

Crow Tribe Cannabis Ordinance

19.01.010 Purpose and intent.

The revenue generated from sales of marijuana and related products will be used to support and enhance the conduct of cannabis businesses and to provide funds to Tribal government for purposes such as, but not limited to, education, health care, social services, research, and substance abuse prevention by the Crow Tribe.

19.01.020 Definitions.

- (a) “Cannabinoid(s)” means and includes all compounds and substances found in, or which may be isolated from, cannabis, having pharmacologic or psychoactive properties.
- (b) “Cannabis” means any of the aerial parts of a plant in the genus Cannabis, and does not mean hemp.
- (c) “Certified organic” means no human sewage sludge fertilizer was used in the cultivation of the plants; no synthetic chemicals were used that are listed on the National List of Allowed and Prohibited Substances (e.g., fertilizer, pesticides, antibiotics, food additives, etc.), including no genetically modified organisms, irradiation, or the use of sewage sludge; use of farmland that has been free from prohibited synthetic chemicals for a number of years (generally, three or more); a detailed written production and sales records (audit trail) will be kept; and there will be periodic on-site inspections.
- (d) “Cultivate” means to grow, harvest, dry and cure cannabis. A facility where cannabis plants are cultivated is a cultivation operation.
- (e) “Cultivation area” means the physical location of a structure or property at which cannabis is cultivated.
- (f) “Delivery” means a giving or bringing of something to someone.
- (g) “Dispense” means to provide cannabis or cannabis-derived product to compliant individuals.
- (h) “Distribute” means to deliver other than by administering or dispensing cannabis and cannabis-derived products.
- (i) “Drug” means a substance used in the diagnosis, treatment, or prevention of a disease or as a component of a medication.
- (j) “Identity” means the set of characteristics by which an ingredient or product is definitively recognizable or known. In the case of cannabis or other botanical ingredients, “identity” means the plant part and the botanical genus, species, variety, strain, and/or cultivar, as well as other characteristics as applicable.

- (k) “Lot” means a definite quantity of marijuana, useable marijuana, or marijuana-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.
- (l) “Marijuana” means cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. 21 U.S.C.A. § 802(16) (2014).
- (m) “Marijuana-infused products” are products that contain marijuana or marijuana extracts and are intended for human use. These products do not include useable marijuana.
- (n) “Medical marijuana” means marijuana cultivated and produced to treat a medical condition for which it is cultivated; for example, marijuana that specifically treats glaucoma based upon the chemical components of the specific product.
- (o) “Medical use of marijuana” means the possession or ingestion of marijuana, for the exclusive benefit of a qualifying patient in the treatment of his or her illness.
- (p) “Medium” means the nutritive substrate that the cultivator is using to establish a root system.
- (q) “Personnel” means any worker engaged in the performance of operations subject to this chapter and includes full- and part-time employees, temporary employees, contractors, and volunteers.
- (r) “Pest” means any objectionable insect or other animal at any life stage.
- (s) “Pharmaceutical-grade marijuana” means a grade of marijuana that is cultivated for medical treatment. It is free of chemical residues such as fungicides and insecticides and is tested by validated methods to determine its cannabinoid levels and contains safe microbial, mycotoxin, and metal contents, including heavy metals, and meets any other necessary requirements to be considered to be in compliance with good manufacturing practices.
- (t) “Physical facilities” means all or any part of a building or facility used for or in functional connection with manufacturing, packaging, labeling, holding, or sale of a cannabis-derived product.
- (u) “Production” includes the manufacturing, planting, cultivating, growing, or harvesting of cannabis plants.
- (v) “Propagation materials” means all substances used in the cultivation of cannabis.

(w) “Crow Tribal Cannabis Committee” is a committee composed of seven members who oversee the operation of cannabis cultivation, production and processing.

(x) “Qualifying patient” means a person who:

(1) Possesses a statement signed and dated by a health care professional, which states that in the health care professional’s opinion the patient may benefit from the medical use of marijuana; and

(2) Provides proof of identity, such as a valid Montana State driver’s license, or a valid Tribal membership card.

(y) “Quality” means that the product consistently meets the established specifications for identity, purity, strength, composition, packaging, and labeling, and has been manufactured, packaged, labeled, and held under conditions to prevent adulteration.

(z) “Useable marijuana” means dried marijuana flowers and does not include marijuana-infused products.

(aa) “Valid documentation” means:

(1) A statement signed and dated by a qualifying patient’s health care professional written on tamper-resistant paper, which states that, in the health care professional’s professional opinion, the patient may benefit from the medical use of marijuana; and

(2) Proof of identity, such as a Montana State driver’s license, or a valid Tribal membership card.

19.01.030 Crow Tribal Cannabis Committee.

(a) The Crow Tribal Cannabis Committee (“CTCC”) is a committee composed of seven members who oversee the operation of cannabis cultivation, processing and production. The CTCC members are appointed by the Crow Executive. No action taken by the Cannabis Committee will be effective unless it has been adopted or approved by the Crow Tribe Legislature and signed by the Chairman.

(b) Appointments. The CTCC shall be composed of at least five, but no more than seven, Tribal members appointed by the Tribal Council for three-year terms. At the discretion of the Legislature and Chairman, together, a member may serve more than one term.

(c) Eligibility. A candidate for membership on the Cannabis Committee must be an enrolled member of the Crow Tribe, and must have no criminal convictions for any drug/controlled substances (excluding cannabis convictions) violations in the past seven years.

(d) Vacancies and Removal from Office. If a committee member is removed, resigns or retires, the Legislature shall appoint an alternate to take his/her place, whom also must be approved by the Chairman.

(e) Duties. Committee members will:

(1) Analyze data pertaining to Tribal cannabis operations (i.e, production, processing, sales, research/development, facilities, testing laboratory, etc.).

(2) Develop regulations, in conjunction with the Director of Cannabis Operations and the Law Office, and approved by the Crow Tribe Legislature and signed by the Chairman.

(A) Regulations are not intended to supersede those procedures already in place in an existing Tribal ordinance.

(3) Provide processes and procedures for carrying out the mission, vision, goals, and objectives of the CTCC.

(4) Hire professional consultants in order to carry out the goals and objectives of the Crow Tribe.

(5) Hire support staff as necessary to carry out the goals and objectives of the Crow Tribal Cannabis Committee.

19.01.040 Cannabis production.

The Crow Tribal government shall produce, process and sell marijuana subject to the following provisions:

(a) Production Practices. The Crow Tribe will produce and package marijuana in many forms in consultation with experts, including scientists and botanists. Classes of marijuana will be produced and properly labeled according to grade, condition, cannabinoid profile, and THC concentration or other qualitative measurements deemed appropriate by the Crow Tribal Cannabis Committee, after consultation with experts including scientists and botanists. Production will include packaging by lot numbers marijuana, useable marijuana and marijuana-infused products.

(b) Propagation Materials Requirements.

(1) Propagation materials used in the production process must be appropriate for use in food production; and

(2) Individual plants will be tracked and documented using the most relevant technology available at the discretion of the Crow Tribe.

(c) Pesticides Requirements.

(1) Pesticides used in the cultivation process must be one of the following:

(A) Subject to a tolerance established for application to cannabis by the U.S. Environmental Protection Agency (“EPA”);

(B) Identified by EPA regulation as exempted from tolerance;

(C) Subject to a Section 18 emergency exemption under Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”¹); or

(D) Permitted for application to cannabis in other countries as long as the pesticide is also permitted for application to one or more food crops in the United States.

(2) The cultivation operation must follow the manufacturer’s application and storage recommendations, and disposal recommendations for the pesticide product, and must follow EPA Worker Protection Standards when preparing and applying pesticides. An indoor cultivation operation also must comply with the pesticide manufacturer’s published re-entry interval time periods when applying pesticides.

(d) Nutrients.

(1) Nutrients used in the cultivation operation must be appropriate for use in food production.

(2) The cultivation operation must follow the manufacturer’s application, storage, and disposal recommendations for the nutrient product.

(A) The cultivation operation must not return unused rooting hormone to the source container.

(B) Nitrate-based and other oxidizing fertilizers must be stored away from solvents, fuels and pesticides.

(3) Commercial fertilizers and potting soil and other growing media available commercially in the state of Montana may be used in marijuana production for nutritive value.

(e) Carbon Dioxide.

(1) The indoor cultivation facility utilizing carbon dioxide must maintain levels under 2,000 ppm in cultivation areas when facility personnel may be present;

(2) The indoor cultivation facility utilizing carbon dioxide at levels above 2,000 ppm in a sealed room must prohibit personnel from entering the cultivation area unless personal protective equipment is provided; and

(3) All regulators and environmental control systems that regulate carbon dioxide emissions must be maintained in good working order and be serviced in accordance with the manufacturer's recommendations.

(f) Equipment and Tools.

(1) Equipment used for measuring, regulating, or recording temperatures, pH, humidity, or other conditions related to the cultivation and processing of cannabis must be accurate and adequately maintained;

(2) Cultivation and processing tools that come in direct contact with cannabis plants should be disinfected as needed to protect plant health; and

(3) Scales used for weighing of cannabis must be calibrated at regular intervals.

(g) The production operation must follow the manufacturer's usage, storage, and disposal recommendations for the propagation material.

(h) Location. Cultivation cannot occur within 1,000 feet of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library or game arcade that allows minors to enter. The cultivation warehouse will be secured and closed to the public. Employees in production, processing, or sales will not have access to the cultivation warehouse without prior authorization. All inlets and outlets will be monitored by 24-hour cameras and will only be accessible by authorized employees with valid scan cards or fingerprint identification.

(i) THC Concentration. THC concentration in marijuana plants shall be tested, so that the THC concentration of plants can be accurately assessed.

(j) All plants will meet pharmaceutical-grade or certified organic standards whether they be dispensed for medicinal or recreational purposes.

(k) Cannabinoid Concentration. Cannabinoid concentrations in marijuana may possess a wide range of medicinal, therapeutic benefits for patients, and will be accurately measured so that medical marijuana of highest caliber and grade will be available for patients.

19.01.050 Cannabis processing practices.

(a) Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.

- (b) Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
- (c) Employees handling cannabis in processing operations must utilize proper work attire, facemasks, and gloves in good operable condition as applicable to their jobs.
- (d) Employees must wash hands sufficiently when handling cannabis or use gloves.
- (e) Accurate information about the identity, quality, and cultivation conditions of cannabis and cannabis-infused products shall be recorded and provided upon distribution.
- (f) Prior to processing any products, processing operations management shall provide the Cannabis Committee with a list of the products it intends to market in order to allow the Committee to determine whether regulations are necessary.

19.01.060 Sales.

(a) The Crow Tribal government is the only authorized entity that may distribute cannabis and cannabis-infused products for sale, including retail sale, on the Crow Indian Reservation. Any businesses engaged in the sales of cannabis or cannabis-infused products must obtain cannabis from the Crow Tribe, from a business operated by an Indian tribe that produces cannabis inside the state of Montana, or from a business licensed by the state of Montana.

- (1) Marijuana, marijuana-infused products, and paraphernalia intended for the storage or use of useable marijuana or marijuana-infused products will be sold at a Crow Tribal Cannabis outlet or at a business conducting retail sales of such products that is operated by a corporation wholly-owned by the Tribe.
- (2) Marijuana or marijuana-infused products cannot be displayed in a manner that is visible to the general public from a public right-of-way.
- (3) All consumers of marijuana or marijuana-infused products must be 21 years of age or older to purchase marijuana.
- (4) For persons age 21 and older and qualifying patients or designated providers who are not entered into the medical marijuana authorization database, marijuana serving and transaction limitations are as follows:

(A) Transaction Limitation. A single transaction is limited to:

- (i) One ounce of usable marijuana;
- (ii) 800 milligrams of marijuana-infused product in the form of edibles;
- (iii) Eight grams of marijuana concentrate; and

- (iv) Sixteen .5 milliliter vape cartridges; and
- (v) Eight 1 milliliter vape cartridges.

(B) For persons age 21 and older and qualifying patients or designated providers who are not entered into the medical authorization database, may purchase a maximum amount of five (5) ounces of usable marijuana per month and no more than one (1) ounce per day.

(5) For qualifying patients and designated providers who are not entered into the medical marijuana authorization database, marijuana serving and transaction limitations are as follows:

(A) Transaction Limitation. A single transaction is limited to:

- (i) One ounce of usable marijuana;
- (ii) 800 milligrams of marijuana-infused product in the form of edibles;
- (iii) Eight grams of marijuana concentrate; and
- (iv) Sixteen .5 milliliter vape cartridges; and
- (v) Eight 1 milliliter vape cartridges.

(B) For persons age 21 and older and qualifying patients or designated providers who are not entered into the medical authorization database, may purchase a maximum amount of five (5) ounces of usable marijuana per month and no more than one (1) ounce per day.

19.01.065 Tribal marijuana tax.

There is imposed and shall be collected a Tribal marijuana tax at the rate of seven (7%) for each retail sale of marijuana concentrates, usable marijuana, and marijuana-infused products.

19.01.070 Labeling.

(a) Information provided by the Crow Tribal Cannabis outlet, whether written or verbal, about the identity, quality, and cultivation conditions of cannabis and cannabis-derived products must be accurate.

(b) The Crow Tribal Cannabis outlet must disclose the extent and type of testing it conducts, or causes to be conducted, on the cannabis and cannabis-derived products it provides, including:

- (1) The type of test or examination used, if any, to determine the particular strain or cultivar of each lot of cannabis cultivated;
 - (2) Whether or not the cannabis is tested to determine the quantitative levels of contained constituents, and if so, the type of testing used;
 - (3) Whether or not the cannabis is tested to determine the absence or presence of specific classes of potential contaminants, and if so, the type of testing used. The information required by this section must be disclosed for each of the following:
 - (A) Pesticides;
 - (B) Yeasts and molds; and
 - (C) Other microbiological contaminants.
- (c) The information required to be disclosed by this section must be made available:
- (1) At the point of sale, either:
 - (A) With posted and readily visible signage; or
 - (B) With printed handouts that are provided to individuals prior to purchase of any cannabis or cannabis-derived product.
 - (d) Labeling must occur on any website at which cannabis or cannabis-derived products are available for ordering by or sale to individuals, by posting the information so that it will be seen prior to ordering and purchasing.
 - (e) Label or other markings containing the information required in this section must be affixed to all cannabis-derived products. The Tribe will work with the medical community to develop a labeling system that will accurately reflect the appropriate prescription dosages

19.01.080 Personnel.

The Crow Tribe reserves the right to deny employment based upon prior criminal convictions. Only persons 21 years of age or older may be employed in any cannabis-related operations.

- (a) **Background Investigation.** No employee shall be hired if he/she has a felony criminal record. All prospective employees are subject to a criminal background investigation as a condition to prospective employment.
- (b) **Training.**

(1) All employees of any cannabis-related business must have the education, training, or experience, or any combination thereof, to perform all assigned functions.

(2) Employees who have assigned functions that involve providing qualified individuals with cannabis or cannabis-derived product must complete training that includes:

(A) Specific uses of cannabis or a specific cannabis-derived product;

(B) Clinical application of the specific constituents of cannabis;

(C) The laws, regulations, and policies relevant to providing cannabis or cannabis-derived product to qualifying individuals.

(c) Hygiene.

(1) Employees showing signs of illness, open wounds, sores or skin infections will be prohibited from handling cannabis in the cultivation and processing operation.

(2) Employees handling cannabis shall receive training with specific attention to preventing microbial contamination.

(3) Employees must strictly adhere to all hand washing requirements including washing hands with soap and hot water before beginning work, and after using the bathroom and after meal breaks.

(4) Instructive hand washing signage will be placed in appropriate areas such as bathrooms, kitchens, and lunch areas, and in multiple languages as needed.

(5) Montana State Food Handler's Permit. All employees must obtain a Montana State Food Handler's Permit before working in cannabis cultivation, production, processing and distribution sites.

(d) Safety.

(1) Employees will be required to strictly comply with all safety protocols, and will be required to attend all employer sponsored safety training relevant to their specific job functions, which may include:

(A) Emergency action response planning as necessary;

(B) Employee accident reporting and investigation policies;

(C) Fire prevention;

(D) Hazard communication policies, including maintenance of material safety data sheets (“MSDS”);

(E) Materials handling, spills, and disposal policies;

(F) Job hazard analyses; and

(G) Personal protective equipment policies, including respiratory protection.

(e) The cultivation operations must provide and maintain at least one emergency eye flushing station readily accessible to all employees and access to adequate eye flushing water for each employee working in field operations.

(f) The cultivation and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:

- (1) Operation manager contacts;
- (2) Emergency responder contacts;
- (3) Poison control contacts;
- (4) Fire department contacts; and
- (5) Spill response team contacts.

19.01.090 Physical facilities.

General Compliance. In addition to the requirements contained in this section, a facility constructed or used for the cultivation, processing or distribution of cannabis and cannabis-derived products shall comply with all Tribal laws and regulations, including, but not limited to, building codes, and land use and zoning restrictions.

(a) Indoor cultivation and processing operations shall be located in a nonresidential structure that:

- (1) Meets Tribal building codes;
- (2) Has a complete roof enclosure supported by connecting walls extending from the ground to the roof;
- (3) Is secure against unauthorized entry; and
- (4) Minimizes unnecessary visual, auditory or olfactory evidence of indoor cannabis operation.

(b) Greenhouse cultivation operation must be permitted and built to Tribal code at the time of construction, and shield or downcast supplemental lighting.

(c) Cannabis transported from the cultivation and processing operations must be in a secured enclosed container or secured trunk of the delivery vehicle.

(d) Distribution Operations.

(1) Distribution operations must provide adequate refrigeration if storing cannabis-derived products, as needed to ensure the safety of the products that require refrigeration and to reduce spoilage.

(2) Distribution operations must provide and use a secure area for storage of cannabis or cannabis-derived products in inventory.

(3) Distribution operations must provide and use a secure area to keep money that is needed to be kept at the facility, and remove money from the facility on a regular basis.

(e) Storefront/Dispensary Operations (Including Retail Sales).

(1) Storefront/dispensary operations must maintain Americans with Disabilities Act (ADA) compliance.

(2) No on-site consumption of cannabis or cannabis-derived products shall be allowed unless the Tribe approves a statutory or regulatory policy permitting such activity. Any voluntary on-site consumption policy will address the following:

(A) The type or types of consumption allowed (e.g., eating; smoking; vaporizing; or topical application);

(B) A limit on the amount of time that can be spent in on-site consumption if such a time limit is advisable;

(C) A ventilation plan, if needed;

(D) A protocol to prevent and to address a qualifying individual who is or becomes over-medicated; and

(E) Additional issues as needed.

(f) Security Provisions.

(1) Indoor cultivation and processing facilities must have locking doors and windows which provide emergency ingress and egress in accordance with applicable regulations.

- (2) Cultivation and processing operations must implement and communicate security protocols to all personnel.
- (3) Outdoor and greenhouse cultivation operations should be enclosed by a secure perimeter fence at least six feet in height. The fence should include a lockable gate that is locked when a qualified employee is not in the immediate area.
- (4) Distribution/storefront operations must have additional security as needed and should include:
 - (A) Security personnel in sufficient number to ensure the safety of staff, patients, and patrons;
 - (B) Sufficient security camera coverage; and
 - (C) Monitoring of dedicated parking, if any, either with security personnel or with security cameras.
- (g) Delivery Services. If delivery services are offered, there must be:
 - (1) Sufficient security personnel at the facility where the product is stored, or processed, in sufficient number to ensure the safety of staff and security of all cannabis and cannabis-derived products;
 - (2) Training for delivery staff to ensure awareness of how to maintain personal and product safety and to provide contact information to police or other emergency personnel;
 - (3) Restriction of deliveries only to a private address and never to a public location;
 - (4) Armed police-trained security personnel subject to full compliance with all relevant legal requirements; and
 - (5) Provide training to make all staff aware of the operation's security procedures, and each individual employee's security roles and responsibilities.

19.01.100 Criminal activity.

All offenses connected to cannabis use, consumption, manufacturing, processing, or distribution are set forth in the Crow Tribal Criminal Code

19.01.110 Regulations.

Sales and other forms of dispensing medical grade marijuana shall be conducted only by businesses owned and operated by the Crow Tribe, by a corporation wholly-owned by the Crow Tribe, or by another entity of Tribal government whose governing documents authorize such

activity. At no times shall individuals be granted licenses, permission, or otherwise be allowed to grow, process, sell, barter or otherwise engage in cannabis business activities. All cannabis business activities are the exclusive right of the Crow Tribe government and its offices.

19.01.120 Exclusions.

The following acts when performed by employees or contractors of the Crow Tribe in conformance with this chapter shall not constitute criminal or civil offenses under Tribal law:

- (a) Production or possession of marijuana pursuant to employment duties.
- (b) Possession, processing, packaging and labeling of quantities of marijuana, useable marijuana, and marijuana-infused products in preparation for sales.
- (c) Delivery, distribution and sale of marijuana pursuant to employment duties at the retail outlet.
- (d) No Liability for Health Care Professionals. A health care professional may not be arrested, searched, prosecuted, disciplined, or subject to other criminal sanctions or civil consequences or liability under Tribal law, or have real or personal property searched, seized, or forfeited pursuant to Tribal law, if he/she is:
 - (1) Advising a patient about the risks and benefits of medical use of marijuana or that the patient may benefit from the medical use of marijuana; or
 - (2) Providing a patient with valid documentation, based upon the health care professional's assessment of the patient's medical history and current medical condition that valid documentation is necessary in the individual health care professional's medical judgment.
- (e) No Liability for Qualified Patients. The medical use of marijuana in accordance with the terms and conditions of this chapter does not constitute a crime and a qualifying patient in compliance with the terms and conditions of this chapter may not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, marijuana under Tribal law, or have real or personal property seized or forfeited for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, marijuana under Tribal law.
- (f) No Liability Based on Constructive Possession by the Crow Tribe.
 - (1) No person shall be prosecuted for constructive possession, conspiracy, or any other criminal offense solely for being in the presence or vicinity of medical marijuana or its use as authorized by this chapter.
 - (2) The Crow Tribe shall not be held vicariously liable for any deleterious or ineffective outcomes from the medical use of marijuana by any qualifying patient.

19.01.130 Preemption.

Nothing contained in this chapter shall be construed to supersede federal law or contradict federal policies regarding the acquisition, possession, manufacture, sale, or use of marijuana contained within the Crow Reservation and the state of Montana.

(a) Inspection. The Crow Tribe may negotiate and contract for the inspection of its marijuana production methods and products to assure their conformance with scientific and safety standards to assure protection of the public.

(b) Interstate Ban. Marijuana is prohibited from being diverted in any form to any other state where marijuana is illegal.

19.01.140 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application. To this end, the provisions of this chapter are declared to be severable.