

# PAWNEE NATION OF OKLAHOMA

## Law and Order Code



## TITLE XIV

### CANNABIS SATIVA L. FARMING ACT (HEMP)

---

Codified on January 24, 2019

by Resolution #19-06

## Table of Contents

GENERAL PROVISIONS .....	1
Section 001. Codification.....	1
Section 002. Purpose and Intent.....	1
Section 003. Severability .....	2
Section 004. Applicability .....	2
Section 005. Personal Jurisdiction; Territorial Jurisdiction.....	2
Section 006. Sovereign Immunity.....	2
Section 007. Definitions.....	3
Section 008. Authorizations.....	4
Section 009. License Required .....	4
Section 010. Application for License.....	5
Section 011. Suspension or Cancellation of License .....	8
Section 012. General Enforcement Authority and Penalties .....	8
Section 013. Penalties .....	11
Section 014. Inspection of Facilities and Records .....	13
Section 015. Culpability.....	13
Section 016. Appeals .....	14
Section 017. Seizure of Property .....	14

# TITLE XIV PAWNEE NATION CANNABIS SATIVA L. FARMING ACT

## (Authorizing Implementing Regulations-Ch. 3)

### GENERAL PROVISIONS

#### Section 001. Codification

This Title shall be codified as the Pawnee Nation *Cannabis sativa L.* (Hemp) Farming Act (Act) and supersedes and supplements all conflicting provisions or laws of the Pawnee Nation.

#### Section 002. Purpose and Intent

The plant, *Cannabis sativa L.*, has many sub-species or varieties. The sub-species or variety referred to in this Act is *Cannabis sativa L.* containing no more than three-tenths of one percent (0.3%) delta-9 tetrahydrocannabinol (THC) concentration on a dry weight basis; commonly referred to as industrial hemp. This variety will be referred to as “hemp” throughout the remainder of this document.

The purposes of this Act are to:

- (a) Authorize the establishment of the Pawnee Nation Cannabis sativa L. Farming Regulation for implementation of the hemp production operations;
- (b) Promote the cultivation and processing of hemp and to open new commercial markets for farmers and businesses through the sale of hemp products;
- (c) Promote the expansion of this Nation’s hemp industry to the maximum extent permitted by law, allowing farmers and businesses to cultivate, handle, and process hemp and sell hemp products for commercial purposes;
- (d) Encourage and empower research into hemp growth and hemp products at institutions of higher education in this Nation and in the private sector; and
- (e) Move this Nation and its citizens to the forefront of the hemp industry.

The purpose of the Hemp Act is to enable the Pawnee Nation, and its licensees and affiliated universities, to promote the cultivating and processing of hemp and the commercial sales of hemp products. Notwithstanding any other provision of law, it is lawful for a licensee to cultivate, handle, or process hemp in this Nation, as well as to transport hemp outside of the Nation. Notwithstanding any other provision of law, it is lawful for any person to possess, transport, sell, and purchase legally-produced hemp products in this Nation. Nothing in this chapter authorizes any person to violate any law or regulation of the United States or this Nation.

### **Section 003. Severability**

The provisions of this Act are severable, and if any part hereof shall be held void, the decision of any court so holding shall not affect or impair any of the remaining parts or provisions of this Title.

### **Section 004. Applicability**

- (a) This Act shall apply to all causes within the territorial jurisdiction of the Pawnee Nation and shall apply to all Indian persons violating its provisions within the territorial jurisdiction of the Pawnee Nation, provided, that the provisions of Chapter Four of Title VI of this Law and Order Code shall apply to all members of the Pawnee Nation and all Indian residents of the jurisdiction of the Nation where ever such violations may occur, if such violation has any actual or intended effect upon the political integrity or the political or economic security of the Pawnee Nation
- (b) This Act shall apply to non-Indians to the extent not inconsistent with federal law and to the extent that any person found to have violated any provision of this Title may be banished from the jurisdiction of the Pawnee Nation for a period of not more than ten years, or for such term and/or penalty or fine as may be imposed by the Section violated, in a civil proceeding brought by the Pawnee Nation. The non-Indian, in such cases shall have all the same procedural rights of a criminal defendant, and such cases shall be tried by the same rules of criminal procedure.

### **Section 005. Personal Jurisdiction; Territorial Jurisdiction**

- (a) For the purpose of enforcement of this Act, the Pawnee Nation shall have jurisdiction over all persons, who by their actions or negligence, violates any provision of this Act.
- (b) For the purpose of enforcement of this Act, the Pawnee Nation shall have jurisdiction in the territorial boundaries of the Pawnee Nation and other places determined to be Indian Country within the Pawnee Nation jurisdiction as provided in Title I, Section 3 of this Law and Order Code. Because any violations of this Code, its Acts, laws, or any rules or regulations adopted there-under will demonstrably and seriously impact the environment, natural resources, public health, safety, welfare, cultural and/or political integrity, and economic security of the Nation, the Pawnee Nation shall have jurisdiction to regulate and enforce the provisions of this Act with respect to any activity conducted on trust land (Tribal and/or individual allotment) , fee land, and in Indian Country within the Pawnee Nation to the fullest extent allowed by law.

### **Section 006. Sovereign Immunity**

- (a) Neither this Law and Order Code, its Acts, Laws, Regulations, or prescribed services, nor the Pawnee Nation programs established for implementation of said Acts, laws, regulations, or services, nor any action or agreement of the Department of Environmental Conservation and Safety or its Programs shall be construed as, or is intended to be, a waiver

- or modification of any sovereign immunity now enjoyed by the Pawnee Nation, or a consent by the Nation to jurisdiction or suit against it.
- (b) The Nation reserves the right to contest the jurisdiction of the Federal Court in any citizens' suit filed against it (IE, under Section 7002 of the SWDA), except only as such jurisdiction may be expressly waived by the Pawnee Nation in such suit.
  - (c) The Pawnee Nation, the Pawnee Business Council and its members; the Pawnee Nation; the Pawnee Nation Department of Environmental Conservation and Safety and its Director and employees; and all other Nation officers, employees, representatives, or agents thereof, who are performing their duties by implementing or enforcing any provision of the Law and Order Code, are immune from suit for monetary damages in any court of law, and they do not waive any of their sovereign rights or immunities; executive privileges or right to privacy or confidentiality.
  - (d) The Pawnee Nation and/or Department of Environmental Conservation and Safety may enter into such contracts as are authorized by the Pawnee Business Council, for the purpose of implementing and/or enforcing provisions of this Code or its Acts therein; provided that such contracts shall not be construed to be a waiver of the sovereign rights or immunities of the Pawnee Nation, or any commission, board, agency, entity, officer, employee, representative, or agent thereof.

## **Section 007. Definitions**

In this Act, the following terms shall have the following meanings:

- (a) “Cannabidiol” or “CBD” means the compound by the same name derived from the hemp variety of the *Cannabis sativa L.* plant.
- (b) “Commercial sales” mean the sale of products in the stream of commerce, at retail, wholesale, and online.
- (c) “Cultivating” means planting, watering, growing, and harvesting a plant or crop.
- (d) “Director” means the Director of the Division of Natural Resources and Safety.
- (e) “Department” means the Pawnee Nation Department of Environmental Conservation and Safety.
- (f) “Federally-defined THC level for hemp” means a delta-9 THC concentration of not more than 0.3 percent on a dry weight basis, or the THC concentration for hemp defined in 7 U.S.C. sec. 1621 as it currently exists or as it may be subsequently amended, whichever is greater.
- (g) “Handling” means possessing or storing hemp plants for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process hemp. “Handling” also includes possessing or storing hemp plants in a vehicle for any period of time other than during its actual transport from the premises of a licensed person to cultivate or process hemp to the premises of another licensed person. “Handling” does not mean possessing or storing finished hemp products.
- (h) “Hemp” means the plant *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with not more than the federally-defined THC level for hemp. Hemp shall be considered an agricultural commodity.

- (i) “Hemp Products” means all products with not more than the federally-defined THC level for hemp derived from, or made by, processing hemp plants or plant parts, that are prepared in a form available for commercial sale, including, but not limited to, cosmetics, personal care products, food intended for animal or human consumption, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more hemp-derived cannabinoids, such as cannabidiol.
- (j) “Industrial Hemp” is equivalent in all meanings to “Hemp.”
- (k) “License” means a license issued by the Division under the authority of this chapter to handle, cultivate, or process hemp.
- (l) “Licensee” means an individual or business entity possessing a license issued by the Division under the authority of this chapter to handle, cultivate, or process hemp.
- (m) “Marijuana,” as defined under [Nation’s statute defining marijuana, if any] and notwithstanding any other provisions of the law, does not include hemp or hemp products.
- (n) “Nation” means the Pawnee Nation of Oklahoma and all of its agencies and units.
- (o) “Processing” means converting an agricultural commodity into a marketable form.
- (p) “THC” means tetrahydrocannabinol. Notwithstanding any other provision of the law, the THC that is found in hemp shall not be considered to be THC in qualifying as a controlled substance.
- (q) “University” means an accredited institution of higher education located in this Nation.

### **Section 008. Authorizations**

- (a) The Pawnee Nation Department of Environmental Conservation and Safety (DECS) is designated as the lead agency to promulgate regulations as required by this Act, approve permits, regulate, and enforce the provisions of this Act including permits. The jurisdiction conferred on the DECS by this Title shall be consistent with the authorities established under Title 12 of the Pawnee Nation Law and Order Code and is concurrent with and in addition to the regulatory jurisdiction of the federal government.
- (b) The Pawnee Nation Tax Commission (TC) is authorized to issue and approve permits and enforce implementing regulations which are deemed necessary by the Pawnee Nation to implement any provision of this Act.
- (c) This Act shall be interpreted and applied such that the Nation has exercised its inherent legal and regulatory authority to the fullest extent permitted by federal law and the Nation's constitution. The Nation's law shall be applied and enforced except to the extent that federal law preempts a specific exercise of the Nation's regulatory authority.

### **Section 009. License Required**

No person shall handle, cultivate, or process hemp within the Pawnee Nation without first obtaining and maintaining the proper license. License conditions are as indicated within the provisions of this Act. All license related fees and fines collected under this title shall be deposited into the general fund of the Pawnee Nation. Handling, cultivating, or processing hemp without a

license as required by this Act shall be punishable in accordance to the provisions within Section 014 of this Act unless otherwise indicated in any other Section of this Act, and/or by other laws and regulations of the Pawnee Nation.

### **Section 010. Application for License**

Unless otherwise indicated in this Act, each license shall contain the following conditions:

(a) All farmers, company's, or institutions intending to handle, cultivate, or process hemp within the jurisdiction of the Pawnee Nation shall submit an application with the Department for a license:

(1) Not less than thirty (30) days prior to the planting or cultivation of any industrial hemp crop; or

(2) No later than December 1 if a subsequent license is required to harvest industrial hemp crops planted before December 31 but scheduled for harvest after December 31.

(b) A licensee shall submit a separate application, pay separate application and inspection fees, and obtain a separate license for each cultivation site licensed by the licensee.

(c) The application shall be on a form provided by the Department and shall, at a minimum, contain the following information:

(1) The name and address of the applicant;

(2) The contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees of the licensee responsible for communications with the Department relating to the cultivation of industrial hemp;

(3) If the licensee intends to utilize subcontractors, the correct legal name of the subcontractors along with all aliases or trade names of the subcontractors;

(4) If the licensee intends to utilize subcontractors, the address for the subcontractors' primary business locations and any satellite business offices located in Oklahoma;

(5) If the licensee intends to utilize subcontractors, the contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees of the subcontractor responsible for communications with the Department relating to the cultivation of industrial hemp;

(6) Proof of ownership or valid lease from the Pawnee Nation or Bureau of Indian Affairs for the cultivation site and the following information if the cultivation site is not wholly owned by the licensee:

(A) The name, address, and contact information for all persons or entities having any ownership interest in the cultivation site; and

(B) An original signed, dated, and notarized letter of acknowledgement from each person having any ownership interest in the cultivation site indicating approval for the cultivation of industrial hemp at the cultivation site;

(C) If applicable, a copy of the property lease for the entire duration of the license;

(7) If the application identifies a contiguous field as the cultivation site:

(A) A legal description (Section, Township, Range) of the contiguous field;

(B) The global positioning location coordinates at the approximate center of the contiguous field; and

(C) An annotated map or aerial photograph with sufficient detail and clarity to define the boundaries and dimensions of the contiguous field in acres, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the contiguous field along with a description of the variety of industrial hemp corresponding to each growing area;

(8) If the application identifies a building as the cultivation site:

(A) The physical address of the building;

(B) The global positioning location coordinates of the building; and

(C) An annotated map or blueprint with sufficient detail and clarity to show the boundaries and dimensions of the building and growing area in square feet, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the building along with a description of the variety of industrial hemp corresponding to each growing area;

(9) A description of any areas used to store or process plants or plant parts, including but not limited to:

(A) The physical address or location of any storage areas or processing areas;

(B) The global positioning location coordinates of any storage areas or processing areas; and



(C) An annotated map or blueprint with sufficient detail and clarity to show the location, boundaries and dimensions of any storage areas or processing areas in square feet;

(10) A schedule identifying the intended dates of planting and intended dates of harvesting any industrial hemp crop or crops;

(11) A statement of intended use and disposition for the industrial hemp harvested from the cultivation site or any plant parts thereof;

(12) A notarized and sworn statement from an official or employee of the licensee and from an official or employee of any associated subcontractor that only hemp seed will be planted at the cultivation site; and

(13) Acknowledgement and agreement with the following terms and conditions:

(A) Any information provided by the licensee or subcontractors is subject to public disclosure under the Open Records Act;

(B) Any information provided by the licensee or subcontractors may be released to the Pawnee Nation Division of Law Enforcement or to any law enforcement agencies without notice to the licensee or its subcontractors;

(C) The licensee and subcontractors shall fully cooperate with the Department, grant the Department physical access to any part of the cultivation site and allow inspection and sampling that the Department deems necessary; and

(D) The licensee and subcontractors shall submit all required reports by the dates specified by the Department.

(d) A subcontractor may submit applications, pay associated fees, and file reports required by the Department on the licensee's behalf if authorized by the licensee to do so. The licensee's approval for the subcontractor to submit applications, pay fees, pay fines, and file reports shall be evidenced by an original, dated, signed, and notarized authorization letter from an official or employee of the licensee identified in subsection (c)(2) of this section submitted with the application for a license. A unique original, dated, signed, and notarized authorization letter shall be required for each new application, for each subsequent application, or renewal of an existing license.

(e) Incomplete applications shall not be processed by the Department and any associated application fees shall be retained by the Department.

(f) Applications that are denied by the Department may be resubmitted within twelve (12) months of the original filing. The Department may waive application fees for resubmitted applications.

## **Section 011. Suspension or Cancellation of License**

Any License may be suspended, canceled or not renewed for any of the following reasons:

- (a) Filing and application or document which contains incomplete, false or misleading statements;
- (b) Non-payment of license application fee or any other payment owing to the Pawnee Nation and arising from any activity covered by the license, including taxes, fees, penalties, or other assessments;
- (c) Noncompliance with, or violations of any laws or regulations imposed by the Pawnee Nation or the United States governing handling, processing, or cultivating industrial hemp;
- (d) Noncompliance with or violation of any portion of this Act (Title 14), or any other laws or regulations of the Pawnee Nation law and order code;
- (e) Noncompliance with or violation of any condition of the license; and
- (f) Other grounds considered adequate by the Pawnee Nation for suspension or cancellation of the permit.

## **Section 012. General Enforcement Authority and Penalties**

- (a) General Authority. Whenever, on the basis of any information available to the Director, the Director finds that any person (including the Pawnee Nation and any instrumentality of the Pawnee Nation) has violated, or is in violation of any requirement or prohibition of this Act, its laws, the regulations promulgated under this Act, or permits, orders, plans, programs or fees issued or developed pursuant to this Act, the Director may:
  - (1) Issue and serve on such person a Notice of Violation (NOV) ordering such person to comply with such requirement or prohibition, including an emergency order to comply, including fines pursuant to the provisions of this section;
  - (2) Issue and serve on such person an administrative Notice of Violation as penalty order;
  - (3) Issue and serve on such person a criminal or civil citation in accordance to the Law of the Pawnee Nation;
  - (4) Request that the Pawnee Nation Attorney General and/or Prosecutor bring a criminal action in accordance with this Act and/or refer any criminal enforcement action or portion of such action to the appropriate court of jurisdiction; and/or
  - (5) Request that the Pawnee Nation Attorney General and/or prosecutor bring a civil action, including an action for injunctive relief in accordance with this Act.
- (b) Requirements for orders to comply.
  - (1) An order issued under subsection (a)1 or (a)2 of this section shall state with reasonable specificity the nature of the violation, shall state that the alleged violator is entitled to a hearing pursuant to applicable laws and/or regulations of the Pawnee Nation if such hearing is requested in writing within 30 calendar days after the date of issuance of the order, and shall specify a time for compliance that the Director

- determines is as expeditious as practicable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.
- (2) The order shall become effective immediately upon the expiration of the 30 calendar days if no hearing is requested and, if a timely request for a hearing is made, upon the decision of the Director.
  - (3) The order may be conditional and require a person to refrain from particular acts unless certain conditions are met.
  - (4) A copy of the order may be sent to the USDA and, if the order is issued to a corporation, to the appropriate corporate officers and registered agent of the corporation.
  - (5) No order to comply issued under this section shall prevent the Pawnee Nation from assessing any penalties or otherwise affect or limit the Pawnee Nation's authority to enforce under other provisions of this Act, or affect any person's obligations to comply with any section of this Act or with a term or condition of any permit or other requirements promulgated or approved under this Act.
- (c) Emergency compliance orders.
- (1) Notwithstanding any permit issued under this Act, if the Director determines that discharge of, or exposure to a pollutant is presenting an imminent and substantial endangerment to public health or welfare or the environment and determines, in consultation with the Attorney General, that it is not practicable to assure prompt protection of public health or welfare or the environment by commencement of a civil action pursuant to subsection (e) of this section, the Director may issue such orders as may be necessary to protect public health or welfare or the environment.
  - (2) Such orders may prohibit, restrict or condition any and all activities that contribute or may contribute to the emergency, shall be effective immediately upon issuance and shall remain in effect for a period of not more than 60 days, unless the Director brings an action pursuant to subsection (e) of this section within the 60-day period. If the Director brings such an action, the order shall remain in effect for an additional 14 days or for such longer period as may be authorized by the court in which such action is brought.
- (d) Enforcement of compliance orders. Enforcement actions of the Director shall be enforced by the Pawnee Nation Department of Environmental Conservation and Safety (Rangers, Inspectors), Pawnee Nation Law Enforcement Officers, and/or the Pawnee Nation Prosecutors Office as authorized by regulations. Those authorized to enforce the Director's actions may take reasonable steps to assure compliance, consistent with the requirements established by this Act (including rights of appeal), including but not limited to:
- (1) Entering upon any property or establishment believed to be violating the order and demanding compliance; and
  - (2) Terminating operations not in compliance.
- (e) Injunctive relief. The Director may seek injunctive relief pursuant to this Act to restrain any person who causes or contributes to an imminent and substantial threat to the public health or welfare or environment due to any activity affecting the natural resources of Pawnee Nation.

### **Section 013. Administrative Assessment of Penalties**

- (a) Basis for penalty.
- (1) The Director may issue against any person an administrative order assessing a civil administrative penalty of up to Ten Thousand Dollars (\$10,000) per day per violation whenever the Director finds that a person has violated, or is in violation of, any provision, requirement or prohibition of any regulation authorized by this Act. The Director's authority under this subsection, combined with actions under subsection (c), shall be limited to matters where the total penalty sought does not exceed One Hundred Thousand Dollars (\$100,000) and the first alleged date of violation occurred no more than one year prior to the initiation of administrative action, except where the Director and Attorney General jointly determine that a matter involving a larger penalty or longer period of violation is appropriate for administrative penalty action.
  - (2) The communications required to make such a joint determination and the method(s) utilized for making such a joint determination shall be privileged, and shall not be subject to judicial review. The Director may compromise, modify or remit, with or without any conditions, any administrative penalty imposed under this section.
- (b) Hearing requirement. Any person assessed an administrative penalty under this section may request a hearing, pursuant to the Administrative Procedures Act.
- (c) Field citations. The Director may implement a field citation program for minor violations for which field citations (assessing civil penalties not to exceed One Thousand Dollars (\$1,000) per day per violation may be issued by officers or employees designated by the Director, for any violation for which an administrative order could be issued to the extent permissible under applicable law. Any person on whom a field citation is assessed may, pursuant to regulations issued under this section, elect to pay the penalty or request a hearing on the citation. If a timely request for a hearing is not made, the penalty shall be final and the opportunity for judicial review shall be waived. Any hearing shall provide a reasonable opportunity to be heard and to present evidence. Payment of a penalty required by a field citation shall not be a defense to further enforcement by the Director to correct a violation or to assess the statutory maximum penalty pursuant to other authorities in this Act, except as to the days of violation for which the penalty required by a field citation is paid.
- (d) Judicial review. Any person subject to a civil penalty under subsections (a) or (c) of this section may seek review of such penalty assessment in the Pawnee Nation District Court pursuant to the Administrative Procedures Act.
- (e) Failure to pay penalty. If any person fails to comply with an administrative penalty order after the order or assessment has become final, the Director shall request the Attorney General to bring a civil action in the Pawnee Nation District Court to enforce the order or recover the amount ordered or assessed plus interest, from the date of the final order or decision or the date of the final judgment, as the case may be. In such an action the validity, amount and appropriateness of the order or assessment shall not be subject to review. Any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the Director's enforcement expenses, including but not limited to attorneys' fees and costs of collection

proceedings. Such person shall also pay a quarterly nonpayment penalty for each quarter during which such failure to pay persists. The nonpayment penalty shall be no less than 10 percent of the aggregate amount of the person's outstanding penalties and nonpayment penalties accrued as of the beginning of the quarter; the Director may, by regulation, establish higher penalties to take into account situations where the prime rate is higher.

- (f) Calculation of penalty. In determining the amount of any penalty to be assessed under this section, the Director or the court, as appropriate, shall take into consideration the factors enumerated in Section 014(d) of this Act.

## **Section 014. Penalties**

- (a) Criminal penalties.
- (1) Any person who:
    - (i) Violates any provision, requirement or prohibition of this Act, including but not limited to a regulation or plan adopted pursuant to this Act or a permit or an order issued pursuant to this Act; or
    - (ii) Makes any false material statement, representation or certification in, or omits material from, or alters, conceals or fails to file or maintain any notice, application, record, report, plan or other document required to be filed or maintained pursuant to this Act, regulations or plans adopted pursuant to this Act or a permit or an order issued pursuant to this Act; or
    - (iii) Falsifies, tampers with, renders inaccurate or fails to install any monitoring device or method required to be maintained or followed under this Act, regulations or plans adopted pursuant to this Act or a permit or an order issued pursuant to this Act; shall, upon conviction,
  - (2) Be punished by a fine of not less than Five Hundred Dollars (\$500) per violation, or banishment, or both, or be subject to any other penalty imposed by the court that is available under Pawnee Nation law.
  - (3) The minimum fine amount for violation of this code is Five Hundred Dollars (\$500) per violation unless otherwise specified. Each day a violation occurs is a separate violation.
  - (4) In any instance where the Nation lacks criminal jurisdiction over the person charged, or where the Director is limited in the amount of the fine that he may impose, the Director may refer the action for civil penalties and/or to the appropriate Tribal, State, or Federal authority pursuant to this Act. For the purpose of this subsection, the term "person" includes any responsible corporate officer.
- (b) Civil penalties. The Attorney General may file an action for a temporary restraining order, a preliminary injunction, a permanent injunction or any other relief provided by law, including the assessment and recovery of civil penalties of not less than Five Hundred Dollars (\$500) per day per violation, or be banished from the Pawnee Nation for a term established by the courts, or both in any of the following instances:
- (1) Whenever a person has violated, or is in violation of, any provision, requirement or prohibition of this Act, including, but not limited to, a regulation or plan adopted

pursuant to this Act, a permit or an order issued pursuant to this Act or a fee assessed under this Act;

- (2) Whenever a person has violated, or is in violation of, any duty to allow or carry out inspection, entry or monitoring activities; or
  - (3) Whenever a person is creating an imminent and substantial endangerment to the public health or the environment, in which case the Director shall request the Attorney General to pursue injunctive relief but not the assessment of civil penalties, unless the endangerment is caused by a violation, as specified in paragraphs 1 and 2.
- (c) Jurisdiction and venue. Any action under this section shall be brought in the Pawnee Nation District Court in Pawnee, Oklahoma, and such court shall have jurisdiction to restrain such violation, require compliance, assess civil and criminal penalties up to the amounts provided in this section, collect any fees or noncompliance penalties owed the Nation under this Act, seize equipment, and award any other appropriate relief.
- (d) Calculation of penalties
- (1) For purposes of determining the number of days of violation for which a penalty may be assessed under this Act, if the Pawnee Nation has notified the source in writing of the violation and the plaintiff makes a prima facie showing that the conduct or events giving rise to the violation are likely to have continued or recurred past the date of notice, the days of violation shall be presumed to include the date of such notice and each day thereafter until the violator establishes that continuous compliance has been achieved, except to the extent that the violator can prove by a preponderance of the evidence that there were intervening days during which no violation occurred or that the violation was not continuing in nature. Notice under this section shall be accomplished by the issuance of a written notice of violation or written order to comply or by filing a complaint in the Pawnee Nation District Court that alleges any violation described in subsection (a) of this section.
  - (2) In determining the amount of a penalty assessed under this Act, in addition to the statutory amounts of penalties and fines provided, the court shall consider the history, seriousness and duration of the violation; any good faith efforts to comply with the applicable requirements; the violator's full compliance history, including the severity and duration of past violations, if any; the economic impact of the penalty on the violator; as an aggravating factor only, the economic benefit, if any, resulting from the violation; and any other factors that the court deems relevant.
  - (3) In lieu of or in addition to a monetary penalty, the Pawnee Nation may impose or may request the Prosecutor or Attorney General to seek from the court a requirement to remediate the damage caused or to perform community service, or both.
- (e) Failure to pay civil penalty.
- (1) If any person fails to pay an assessment of a civil penalty, the Pawnee Nation shall request the Attorney General to bring a civil action in the Pawnee Nation District Court to enforce the order or recover the amount ordered or assessed plus interest, from the date of the final order or decision or the date of the final judgment, as the case may be. In such an action the validity, amount and appropriateness of the order or assessment shall not be subject to review.

- (2) Any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the Director's enforcement expenses, including but not limited to attorneys' fees and costs of collection proceedings.
- (3) Such person shall also pay a quarterly nonpayment penalty for each quarter during which such failure to pay persists. The nonpayment penalty shall be no less than ten percent of the aggregate amount of the person's outstanding penalties and nonpayment penalties accrued as of the beginning of the quarter; the Director may by regulation establish higher penalties to take into account situations where the prime rate is higher.

### **Section 015. Inspection of Facilities and Records**

- (a) Enforcement officers of the Pawnee Nation and/or any duly authorized representative of the Pawnee Nation, upon presenting their Identification or Credentials, shall have the power to enter at any time upon any private or public property, within the jurisdiction of the Pawnee Nation, for the purpose of monitoring, sampling, inspecting, and investigating conditions relating to the condition and/or damage to natural resources, or the possible pollution, waste, or impairment of any other natural resource of the Pawnee Nation, or the environment or relating to any other environmental or permitting responsibility authorized by law.
- (b) The Pawnee Nation may require the establishment and maintenance of records and reports relating to any activity regulated by them. Copies of such records shall be submitted to the Pawnee Nation, as relevant, upon request. Any authorized representative of the Pawnee Nation shall be allowed access and may examine such reports or records.
- (c) The Pawnee Nation may apply to and obtain from a judge of the District Court of the Pawnee Nation, or appropriate court, an order authorizing a warrant to enforce access to premises for sampling, investigation, inquiry and inspection under the provisions of this Act and regulations promulgated hereunder. Failure to obey an administrative warrant of the district court may be punished by the district court as a contempt of court.
- (d) The Pawnee Nation shall provide and maintain its lock and key to secure and control access to properties and facilities subject to inspections under this Act.

### **Section 016. Culpability**

Any person(s) who is willfully and, knowingly or unknowingly in violation of this Act shall be held responsible and liable for their actions whether with or without knowledge of this Act, its prohibitions, and/or the jurisdiction or ownership of land, air, or water resources potentially and/or directly impacted as a result of their violation. The Pawnee Nation, its staff, and/or designated agents shall not be held liable for loss of property, time and/or revenues (earned or lost, actual or estimated), damages, or claims incurred while operating under the authority of this Act

## **Section 017. Appeals**

Any party aggrieved by a final order, including the Pawnee Nation, may, pursuant to the Pawnee Nation of Oklahoma Law and Order Code and Pawnee Nation Administrative Procedures Act as appropriate, petition for a judicial review thereof, in the District Court of the Pawnee Nation.

## **Section 018. Seizure of Property**

- (a) **Grounds for Seizure.** Any property or interest therein in actual or constructive possession of a person that has violated or is violating any provision of this Act or of any license issued under the authority of this Act and used in connection with that violation may be seized and held to secure payment of a civil penalty or to be forfeited. Seizure under this Section shall not require proof that the owner of the property or the interest therein participated in, had knowledge of, or consented to the illegal use of the property.
- (b) **Persons Authorized to Seize Property.** Property subject to seizure under this Section may be seized by any law enforcement officer or ranger of the Nation upon issuance of a notice of noncompliance by the Pawnee Nation.
- (c) **Custody of Seized Property.** Property seized under this Section shall be held in the custody of the Pawnee Nation, subject only to the orders of the Nation's Court, including without limitation orders for sale of the property at public auction to collect any civil penalty assessed under this Chapter and orders issued in a forfeiture proceeding.
- (d) **Release of Property.** Unless a forfeiture proceeding concerning property seized under this Section is initiated, such property shall be released to its owner upon the earliest of the following:
  - (1) Thirty (30) days after seizure of the property;
  - (2) Payment of the civil penalty for which the property was seized as security; or
  - (3) Upon a finding by the Pawnee Nation's Court that such civil penalty is not proper.
- (e) **Civil Forfeiture Proceedings.**
  - (1) Within thirty (30) days after seizing property pursuant to this Section, the Pawnee Nation may initiate an in rem judicial forfeiture proceeding against the seized property. The forfeiture complaint shall describe with reasonable specificity the property at issue and the basis for forfeiture.
  - (2) The Pawnee Nation's Court shall give written notice of forfeiture proceedings to all known or reasonably ascertained persons with an interest in the seized property, including any lien interest. All such persons shall answer the complaint and file any adverse claim to the property within thirty (30) days after notice is given.
  - (3) Upon notice to all interested persons, the Court shall conduct a hearing to adjudicate whether the property and/or any known interests therein have been forfeited to the Nation and shall enter an appropriate judgment. The Court may deny forfeiture of an interest in property if the owner of the interest proves that he or she did not participate in, have knowledge of, or



consent to the illegal use of the property; or that he or she took all reasonable measures to prevent the illegal use of the property; or that the person committing the violation obtained possession of the property without his or her consent.

- (4) Property forfeited to the Nation and proceeds from the sale thereof shall be retained by the Nation and used to equip and finance enforcement activities under this Chapter.



# Pawnee Nation of Oklahoma

RESOLUTION #19-06  
JANUARY 24, 2019

## RESOLUTION

**Whereas,** the Pawnee Business Council is the supreme governing body of the Pawnee Nation and is authorized to conduct business on behalf of the Pawnee Nation in accordance with Article IV, Sections 1 and 2 of the Pawnee Nation Constitution and By-Laws; and

**Whereas,** the Pawnee Business Council met in special session on January 24, 2019, at the Pawnee Nation Resource Center, duly authorized, with a quorum present; and

**Whereas,** the Pawnee Nation Constitution Art. IV. §2 reads, 'Subject to the limitations imposed by this Constitution and applicable Federal law, the Pawnee Business Council shall exercise all the inherent, statutory, and treaty powers of the Pawnee Nation of Oklahoma by the enactment of legislation, the transaction of business, and by otherwise speaking or acting on behalf of the Pawnee Nation of Oklahoma on all matters which the Pawnee Nation of Oklahoma is empowered to act; and

**Whereas,** the Pawnee Nation Business Council adopts a Pawnee Nation Hemp Farming Act of 2019 to promote the cultivating and processing of hemp and the commercial sale of hemp products that will move the Pawnee Nation and its citizens to the forefront of the hemp industry.

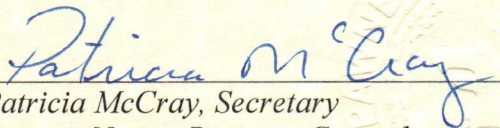
**NOW, THEREFORE BE IT RESOLVED** the Pawnee Business Council does hereby adopt the Pawnee Nation Hemp Farming Act of 2019, effective January 24, 2019.

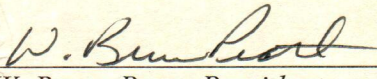
## CERTIFICATION

I, Patricia McCray, Secretary of the Pawnee Business Council, certify that a Special Meeting of the Pawnee Business Council was held on the 24<sup>th</sup> day of January 2019 and that the Pawnee Business Council is composed of eight members, of whom 7 were present, 1 absent, compromising a quorum, and the foregoing resolution was duly adopted by a vote of 6 for, 0 against, 0 abstaining, and 1 not voting.

*Signed this 24<sup>th</sup> day of January 2019*

ATTEST:

  
Patricia McCray, Secretary  
Pawnee Nation Business Council

  
W. Bruce Pratt, President  
Pawnee Nation Business Council

