech Lake Band of Ojibwe (“Band”) is a sovereign, federally recognized Indian nation organized under the Indian Reorganization Act of 1934, and operating under the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe (“MCT Constitution”). Pursuant to its inherent sovereign authority and Article III of the MCT Constitution, the Leech Lake Reservation Business Committee (“RBC”) is the governing body of the Band, having all the legislative powers and responsibilities of the tribal government, including the promulgation and enforcement of any laws and/or regulations.
- b. The RBC enacts this Act pursuant to the Authorities enumerated in the MCT Constitution and the duties of the Tribal Council stated in their Bylaws adopted thereto.

### Section 1.03: Purpose

- a. This Leech Lake Band of Ojibwe Cannabis Personal Use, Home Cultivation, and Possession Act regulates matters relating to individual use and possession of Cannabis within the Band’s Tribally Regulated Land. Nothing in this Act shall limit the rights of a Person licensed to participate in commercial cannabis activity under the Leech Lake Band of Ojibwe Cannabis Regulatory Act (the “Cannabis Act”).
- b. The regulatory and enforcement systems established by this Act, and any Regulations promulgated thereto, shall align with the Guidance Priorities to ensure that all cannabis activity on Tribally Regulated Land protects the public health, safety, and welfare.
- c. Pursuant to the Band’s inherent government authority and the MCT Constitution, the RBC, in its capacity as the governing body, enacts this Act to protect and promote tribal sovereignty, strengthen tribal self-government and provide for the economic needs of the Band; thereby assuring the protection of tribal resources and the rights of the members of the Band and all others within Tribally Regulated Land.

### Section 1.04: Findings

- a. The Band is a sovereign, federally recognized Indian tribe organized under the MCT Constitution. Pursuant to its inherent sovereign authority and Article III of the MCT Constitution, the RBC is the governing body of the Band, having all the legislative powers and responsibilities of the tribal government, including the promulgation and enforcement of any laws and/or regulations.
- b. In 2023, Minnesota enacted the Cannabis Finance and Policy Act, which legalized the possession, use and cultivation of Cannabis products by adults twenty-one (21) years of age or older in the State, authorized commercial Cannabis activities through state-licensed businesses, enacted a tax on Cannabis sales, and set forth a process for a regulatory agency to establish rules to administer all aspects of such Act.
- c. Consistent with Minn. Stat. § 3.9228 Subd. 4(c), providing immunity from criminal and civil offenses under State Law for Tribal cannabis businesses and employees, Tribal members, and Tribal government officers, and Minnesota court decisions finding that Minnesota lacks criminal jurisdiction over cannabis possession offenses by enrolled Tribal citizens on Reservations under

Minnesota law, the RBC intends to expressly authorize and allow for the personal possession, use, consumption, and cultivation of cannabis and cannabis products and cannabis businesses within Tribally Regulated Land, subject to the provisions of this Act.

### **Section 1.05: Construction**

- a. This Act, to the extent reasonable, shall be read and interpreted in a manner consistent with the MCT Constitution, but in the event of any inconsistency, the MCT Constitution shall control.
- b. To the extent this Act conflicts with any other Band law, this Act shall control.
- c. Any Regulations, to the extent reasonable, shall be read and interpreted in a manner consistent with this Act, but in the event of any inconsistency, this Act shall control.
- d. This Act shall be liberally construed to support the findings of the RBC and accomplish the purposes of this Act.

### **Section 1.06: Definitions**

The Definitions of the Cannabis Act are hereby incorporated into this Act. Additionally, the following terms are defined as follows:

- a. "Residence" means the premises where a person has the legal right to physically dwell or abide.
- b. "Tribally Regulated Land" means: (1) all land held in trust by the United States for the benefit of the Minnesota Leech Lake Band of Ojibwe Tribal Government ("trust land"); (2) all land held by the Minnesota Leech Lake Band of Ojibwe Tribal Government in restricted fee status; and (3) all land within the exterior boundaries of the reservation of the Minnesota Leech Lake Band of Ojibwe Tribal Government that is subject to the civil regulatory jurisdiction of the Leech Lake Band of Ojibwe Tribal government. For the purposes of this section, land that is subject to the civil regulatory jurisdiction of the Leech Lake Band of Ojibwe Tribal government includes: (i) trust land, or fee land held (including leased land) by the Tribe, entities organized under Tribal law, or individual Indians; and (ii) land held (including leased land) by non-Indian entities or individuals who consent to the civil regulation of the Tribal government or are otherwise subject to such regulation under federal law.
- c. Reserved.

### **Section 1.07: Applicability**

This Act applies to:

- a. Band members in the Band's Indian Country as defined at 18 U.S.C. § 1151; and
- b. Non-members in the Band's Indian Country who are subject to the Band's regulatory jurisdiction by consent, which may be established by affirmative actions, including patronizing a Band-owned or regulated business.

### **Section 1.08: No Waiver of Sovereign Immunity**

Nothing in this Act shall be or be deemed to be a waiver of the Band's sovereign immunity.

### **Section 1.09: Severability**

If a court of competent jurisdiction holds that any provision or application of this Act is invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, which shall continue in full force and effect.

## **CHAPTER 2: PERSONAL USE, HOME CULTIVATION, AND POSSESSION**

### **Section 2.01: Possession by Adults Permitted**

Adults twenty-one (21) years of age and older may:

- a. Possess or transport two (2) ounces or less of Cannabis Flower in a public place;
- b. Possess two (2) pounds or less of Cannabis Flower in the individual's private Residence;
- c. Possess or transport eight (8) grams or less of Cannabis Concentrate in a public place;
- d. Possess or transport edible Cannabis Products with a combined total of eight hundred (800) milligrams or less of tetrahydrocannabinol in a public place; and
- e. Use, possess, or transport cannabis paraphernalia.

### **Section 2.02: Use by Adult Permitted**

Adults twenty-one (21) years of age and older may use Cannabis Flower and Cannabis Products in the following locations:

- a. A private Residence, including the property's curtilage or yard;
- b. On private property that is not generally accessible by the public, unless the individual is explicitly prohibited from consuming Cannabis Flower or Cannabis Products on the property by the owner of the property;
- c. On the premises of an establishment or event licensed to permit On-Site Consumption by the Leech Lake Cannabis Regulatory Commission; and
- d. In public outdoor spaces.

### **Section 2.03 Prohibitions**

An individual may not:

- a. Use, possess, or transport Cannabis Flower or Cannabis Products if the individual is under twenty-one (21) years of age;
- b. Use Cannabis Flower or Cannabis Products in a motor vehicle;
- c. Use Cannabis Flower or Cannabis Products in any Band government building;
- d. Use or possess Cannabis Flower or Cannabis Products in a school on Tribally Regulated Land;
- e. Use Cannabis Flower or Cannabis Products in a manner that involves the inhalation of smoke, aerosol, or vapor at any location where smoking is prohibited by law, regulation, or policy of the location, or in any location where the smoke, aerosol, or vapor could reasonably be expected to be inhaled by a minor;
- f. Use Cannabis Flower and Cannabis Products in any location where Cannabis use is prohibited by the owner, manager, or other entity with authority over the location, and notice of such prohibition is posted or otherwise communicated;
- g. Operate a motor vehicle or watercraft while under the influence of Cannabis;
- h. Use Cannabis in violation of employment rules or other Band policy;
- i. Use Cannabis in violation of State law, unless Band law expressly permits such use;
- j. Give for no remuneration Cannabis Flower, Cannabis Products, Lower-potency Hemp Edibles, or Hemp-derived Consumer Product to an individual under 21 years of age; or
- k. Give for no remuneration Cannabis Flower, Cannabis Products, Lower-potency Hemp Edibles, or Hemp-derived Consumer Products as a sample or promotional gift if the giver is in the business of selling goods or services.

1. Conduct cannabis business activities without the appropriate Cannabis Business License issued by the Leech Lake Cannabis Regulatory Commission.

#### **Section 2.04: Home Cultivation Permitted**

- a. Home cultivation conducted in compliance with this Section shall not be considered commercial cannabis activity requiring a License but instead shall be considered Cannabis for personal use.
- b. An individual twenty-one (21) years of age or older may grow Cannabis Plants at their primary Residence, including in the yard.
- c. Up to eight (8) cannabis plants, with no more than four (4) being mature, flowering plants, may be grown at a single Residence, including the curtilage or yard, without a license to cultivate cannabis issued by the Leech Lake Cannabis Regulatory Commission.
- d. If two or more individuals twenty-one (21) and over live at a single Residence as their primary Residence, the limit for growing Cannabis Plants at that Residence remains the same. This restriction is not impacted by whether those individuals have a familial relationship or shared living relationship.
- e. Cultivation under this Section must be conducted in an enclosed, locked space that is not open to public view. If such Cultivation is conducted in a greenhouse or other enclosure separate from the residential structure, that such greenhouse or enclosure shall be set back at least six (6) feet from the property line and screened from neighboring parcels.
- f. It is the responsibility of the individual to ensure the security of the Cultivation space. At no time may minors be permitted access to the Cultivation area.
- g. An adult age twenty-one (21) years or older may lawfully possess in their residence all Cannabis Flower cultivated at that residence in compliance with this Section, notwithstanding the limitations that would otherwise apply to possession in a Residence, and such possession shall be considered Cannabis for personal use.

#### **Section 2.05 Possession, Cultivation, and Use by Patients Enrolled in a Medical-Use Registry.**

The provisions of this Chapter apply to patients enrolled in a medical-use registry except that any enrolled patient, regardless of age: (i) may possess or use medical cannabis products; (ii) may use and possess medical cannabis products with Cannabinoid concentrations greater than what is allowable for adult-use Cannabis Products if approved by the Commission, should the Commission set a potency limit; and (ii) may cultivate Cannabis and possess Cannabis Products in amounts greater than otherwise permitted under this Ordinance, if approved by the Commission.

#### **Section 2.06 Home Extraction of Cannabis Concentrate**

No individual shall undertake solvent-based extraction utilizing hazardous, volatile, or flammable solvents to separate or extract cannabis concentrate or hemp concentrate without the appropriate Cannabis Business License from the Band's Cannabis Regulatory Commission.

#### **Section 2.07 Sale of Cannabis Flower and Cannabis Products Prohibited**

No person may sell Cannabis Flower, Cannabis Products, Lower-potency Hemp Edibles, or Hemp-derived Consumer Products without a Cannabis Business License issued under the Act that authorizes the sale.

## **CHAPTER 3: PENALTIES**

### **Section 3.01: Violation by Member**

A Band member who violates this Act may be subject to a fine, including increased fines for multiple offenses within any twelve (12) month period. This fine schedule shall be set by the RBC in conjunction with the Tribal Court, and may be amended annually or as frequently as necessary. A complete fine schedule shall be made available for public inspection by any person subject to this Act. All fines collected under this Act shall be payable directly to the clerk of the Tribal Court. No officer of the Leech Lake Band of Ojibwe Police Department (“LLTPD”) may accept payment of a fine under this Act.

### **Section 3.02: Violation by Non-Member**

A non-Member who violates this Act may be removed from, and prohibited from re-entering, the Band’s Tribally Regulated Land, or certain locations within the Band’s Tribally Regulated Land for: (i) a first offense, one (1) month; (ii) a subsequent offense, three (3) months; and (iii) for more than three (3) offenses, indefinitely. In lieu of such removal, the non-Member may choose to pay the fine that would apply to a Band member under Section 3.01 of this Act.

### **Section 3.03: Relation to Other Offenses and Penalties**

The penalties provided in this Act shall be in addition to any penalties that may apply to the conduct under other applicable law.

### **Section 3.04: Enforcement Authority**

Civil citations may be issued by the LLTPD for violations of this Act. Such citations will be in the form and have the effect of a summons and complaint. The LLTPD shall develop a ticket form for citations issued under this Act. The LLTPD may seize any cannabis product possessed in violation of this Act at the time it issues a citation for such possession. Any such seized product shall be kept as evidence for associated civil proceedings and returned to citation recipient if they are found not liable. If found liable, the product shall be destroyed.

### **Section 3.05: Citations**

Each tribal citation issued shall provide the following information:

- a. The time, date, and nature of the violation;
- b. The name of the person cited;
- c. The name or identification of the complainant, if applicable; and
- d. Information on how to respond to the citation.

## **CHAPTER 4: PROCESS**

### **Section 4.01: Procedure for Adjudication of Citation**

A copy of each citation issued pursuant to this Act shall be promptly submitted to the Clerk of the Tribal Court with the court date noted on the citation. The recipient of the citation then has until the court date to respond. Where a specific civil penalty is established for a violation of this Act, the recipient of the citation may mark the citation with an admission of liability and pay the associated fine or agree to the other civil remedy, in which case the recipient of the citation does not need to appear on the court date. The recipient of the citation has the option to deny liability and return it to the Tribal Court before the court date noted on the citation, and in this instance, the recipient of the citation must appear at the Tribal Court on the court date noted on the citation. All trials will be before the judge without a jury. The failure of a recipient of a citation to respond to the citation within the specified time shall constitute an admission of liability and a waiver of the right to trial, unless the recipient of the citation can show that the failure to respond is due to circumstances beyond their control. If the recipient of the citation does not appear before the court if so required, the court in its discretion may impose civil remedies permitted under this Act.

### **Section 4.02: Appeals**

Appeals from the Tribal Court's decisions or orders shall be made to the Leech Lake Tribal Appellate Court pursuant to the Rules of Civil and Appellate Procedure. The appeal shall be limited to a review of the proceedings of the Tribal Court and shall not be a de novo hearing.

### **Section 4.03: Jurisdiction**

The Tribal Court shall have jurisdiction to enforce the provisions of this Act and to impose the civil penalties provided for therein upon the presentation of a citation from the LLTPD. The prosecution of a complaint may be carried out by an officer of the LLTPD notwithstanding whether such person is an attorney and notwithstanding whether such person has been admitted to appear before the Tribal Court, or by a prosecutor assigned by the RBC.

### **Section 4.04: Penalties Civil in Nature**

The penalties authorized by this Act are civil in nature.