

NORTHERN ARAPAHO CODE

TITLE 24. MARIJUANA

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Chapter 1: General Provisions

Section 101 - Inherent Tribal Authority. The Northern Arapaho Tribe ("Tribe") is a sovereign, federally recognized Indian Tribe with the authority from time immemorial to legislate for the administration of justice. This Code is enacted pursuant to the Tribe's inherent powers of self-government.

(a) This Title is part of the Northern Arapaho Code, which is the supreme law of the Tribe.

(b) Any provisions of law contained in the Shoshone and Arapaho Law and Order Code ("S&A LOC") which conflict with the provisions of the of the Northern Arapaho Code shall be of no force or effect with respect to the Tribe, and the provisions of the Northern Arapaho Tribe shall govern.

(c) Provisions of the Northern Arapaho Code which address a particular subject preempt provisions of the S&A LOC which may address the same subject.

Section 102 - Gender and Singular or Plural References. Any reference in this Code to the pronoun "he," "him," or "his" shall be interpreted to include "she," "her," or "hers," as the case may be, so that it effectively includes both the male and female genders. Any reference in this Code to the singular or the plural shall be interpreted to include either or both.

Section 103 - Prior Inconsistent Codes, Ordinances, and Resolutions Repealed. Any codes, ordinances, or resolutions of the Tribe which conflict with the provisions of this Code are hereby repealed to the extent that they are inconsistent with or conflict with the Code. Those that do not conflict shall remain in effect.

Section 104 - Jurisdiction. In all matters addressed in this Title, jurisdiction of the Northern Arapaho Tribe shall be supreme over all other applicable jurisdictional claims within the Wind River Reservation ("Reservation") provided that an individual is:

(a) An enrolled member of the Northern Arapaho Tribe or,

(b) An enrolled member of another federally recognized Indian Tribe who maintains significant ties to the Northern Arapaho Tribe and,

(c) Is not an enrolled member of the Eastern Shoshone Tribe.

Section 105 - Courts, Law Enforcement, Administration of Justice.

Any court, law enforcement agency, or similar entity involved in the administration of justice on the Wind River Reservation that is organized or authorized under the Northern Arapaho Code or operates based on the sovereign authority of the Northern Arapaho Tribe shall regard this Title as a mandatory authority in all matters as a condition of their authorization, organization, or authority.

Section 106 - Severability. If any one or more chapter, section, subsection, sentence, clause, phrase, word, provision or application of this Title shall for any person or circumstance be held to be illegal, invalid, unenforceable, and/or unconstitutional, such decision shall not affect the validity of any other chapter, section, subsection, sentence, clause, phrase, word, provision or application of this Title which is operable without the offending chapter, section, subsection, sentence, clause, phrase, word, provision or application shall remain effective notwithstanding such illegal, invalid, unenforceable, and/or unconstitutional chapter, section, subsection, sentence, clause, phrase, word, provision or application, and every chapter, section, subsection, sentence, clause, phrase, word, provision or application of this Title are declared severable. The Tribe hereby declares that it would have codified each part, and each provision, chapter, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more chapter, section, subsection, sentence, clause, phrase, word, provision or application be declared illegal, invalid, unenforceable, and/or unconstitutional.

Section 107 - Definitions. As used in this title:

(a) "Cannabinoid" means any of the chemical compounds that are active principles of marijuana;

(b) "Clone" means a nonflowering plant cut from a mother

plant that is capable of developing into a new plant and has no signs of flowering;

(c) "Edible Marijuana Product" means any marijuana-infused product for which the intended use is oral consumption including but not limited to, any type of food, drink, or pill;

(d) "Flower" means the reproductive organs of the marijuana or cannabis plant referred to as the bud or parts of the plant that are harvested and used to consume in a variety of medical marijuana products;

(e) "Flowering" means the reproductive state of the marijuana or cannabis plant in which there are physical signs of flower or budding out of the nodes of the stem;

(f) "Food-based Marijuana Concentrate" means a medical marijuana concentrate that was produced by extracting cannabinoids from medical marijuana through the use of propylene glycol, glycerin, butter, olive oil, coconut oil, or other typical food-safe cooking fats;

(g) "Forms of Marijuana" means all forms of marijuana including but not limited to clones, edible marijuana product, flower, food-based marijuana concentrate, heat- or pressure-based marijuana concentrate, immature plants, mature plants, marijuana infused product, usable marijuana, and water-based marijuana concentrate;

(h) "Harvested Marijuana" means post-flowering medical marijuana not including trim, concentrate or waste;

(i) "Heat- or Pressure-based Marijuana Concentrate" means a marijuana concentrate that was produced by extracting cannabinoids from marijuana through the use of heat or pressure;

(j) "Immature Plant" means a nonflowering marijuana plant that has not demonstrated signs of flowering;

(k) "Marijuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin, but shall not include:

(1) the mature stalks of such plant or fiber produced from such stalks,

(2) oil or cake made from the seeds of such plant, including cannabidiol derived from the seeds of the industrial hemp plant,

(3) any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), including cannabidiol derived from mature stalks, fiber, oil, or cake of the industrial hemp plant,

(4) the sterilized seed of such plant which is incapable of germination,

(5) a non-psychoactive cannabinoid, found in the plant *Cannabis sativa* L. or any other preparation thereof, that has a tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) and that is delivered to the patient in the form of a liquid,

(6) any federal Food and Drug Administration-approved cannabidiol drug or substance, or

(7) industrial hemp, from the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis;

(1) "Mature Plant" means a harvestable female marijuana plant that is flowering;

(m) "Marijuana Concentrate" or "Concentrate" means a specific subset of marijuana that was produced by extracting cannabinoids from marijuana. Categories of marijuana concentrate include water-based marijuana concentrate, food-based marijuana concentrate, solvent-based marijuana concentrate, and heat- or pressure-based marijuana concentrate;

(n) "Marijuana-Infused Product" means a product infused with marijuana including, but not limited to, edible products, ointments, and tinctures;

(o) "Marijuana Product" or "Product" means a product that contains cannabinoids that have been extracted from plant material or the resin therefrom by physical or chemical means and is intended for administration to a qualified patient including, but not limited to, oils, tinctures, edibles, pills, topical forms, gels, creams, vapors, patches, liquids, and forms administered by a nebulizer, excluding live plant forms which are considered marijuana;

(p) "Mother plant" means a marijuana plant that is grown or maintained for the purpose of generating clones;

(q) "Package" or "Packaging" means any container or wrapper that may be used to enclose or contain marijuana;

(r) "Personal-Use Marijuana" means the consumption, possession, or cultivation of up to six marijuana plants and two ounces of flower or any other form of marijuana;

(s) "Significant Ties" means enrolled members of a federally recognized Tribe who are employed by the Northern Arapaho Tribe, or who are a spouse, intimate partner, or dating partner of an enrolled Northern Arapaho Tribal member;

(t) "THC" means tetrahydrocannabinol, which is the primary psychotropic cannabinoid in marijuana formed by decarboxylation of naturally tetrahydrocannabinolic acid, which generally occurs by exposure to heat;

(u) "Usable Marijuana" means the dried leaves, flowers, oils, vapors, waxes, and other portions of the marijuana plant and any mixture or preparation thereof, excluding seed, roots, stems, stalks, and fan leaves; and

(v) "Water-Based Marijuana Concentrate" means a concentrate that was produced by extracting cannabinoids from marijuana through the use of only water, ice, or dry ice.

Chapter 2: Decriminalization

Note: On May 8, 2021, the Northern Arapaho General Council voted to amend the Northern Arapaho Law and Order Code to decriminalize the use, possession, and personal-use cultivation of marijuana in all forms. The following code provisions were drafted to comply with the vote of the Northern Arapaho General Council.

Section 201 - Generally. The decriminalization of marijuana as defined in Section 204 for any enrolled member of a federally recognized Tribe over the age of twenty-one (21) years old goes into effect as of May 8, 2021.

Section 202 - Reasonable Suspicion.

(a) The odor of marijuana or burnt marijuana shall not constitute reasonable articulable suspicion for Tribal Police or any law enforcement officers to initiate a search of an individual.

(b) Except in the case of suspected DUI, the following instances do not give rise to reasonable articulable suspicion for Tribal Police or other law enforcement officers to conduct a search of an individual or vehicle: suspicion of possession of less than two ounces, possession of multiple containers of cannabis or the presence of packaging.

Section 203 - Personal-Use Amount Defined. Personal-use marijuana is defined as six marijuana plants and two ounces of flower or marijuana in any form.

Section 204 - Decriminalization Defined.

(a) Any person 21 years or older in possession of a personal-use amount of marijuana or cultivating a personal-use amount of marijuana shall not be subject to arrest, detention, or otherwise taken into custody.

(b) Any person 21 years or older in possession of or cultivating personal-use amounts of marijuana shall not be

subject to forfeiture. Tribal Police and other law enforcement agencies shall not confiscate or remove marijuana from a person or residence, so long as the amount is not in excess of the personal-use amount defined within this section of the code.

Section 205 - Action of the Courts. Any Court authorized or organized by the Tribe shall have no jurisdiction to prosecute any person for the use, possession, or cultivation of a personal-use amount of marijuana.

(a) Pending charges against individuals for possession, consumption, or cultivation of personal-use amounts of marijuana are to be dismissed by any Court authorized or organized by the Tribe.

(b) Individuals who have previous convictions for personal-use amounts of marijuana shall have those charges expunged from their record by the Wind River Tribal Court no later than September 1, 2021.

(c) All records of expunged convictions shall be redacted or destroyed by the Wind River Tribal Court.

Section 206 - Additional Rights, Restrictions, and Prohibitions Related to the Decriminalization of Personal-use Amounts of Marijuana.

(a) Nothing in this Title shall prohibit a residential or commercial property or business owner from prohibiting the consumption or possession of personal-use amounts of marijuana or marijuana product, within the structure of the premises or within the entire property.

(b) An individual who engages in the consumption, possession, or cultivation of personal-use amounts of marijuana shall not be denied eligibility in public assistance programs including, but not limited to, Medicaid, Supplemental Nutrition Assistance Program (SNAP), Women, Infants, and Children Nutrition Program (WIC), Temporary Assistance for Needy Families (TANF) or other such public assistance programs based solely on his or her status as a personal-use marijuana user, unless required by federal law, required to obtain federal funding or required for

third-party program funding.

(c) No employer may refuse to hire, discipline, discharge or otherwise penalize an applicant or employee solely on the basis of a positive test for marijuana components or metabolites, unless:

(1) The individual possesses, consumes, cultivates, or is under the influence of marijuana or marijuana product while at the place of employment during the fulfillment of employment obligations, or

(2) The position is one involving safety-sensitive job duties, as defined in provision d of this Section.

(d) "Safety Sensitive" as used in this title means any job that includes tasks or duties that the employer reasonably believes could affect the safety and health of the employee performing the task or others including but not limited to, any of the following:

(1) The handling, packaging, process, storage, disposal, or transport of hazardous materials;

(2) The operation of a motor vehicle, equipment, machinery, or power tools;

(3) Repairing, maintaining or monitoring the performance or operation of any equipment, machinery or manufacturing process, the malfunction or disruption of which could result in injury or property damage;

(4) Performing law enforcement or firefighting duties;

(5) The operation, maintenance, or oversight of critical services and infrastructure including, but not limited to electric, gas, and water utilities, power generation or distribution;

(6) The extraction, compression, processing, manufacturing, handling, packing, storage, disposal, treatment, or transportation of potentially volatile, flammable, combustible materials, elements, chemicals, or any other highly regulated component;

- (7) Dispensing pharmaceuticals;
- (8) Carrying a firearm; or
- (9) Direct patient care or direct child care.

(e) Marijuana or vaping marijuana is prohibited in all vehicles and buildings owned by the Northern Arapaho Tribe and all of its programs, agencies, instrumentalities, and businesses.

Section 207 - Arrest, Detainment, and Criminal Prosecution.

(a) Any person in possession or cultivation of marijuana or marijuana product in an amount exceeding the personal-use limit is still subject to arrest, detainment, and criminal prosecution.

(b) Any person engaging in the sale of marijuana or marijuana product is still subject to arrest, detainment, and criminal prosecution.

(c) Any person engaging in the commercial processing, production, or cultivation of marijuana or marijuana product is still subject to arrest, detainment, and criminal prosecution.