

## **Rosebud Sioux Tribe Hemp Commission**

### **Rules of Consumable Hemp Retailer Licensing and Regulation**

#### **1 RST HCR 1**

- 1.1 Authority.** The licensing and regulation of Consumable Hemp Retailers is found in the Rosebud Sioux Tribe Hemp Code, Section IV(1). These rules are promulgated pursuant to Section III(8)j) of the Hemp Code.
- 1.2 Scope and Purpose.**
- a. These rules are promulgated in order to carry out the powers and duties of the Hemp Commission pursuant to Section III(8)j) of the Hemp Code for the purpose of licensure and regulation of Consumable Hemp Retailers. These rules shall be binding on every Person authorized to operate as a Consumable Hemp Retailer on the Territory of the Rosebud Sioux Tribe. All Persons licensed or registered under these rules are charged with having knowledge of the existence of these rules and shall be deemed to be familiar with their provisions and to understand the rules.
  - b. These rules are severable. If one portion of a rule is found to be invalid, all other rules or portions of rules that can be enforced without the invalid rules shall be enforced and shall remain valid.
  - c. These rules are not intended, and shall not be construed, to affect or limit in any way the jurisdiction or regulation of any individual or entity by the Rosebud Sioux Tribe and its subdivisions.
- 1.3 Applicability.** Because any violation of these rules will demonstrably and seriously impact the public health, safety, welfare, political integrity and economic security of the Rosebud Sioux Tribe, these rules apply to all Persons participating in the sale, brokerage, distribution, transfer, or marketing of Consumable Hemp Products transacted under Tribal auspices, on the Territory of the Rosebud Sioux Tribe, or otherwise subject to Tribal jurisdiction.
- 1.4 Sovereign Immunity.** Nothing in these rules can or shall be construed as a waiver of the sovereign immunity of the Rosebud Sioux Tribe nor any entity, subsidiary, or enterprise that enjoys the sovereign immunity of the Rosebud Sioux Tribe and/or the Rosebud Sioux Tribal Council. Nor do these rules create any liabilities for the Tribe or create any private right of action.
- 1.5 Definitions.**
- a. Acceptable Hemp THC Level. The acceptable hemp THC level as defined in the Hemp Code, Section II(1).
  - b. Certificate of Analysis. An official document provided by an accredited laboratory following an analysis of a Consumable Hemp Product. The Certificate of Analysis shall contain the concentrations of cannabinoids, pesticides, residual solvents, metals, harmful pathogens, and toxicants, including data on levels of total delta-9 tetrahydrocannabinol (“THC”) content concentration and whether a sample passed or failed any limits related to these analyses.

- c. Consumable Hemp Products. A product introduced into the human body by ingestion or absorption that contains cannabidiol. Consumable Hemp Products can be liquid or solid. A Consumable Hemp Product may be introduced in the human body by ingestion or absorption by any device including but not limited to an electronic device. A hemp product is considered to be a Consumable Hemp Product if it is any of the following cannabidiol products: designed by the processor, including the manufacturer, to be introduced into the human body; advertised as an item to be introduced into the human body; or distributed, exported, or imported for sale or distribution to be introduced into the human body. Types of Consumable Hemp Products include, but are not limited to: a noncombustible form of hemp that may be digested, such as tinctures or pills; internally absorbed, such as chew or snuff; or absorbed through the skin, such as a topical application (oils and lotions); provided, however, that for purposes of these rules, Consumable Hemp Products shall not include hemp processed or otherwise manufactured, marketed, sold, or distributed as food, a food additive, or a dietary supplement such as hemp milk, hemp seeds, or other solely nutritional product. Consumable Hemp Products include any product included within this definition that involves trace amounts of THC, including any product that is tested or labeled as low-THC or THC-free.
- d. Consumable Hemp Retailer. Any Person marketing, brokering, transferring, distributing, or selling, wholesale or retail, hemp or hemp-based products who is appropriately licensed as a Consumable Hemp Retailer by the Commission pursuant to these rules. For purposes of clarity, all Consumable Hemp Retailers must be licensed pursuant to these rules.
- e. Entrepreneur Business. A new business that has been operating for less than five (5) years.
- f. Established Business. A business that has been operating for five (5) years or more.
- g. Hemp Code. The Rosebud Sioux Tribal Agricultural Hemp Code, as may be amended from time to time.
- h. Hemp Producer. A hemp producer as defined in the Hemp Code, Section II(7).
- i. Person. All natural persons and all legal entities, including but not limited to corporations, foundations, organizations, business trusts, estates, limited liability companies, partnerships, limited liability partnerships, associations, or any other form of business entity (regardless of jurisdiction of formation) as well as tribal, federal, state, local or international governmental entities. Rosebud Sioux Tribal entities include all agencies, offices, enterprises, corporations, and political subdivisions, such as Community governments of the Rosebud Sioux Tribe.
- j. Territory of the Rosebud Sioux Tribe. All territory in Article I of the Rosebud Sioux Tribal Constitution.
- k. Tribe. The Rosebud Sioux Tribe.

**1.6 License Required to Sell or Transfer Consumable Hemp Products.** Any Person who wishes to sell, broker, distribute, transfer, or market Consumable Hemp Products within the Tribe's jurisdiction must possess a valid license to do so. This includes individuals or entities located outside of the Tribe's jurisdiction who sell, broker, distribute, transfer, or market Consumable Hemp Products to purchasers within the Tribe's jurisdiction. A Consumable Hemp Retailer license shall not be assigned, pledged, or transferred.

**1.7 No Sale or Transfer of Consumable Hemp Products to Minors.** A Consumable Hemp Retailer or any other Person shall not sell or transfer, or permit the sale or transfer, of Consumable Hemp Products to any person in the Territory of the Rosebud Sioux Tribe who is below the age of eighteen (18) years old.

**1.8 Prohibited Products.** A Consumable Hemp Product in excess of the Acceptable Hemp THC Level shall not be sold to members of the public or publicly offered for sale. A Consumable Hemp Retailer and any other Person must not handle, broker, market, store, sell, transfer, ship, transport, deliver, distribute, or otherwise provide any cannabis that exceeds the Acceptable Hemp THC Level. A Consumable Hemp Retailer and any other Person subject to these rules must ensure that Consumable Hemp Products and other cannabis exceeding the Acceptable Hemp THC Level does not enter the stream of commerce. A Consumable Hemp Product that exceeds the Acceptable Hemp THC Level shall be subject to destruction in a manner determined in the Commission's discretion, and the Person or Consumable Hemp Retailer who sold such product shall be subject to a fine in an amount determined in the Commission's discretion. A Consumer Hemp Retailer who violates this Section 1.8 may also be subject to license suspension or revocation in accordance with these rules. The Commission may test any Consumable Hemp Product that is available for sale within the Tribe's jurisdiction at any time for purpose of compliance with these rules.

**1.9 Consumable Hemp Retailer License.**

- a. Any Person who wishes to engage in the sale, brokering, distributing, transferring, or marketing of Consumable Hemp Products at any location within the jurisdiction of the Tribe shall apply to the Commission for a Consumable Hemp Retailer License. For purposes of clarity, a Hemp Producer with a license from the Commission who is only producing raw hemp under the Hemp Code and is not selling, brokering, distributing, transferring, or marketing Consumable Hemp Products does not need to obtain a Consumable Hemp Retailer License.
- b. Selling, brokering, distributing, transferring, or marketing of Consumable Hemp Products within the Tribe's jurisdiction for commercial purposes without a Consumable Hemp Retailer License shall constitute a civil violation subject to any civil or criminal penalty as the Tribe's code may provide for. Without limiting the foregoing, in the event of a violation of this Section 1.9.b., the Commission may take any or all of the following actions: (1) issue a warning letter regarding the violation; (2) issue a fine in an amount determined in the Commission's discretion; or (3) refer the violator to Tribal law enforcement.
- c. A Consumable Hemp Retailer shall not sell, transfer, broker, distribute, or market Consumable Hemp Products that exceed the Acceptable Hemp THC Level.
- d. A Consumable Hemp Retailer is subject to the same inspection requirements applicable to Hemp Producers under the Hemp Code and other applicable regulations as necessary to ensure all Consumable Hemp Products meet the Acceptable Hemp THC Level.

**1.10 Application for Licensure.** An application for a Consumable Hemp Retailer License shall be in a form and manner approved by the Commission. At minimum, an applicant for a Consumable Hemp Retailer License must submit:

- a. A completed application for licensure on a form and in a manner approved by the Commission;
- b. All fees established by the Commission;
- c. An attestation to the validity of the information listed on the application;
- d. A written oath or affirmation on the form and in the manner prescribed by the Commission;
- e. Proof that the applicant is at least eighteen (18) years of age;
- f. Full name, residential address, telephone number, and email address, if an email address is available;
- g. If the applicant represents a business entity, the full name of the business, the principal business location address, the names and addresses of the person(s) holding a financial interest or decision making authority within the entity, if the business is a corporation, the name and address of its registered agent, the full name, address and birth date of the individual who will have signing authority on behalf of the entity, his or her title, and email address if an email address is available;
- h. A detailed statement of any hemp related fines, notices of violations, citations or license revocation proceeding that the applicant has faced in any jurisdiction;
- i. A description of all aspects of the proposed sale, brokerage, transfer, or marketing that the applicant proposes to engage in within the jurisdiction of the Tribe, including the location of the proposed activity, and the type, variety and approximate volume of Consumable Hemp Product that will be involved;
- j. A statement of whether the proposed Consumable Hemp Retailer proposes to import any Consumable Hemp Product from outside the jurisdiction of the Tribe, and if so, a statement of where the proposed Consumable Hemp Product is coming from and under what authority;
- k. A statement that the applicant and its identified owner(s), direct or indirect, attest to compliance with the requirements of these rules;
- l. A statement that the applicant shall submit all reports and documents to the Commission related to the license and the license application;
- m. A statement that the applicant will provide Certificates of Analysis for Consumable Hemp Products subject to independent testing pursuant to these rules; and
- n. Submit additional information as the Commission may request to evaluate the applicant's qualification for licensure as a Consumable Hemp Retailer. An application submitted without the required fees and documentation will be considered incomplete.

**1.11 Missing Information.** An application that is missing any information that the Commission requires shall be subject to denial, but may, at the discretion of the Commission be allowed to resubmit.

**1.12 Background Checks for Consumable Hemp Retailer License Applicants.**

- a. Each applicant for a Consumable Hemp Retailer License shall undergo and pay for an annual criminal background check arranged by the Commission. Such

background check shall be no more than ninety (90) days old on the date of the application. No person who has have been found guilty of or entered a plea of nolo contendere or guilty to any felony related to a controlled substance under federal law within the last ten (10) years shall be eligible for a Consumable Hemp Retailer License.

- b. Each applicant for a Consumable Hemp Retailer License shall agree to the release of any and all information related to their past or present hemp related licenses in any other jurisdiction. The Commission may arrange to contact those other jurisdictions to ensure that the information the applicant is submitting is accurate and correct.

### **1.13 Review of a Consumable Hemp Retailer License Application.**

- a. No person or entity is entitled to a Consumable Hemp Retailer License. Such a license is a privilege and not a right and the Commission may deny any application in its sole discretion.
- b. Failure to agree or comply with the terms and conditions established in these rules shall constitute grounds for denying an application.
- c. The Commission shall develop and establish procedures for evaluating Consumable Hemp Retailer License applications applying, among other things, the minimum criteria established in these rules, the activities that the applicant proposes to engage in and the Commission's practical ability to properly regulate this activity.
- d. If an applicant holds, or has held, a hemp or cannabis license of any type in any jurisdiction, the Commission may obtain a report detailing violations, if any, of that current or prior license.
- e. If an applicant has held any type of license from the Rosebud Sioux Tribe, then the applicant shall not be behind on any applicable tribal license renewals, tribal taxes or fees, or be found to be adjudicated to be in violation of that license.
- f. The applicant shall not have any unpaid fees or fines from the Rosebud Sioux Tribe or the Commission.
- g. The applicant shall not have intentionally submitted any false or misleading information or made any false statements in conjunction with this or any other application from the Commission or the Rosebud Sioux Tribe.
- h. The Commission shall notify applicants by letter or email whether the application has been denied, conditionally approved, or finally approved.

### **1.14 Expiration, Renewal and Reinstatement of Licensure.**

- a. A Consumable Hemp Retailer license, unless sooner suspended or revoked, shall expire one year after the license is approved by the Commission.
- b. If a Consumable Hemp Retailer fails to renew its license pursuant to the schedule established by the Commission, then the Consumable Hemp Retailer License shall expire.
- c. In order to reinstate an expired license, an applicant must:
  - i. Submit a completed application for license reinstatement on a form and in a manner approved by the Commission; and
  - ii. Submit with the application all fees established by the Commission.

- 1.15 Rules of Conduct.** An applicant or Consumable Hemp Retailer shall not make any false statements or fail to disclose any facts requested in connection with an application or any communication with the Commission or representatives thereof.
- 1.16 Ineligible for a Consumable Hemp Retailer License.** The following individuals or entities shall be ineligible for a Consumable Hemp Retailer License:
- a. Any Person under the age of eighteen (18) years old;
  - b. Any Person, including a direct or indirect owner thereof, convicted of a felony, or Class A Offense, relating to a controlled substance under tribal, state or federal law, within ten (10) years of the date of such felony conviction;
  - c. Any Person who materially falsifies any information contained in their license application; and
  - d. Any Person who materially fails to comply with the license requirements.
- 1.17 Suspension or Revocation of Consumable Hemp Retailer License.**
- a. Any violation of these rules, the Hemp Code, a Consumable Hemp Retailer's license, or direction, order, ordinance, regulation, or other applicable guidance that the Commission may issue from time to time may result in a suspension or revocation of a Consumable Hemp Retailer's license, at the discretion of the Commission.
  - b. A Person who has had their license revoked is not eligible to reapply for any license from the Commission for a period of up to five (5) years from the date of revocation as the Commission may determine within its discretion.
- 1.18 Consumable Hemp Retailer Restrictions.**
- a. A Consumable Hemp Retailer shall not take any action that would result in a violation of the Hemp Code or any other rule or regulation of the Tribe or the Commission, including without limitation these rules.
  - b. A Consumable Hemp Retailer cannot have an owner, whether direct or indirect, within their hemp business who is convicted of a felony, or Class A Offense, relating to a controlled substance, within the past ten (10) years from the date of the felony conviction, under tribal, state or federal law. When an applicant is a business entity, the applicant shall submit and the Hemp Commission shall review a criminal history report for each direct and indirect owner. The Hemp Commission may determine the appropriate method for obtaining the criminal history report for such applicants under these rules.
  - c. Consumable Hemp Retailers shall not allow unsupervised access to areas where Consumable Hemp Products are located, stored or sold.
  - d. A Consumable Hemp Product label and any associated marketing materials shall not contain any claims that the Consumable Hemp Product can be used in the diagnosis, cure, mitigation, treatment, or prevention of disease.
  - e. A Consumable Hemp Retailer shall not manufacture, process, package, repackage, relabel, mix, blend, or otherwise manipulate a Consumable Hemp Product. A Consumable Hemp Product that does not conform to these rules shall be considered adulterated or misbranded and shall not enter commerce.

- 1.19 Employees.** Each employee of a Consumable Hemp Retailer must be at least eighteen (18) years old.
- 1.20 Reporting.** Each Consumable Hemp Retailer shall file a biannual (two reports per year) confidential annual report with the Commission. Each report shall provide such information as required by the Commission to determine compliance with these rules and the Hemp Code.
- 1.21 Land Use Restrictions for Consumable Hemp Retailers.** To the extent applicable, a Consumable Hemp Retailer shall not sell, broker, distribute, transfer, or market Consumable Hemp Products in any location where hemp would not be allowed to be grown under the Hemp Code or any location that is restricted or prohibited under the Consumable Hemp Retailer's license or these rules.
- 1.22 Sale, Storage and Handling of Consumable Hemp Products.** All Consumable Hemp Products shall be sold behind a counter at a physical location approved by the Commission pursuant to a Consumable Hemp Retailer's license. If any Consumable Hemp Products are on display while available for sale, then such products shall be stored in a locked display case. Only employees of the licensee shall have access to such locked display case. When Consumable Hemp Products are not available for sale (e.g., outside of store hours, while such products are in storage, etc.), such products shall be stored in a secured lockbox. Only employees of the licensee shall have access to such secured storage lockbox.
- 1.23 Testing Requirements and Documentation.**
- a. A Consumable Hemp Product shall not be sold, distributed, transferred, or marketed within the Tribe's jurisdiction unless accompanied by a Certificate of Analysis prepared by an accredited laboratory that verifies that:
    - i. The Consumable Hemp Product is from a batch that has been tested by an accredited laboratory;
    - ii. The presence and concentration of cannabinoids, including delta-9 THC, cannabidiol, and any other cannabinoids for which the product is being marketed; and
    - iii. The Consumable Hemp Product is from a batch that contained a total delta-9 THC concentration that does not exceed the Acceptable Hemp THC Level.
  - b. A Consumable Hemp Retailer shall maintain all testing documentation required under these rules and shall provide such documentation to the Commission immediately upon request.
- 1.24 Schedule of Fees and Forms.** The Commission shall set and maintain a fee schedule for all applicable fees, including but not limited to, license application fees, testing fees, modification fees, and all other appropriate fees, including without limitation the following license application fees:

- a. The license application fee, including any renewal thereof, for an Established Business shall be \$1,000 per year, as the Commission may adjust from time to time in its discretion; and
- b. The license application fee, including any renewal thereof, for an Entrepreneur Business shall be \$250 per year, as the Commission may adjust from time to time in its discretion.

**1.25 Taxation.** The Tribe or the Commission may levy taxes on Consumable Hemp Retailers or Consumable Hemp Products in accordance with Tribal law.

**1.26 Acknowledgement of Consumable Hemp Retailers.** In accepting a Consumable Hemp Retailer license, such Consumable Hemp Retailer acknowledges and agrees, at a minimum, to the following terms and requirements:

- a. Consumable Hemp Retailer voluntarily acknowledges and agrees to the jurisdiction of the Rosebud Sioux Tribe, the Commission and the Rosebud Sioux Tribal Court on all matters related to the Consumable Hemp Retailer's license and all other hemp related activities taking place within the jurisdiction of the Tribe;
- b. Consumable Hemp Retailer acknowledges that such licensee shall comply with instructions from the representatives of the Commission and law enforcement agencies;
- c. Consumable Hemp Retailer agrees to pay all applicable background check, inspection, testing, taxes, and licensing fees imposed by the Commission from time to time;
- d. Consumable Hemp Retailer agrees that he/she/it shall have no reasonable expectation of privacy with respect to premises where Consumable Hemp Products are located or stored and any premises listed in the Consumable Hemp Retailer License application. A Consumable Hemp Retailer, whether present or not, shall permit a representative of the Commission to enter into premises where Consumable Hemp Products are located or sold and any premises listed in the application, with or without cause or advance notice. During such inspections, the Commission shall have the ability to collect and retain samples of hemp and products derived from all hemp in possession of a licensee and all such samples collected by the Commission shall become the property of the Commission and shall be nonreturnable. Compensation shall not be owed by the Commission. A Consumable Hemp Retailer undergoing such inspections or collections shall not be eligible for compensation for the loss of such hemp product caused by the Commission or its representatives in the performance of their duty;
- e. Consumable Hemp Retailer consents to forfeiture and destruction, without compensation, of: Consumable Hemp Product found to have a measured in excess of the Acceptable Hemp THC Level; Consumable Hemp Product located in an area that is not licensed by the Commission or at which the Consumable Hemp Product is not allowed to be sold at under these rules; or Consumable Hemp Product or material not properly accounted for in required reporting to the Commission;
- f. Consumable Hemp Retailer agrees that no Consumable Hemp Product shall be handled, located, stored or sold in any location other than the location listed in the Consumable Hemp Retailer's application;



- g. Consumable Hemp Retailer acknowledges that the licensee shall comply with restrictions established by the Commission and applicable tribal and federal law regarding the location of Consumable Hemp Products or materials;
- h. Consumable Hemp Retailer agrees that the risk of financial or other loss shall be borne solely by the Consumable Hemp Retailer;
- i. Consumable Hemp Retailer agrees that any time Consumable Hemp Product is in transit, the Consumable Hemp Retailer shall ensure compliance with the hemp transportation requirements of the Hemp Code and all Commission rules and regulations. A Consumable Hemp Retailer shall make that information available upon the request of a representative of the Commission or a law enforcement agency;
- j. Consumable Hemp Retailer agrees to display a copy of its Consumable Hemp Retailer license at the Consumable Hemp Retailer's on-reservation place of business;
- k. Consumable Hemp Retailer agrees to submit any reports required by the Commission from time to time on or before the deadline established by the Commission;
- l. Consumable Hemp Retailer agrees to notify the Commission of any hemp or drug-related interaction with law enforcement immediately by e-mail and to follow-up in writing within three (3) calendar days of the occurrence.
- m. Consumable Hemp Retailer agrees to notify the Commission of any theft of Consumable Hemp Product;
- n. Consumable Hemp Retailer acknowledges and agrees to comply with the requirements of these rules, including without limitation the employee age requirements set forth in Section 1.19 of these rules, and the sale, storage and handling requirements set forth in Section 1.22 of these rules; and
- o. Consumable Hemp Retailer agrees that failure to comply with terms and conditions of these rules or the Consumable Hemp Retailer's license may constitute grounds for the suspension or termination of the license in the discretion of the Commission.

**1.27 Excluding Certain Products.**

- a. The Commission may, in its discretion, ban the following Consumable Hemp Products from sale on the Reservation:
  - i. Any Consumable Hemp Product introduced into commerce by an individual or entity without an approved license pursuant to these rules;
  - ii. Any Consumable Hemp Product that is adulterated or misbranded;
  - iii. Any Consumable Hemp Product that the Commission reasonably believes may be injurious to the public health; and
  - iv. Any type or variety of Consumable Hemp Product that has repeatedly failed to comply with the requirements of these rules, including without limitation the requirements of Section 1.8 of these rules.
- b. The ban of a Consumable Hemp Product shall be effective until such time as the violation is remedied in a reasonable manner as determined by the Commission.
- c. A Consumable Hemp Retailer shall conduct a recall of a Consumable Hemp Product that has been tested and found to be adulterated. The cost of a recall of such product is the responsibility of the Consumable Hemp Retailer.

- 1.28 Compliance with Federal Law.** Nothing in these rules authorizes any Person to violate any Federal or Tribal law, ordinance, or regulation.
- 1.29 Compliance with Applicable Consumer and Food Safety Laws.** A Consumable Hemp Retailer will ensure that its Consumable Hemp Products comply with all applicable tribal public health, consumer safety, and food laws and the principles of applicable federal laws relating thereto.
- 1.30 Relation to Hemp Code.** The provisions of these rules and the Hemp Code are intended to be read together. However, in the event of any conflict between any provision of these rules and the Hemp Code, the provisions of the Hemp Code shall prevail.
- 1.31 Best Practices.** A Consumable Hemp Retailer shall comply with applicable industry best practices that may be established from time to time by recognized industry organizations.
- 1.32 Effective Date.** These rules shall be effective as of the date that such rules are adopted and approved by the Commission.