

TITLE 46
LUMMI NATION CODE OF LAWS
COMMERCIAL MARIJUANA CODE

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TITLE 46
LUMMI NATION CODE OF LAWS
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Chapter 46.01 General Provisions

46.01.010 Title

This Title shall be known as the Commercial Marijuana Code.

46.01.020 Authority

This Title is promulgated pursuant to the powers vested to the Lummi Indian Business Council, in the Constitution and Bylaws as amended, of the Lummi Tribe of the Lummi Reservation of Washington.

46.01.030 Purpose and Intent

This Title is enacted to strictly regulate and control the production, processing, distribution, research, sale and use of marijuana within the jurisdiction of the Lummi Nation that is consistent with the priorities set forth in section 46.01.040, below; the Marijuana Compact between the Lummi Nation and the State of Washington; and the Lummi Nation's priorities in protecting the health, safety, and general welfare of the Lummi Nation, its members, employees, residents and visitors.

46.01.040 Findings

In 2012, the State of Washington legalized the possession of limited amounts of marijuana and the production, processing, and sale of marijuana by licensed businesses and set forth a civil regulatory system that keeps marijuana production, processing, and sale regulated and safe for the public and accomplishes the following priorities: preventing the distribution of marijuana to minors; preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels; preventing the diversion of marijuana from states where it is legal under state law in some form to other states; preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; preventing violence and the use of firearms in the cultivation and distribution of marijuana; preventing drugged driving and the exacerbation of other adverse public health

consequences associated with marijuana use; preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and preventing marijuana possession or use on federal property.

After careful consideration the Lummi Nation has determined that the legalization of marijuana throughout the State of Washington and by other tribes makes a complete ban of the production, processing and retail sale of marijuana within the Lummi Nation's jurisdiction ineffective and unrealistic. Consequently, the Lummi Nation has previously decriminalized the possession of marijuana in certain circumstances consistent with priorities described above and now it finds consistent with those same priorities, that strict regulation and control over the production, possession, delivery, distribution, sale and use of marijuana is required. Therefore, the Lummi Nation adopts this Title to provide that robust regulatory program to control the production, possession, delivery, distribution, sale and use of marijuana.

46.01.050 Jurisdiction and Scope

The provisions of this Title and all rules and regulations under it shall apply within the exterior boundaries of the Lummi Reservation and within the exterior boundaries all lands held in trust or restricted fee status for the Lummi Nation or its members by the United States regardless of location.

46.01.060 Authorized Commercial Marijuana

The Lummi Nation and/or tribal enterprise designated by the Lummi Nation are the only persons or entities authorized to conduct commercial marijuana activity as defined by and regulated by this Title. Additionally, the Lummi Nation and/or tribal enterprise designated by the Lummi Nation are the only persons or entities authorized to possess marijuana in quantities in excess of the quantities identified under § 46.03.010 of this

Title. This authorization exists solely to the extent provided under this Title.

Chapter 46.02 Definitions

46.02.010 Definitions

When a term is not defined in this Title, it shall be given its ordinary meaning. Terms used in this Title, and in regulations, policies or procedures adopted under it, shall have the following meaning where otherwise defined within this Title or where the context clearly indicates otherwise:

(a) "Authorization" means 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 proof of identity such as a valid Washington state driver's license or valid tribal identification. An authorization is not a prescription.

(b) "Commercial marijuana activity" means all planting, growing, producing, cultivating, processing, selling, testing, and conducting research of marijuana products within the jurisdiction of the Lummi Nation and in accordance with its laws that govern medical and recreational marijuana.

(c) "Compact" means the marijuana compact between the Lummi Nation and the State of Washington currently in effect and any amendments.

(d) "Designated provider" means a person who is 21 years old or older, and:

(1) Is the parent or guardian of a qualifying patient who is under the age of eighteen (18) and holds a recognition card; or has been designated in writing by a qualifying patient to serve as the designated provider for that patient. The designated provider must have an authorization from the qualifying patient's health care professional or have been entered into the medical marijuana authorization database as being the designated provider to a qualifying patient and have been provided a recognition card.

(2) The designated provider is prohibited from consuming marijuana obtained for the personal, medical use of the qualifying patient for whom the individual is acting as designated provider. He or she can only provide marijuana to only the qualifying patient that has designated him or her. The designated provider must be in compliance with all the terms and conditions of the applicable laws and statutes governing the designated provider's status. A designated provider can be designated to only one qualifying patient at a time.

(e) "Indian country" means (1) the lands of the Lummi Nation as defined by 18 U.S.C. § 1151, including the Lummi Reservation; and (2) all lands held in trust or restricted fee status by the United States for the Lummi Nation or its Tribal members, regardless of location.

(f) "LCB" means the Washington State Liquor and Cannabis Board and its staff.

(g) "LIBC" means the Lummi Indian Business Council, the duly constituted governing body of the Lummi Nation by the authority of the Constitution and Bylaws, as amended, of the Lummi Tribe of the Lummi Reservation, Washington.

(h) "Marijuana" means all parts of the plant *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, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. Marijuana 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. Marijuana does not include hemp or industrial hemp and seeds used for licensed hemp production.

(i) "Manager" the person chosen or hired to manage, direct, or administer the day-to-day operation of a marijuana enterprise.

(j) “Marijuana concentrates” means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than (10) ten percent.

(k) “Marijuana processor” means a person licensed to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, marijuana-infused products at wholesale to marijuana retailers by the LCB pursuant to RCW 69.50.325, and any marijuana processor licensed or otherwise allowed by the Lummi Nation in Indian country, by any tribe in the State of Washington where the Lummi Nation has determined that the tribe has a marijuana statutory and regulatory structure that is sufficient to meet the requirements of this Title, the Nation’s regulations, policies and/or procedures or by any tribe with a marijuana compact with the State of Washington.

(l) “Marijuana producer” means a person licensed to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers by the LCB pursuant to RCW 69.50.325, by any marijuana processor licensed or otherwise allowed by the Lummi Nation in Indian country, by any tribe in the State of Washington where the Lummi Nation has determined that the tribe has a marijuana statutory and regulatory structure that is sufficient to meet the requirements of this Title, the Nation’s regulations, policies and/or procedures, or by any tribe with a marijuana compact with the State of Washington.

(m) “Marijuana products” means marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

(n) “Marijuana-infused products” means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in subsection (i) of this section and have a THC concentration of no greater than ten (10)

percent. The term “marijuana-infused” products does not include either useable marijuana or marijuana concentrates.

(o) “Medical marijuana authorization database” means the secure and confidential database established in RCW 69.51A.230 or any other secure and confidential database that is created, administered and maintained for that purpose as authorized by the LIBC.

(p) “Nation” shall mean the Lummi Nation, a federally recognized Indian tribe in the United States, also listed in the Federal Register as the Lummi Tribe of the Lummi Reservation.

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

(1) Is a patient of a health care professional that has been diagnosed by that health care professional as having a terminal or debilitating medical condition. The patient is a resident of the State of Washington at the time of such diagnosis and has been advised by that health care professional about the risks and benefits of medical use of marijuana. The patient has an authorization from the patient’s health care professional or has been entered into the medical marijuana authorization database and has been provided a recognition card. The patient must be in compliance with all the terms and conditions of the applicable laws and statutes governing the qualifying patient’s status

(2) “Qualifying patient” does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this Title are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

(r) “Recognition card” means a card issued to qualifying patients and designated providers by a marijuana retailer with a medical endorsement that has entered them into the medical marijuana authorization database.

(s) “Research facility” means any business that produces, processes and /or possesses

marijuana for research purposes in a manner consistent with this Title.

(t) “Retailer” means any marijuana retailer licensed to sell marijuana products in a retail outlet by the LCB pursuant to RCW 69.50.325 and any marijuana retailer licensed or otherwise allowed by the Lummi Nation in Indian country, by any tribe in the State of Washington where the Lummi Nation has determined that the tribe has a marijuana statutory and regulatory structure that is sufficient to meet the requirements of this Title, the Nation’s regulations, policies and/or procedures, or by any tribe with a marijuana compact with the State of Washington.

(u) “State” means the State of Washington.

(v) “State licensee” means any entity licensed by the LBC pursuant to RCW 69.50 or WAC 314-55 as amended.

(w) “State tax” means the marijuana excise tax as stated in RCW 69.50.535 and the State and local sales and use tax on sales of marijuana as stated in RCW 82.08 and RCW 82.12, as amended.

(x) “Testing lab” means any business that conducts testing of marijuana products for quality control, potency, and/or safety compliance for medical and other uses in a manner consistent with this Title.

(y) “Tribal enterprise” means a business wholly or majority owned by the Lummi Nation that is authorized to produce, process, sell, test, or conduct research on marijuana products under the laws of the Lummi Nation.

(z) “Tribal member” means an enrolled member of the Lummi Nation.

(aa) “Tribal marijuana tax” means a tax imposed by the Lummi Nation on marijuana commercial activities.

(bb) “Useable marijuana” means dried marijuana flowers. The term “useable marijuana” does not include either marijuana-infused products or marijuana concentrates.

Chapter 46.03 Permitted Acts

46.03.010 No Criminal and Civil Offenses for Permitted Acts

The following acts, when performed by the Nation and/or a designated tribal enterprise or its employees in compliance with this Title, shall not constitute criminal or civil offenses under the Lummi Code of Laws:

(a) Purchase and receipt of marijuana products that have been properly packaged and labeled from a marijuana producer or processor;

(b) Possession of marijuana products, subject to any limitations established by regulation, policy, and/or procedure of the Nation or tribal enterprise;

(c) Delivery, distribution, and sale of any combination of the following amounts of marijuana products to any person twenty-one (21) years of age or older:

- (1) One (1) ounce of useable marijuana;
- (2) Sixteen (16) ounces of marijuana-infused product in solid form;
- (3) Seventy-two (72) ounces of marijuana-infused product in liquid form; or
- (4) Seven (7) grams of marijuana concentrates.

(d) Delivery, distribution, and sale of any combination of the following amounts of marijuana products to a qualifying patient or their designated provider, if the patient or provider is in possession of a valid authorization and recognition card, and is recorded in the medical marijuana authorization database and the qualified patient and designated provider comply with subsection (e) of this section:

- (1) Three (3) ounces of useable marijuana;
- (2) Forty-eight (48) ounces of marijuana-infused product in solid form;
- (3) Two hundred sixteen (216) ounces of marijuana-infused product in liquid form; or
- (4) Twenty-one (21) grams of marijuana concentrates.

(e) Qualifying patients under the age of eighteen (18) may enter or remain on the premises of a marijuana retailer if they are in the presence of their designated provider but may not purchase products for their personal medical use. Qualifying patients eighteen (18) years of age or older may enter and remain on the premises of a marijuana retailer and purchase products for their personal medical use. Except as explicitly stated otherwise in this subsection, no person under the age of twenty-one (21) may enter or remain on the premises of a marijuana retailer;

(f) Producing, processing, packaging, and labeling marijuana products;

(g) Delivery, distribution and sale of marijuana products to the Nation or to marijuana producers, processors, or retailers; and

(h) Conducting research and testing on marijuana products in accordance with this Title.

46.03.020 Regulations, Policies or Procedures

The Nation and/or the tribal enterprise shall have the authority to develop regulations, policies or procedures consistent with this Title, the Compact and other applicable laws. Regulations, policies or procedures developed by tribal enterprises shall be provided to the LIBC upon request or at least annually.

Chapter 46.04 Taxes

46.04.010 Tribal Marijuana Tax

(a) There is imposed and shall be collected a tribal marijuana tax on the retail sale of marijuana products within Indian country. The tax shall be equal to at least one hundred (100) percent of the State tax imposed by RCW 69.50.535 on sales of marijuana products at the time of such sale. The tax is separate and in addition to any other applicable taxes.

(b) Pursuant to a duly enacted resolution, the Nation may allow an exemption from all or a portion of the tax imposed under Section 46.04.010(a) in the following circumstances:

(1) For sales to the Nation, tribal enterprises or tribal members that occur within Indian country;

(2) For activities that are exempt or preempted from State tax under State or federal law; and

(3) For medical marijuana products used in the course of medical treatments by a clinic, hospital, or similar facility owned and operated by the Nation within Indian country.

46.04.020 Collection and Remittance

(a) The tax shall be paid by the buyer and collected by the Nation and/or tribal enterprise designated by the Nation to conduct retail sales at the time of the sale.

(b) An invoice, receipt, or other statement of sale shall reflect the amount of the tax separately from the sales price. Nothing herein prevents the use of a pricing method that advertises prices that include the tax, provided that the invoice, receipt or other statement of sale reflect the pricing method.

(c) The Nation and/or tribal enterprise designated by the Nation shall have a duty to collect, account for, and remit all of the taxes. The taxes shall be deemed to be held in trust by for the use and benefit of the Nation until paid to the Nation. A failure to collect the tax shall not relieve a tribal enterprise from the duty to remit the tax to the Nation.

(d) All taxes required to be collected during a calendar quarter shall, within thirty (30) days following the end of such calendar quarter, be remitted to the Nation. Appropriate tax records shall be maintained so, if the need arises, an auditor can verify the requirements of this section has been met. Failure to comply with this section may result in penalty provisions in accordance with Title 30, the Revenue Code of the Lummi Code of Laws Chapter 30.03.

Chapter 46.05 Location Restrictions

46.05.010 Buffer Restrictions

(a) Except as provided in subsection (c) of this section, no commercial marijuana activity may occur within one thousand (1,000) feet of the perimeter of the grounds of any of the following entities operating at that location as of the date of the Nation's approval of the location for commercial marijuana activity,

whether such entities are located within or outside of Indian country:

- (1) Elementary or secondary school; or
- (2) Playground.

(b) Provided a distance reduction will not negatively impact the Nation's civil regulatory enforcement, criminal law enforcement, public safety, or public health, commercial marijuana activity may be located within one thousand (1000) feet, but not less than one hundred (100) feet, of the perimeter of the grounds of any of the following entities operating at that location as of the date of the Nation's approval of the location for the commercial marijuana activity, whether such entities are located within or outside of Indian country:

- (1) Recreation center or facility;
- (2) Child care center;
- (3) Public park;
- (4) Public transit center;
- (4) Library; or
- (5) Game arcade, where admission is not restricted to persons age twenty-one (21) or older.

(c) Provided a distance reduction will not negatively impact the Nation's civil regulatory enforcement, criminal law enforcement, public safety, or public health, a research facility may be located within one thousand (1000) feet, but not less than one hundred (100) feet, of the perimeter of the grounds of any of the entities described in subsections (a) or (b) of this section operating at that location as of the date of the Nation's approval of the location for a research facility. Before a research facility is located within one thousand feet (1000), but not less than one hundred (100) feet of an elementary school, secondary school or playground, the research facility must:

- (1) Meet a security standard exceeding that which applies to a marijuana producer, processor, or retailer;

(2) Be inaccessible to the public and no part of the operation of the facility is in view of the general public; and

(3) Bear no advertising or signage indicating that it is a marijuana research facility.

(d) The distance shall be measured as the shortest straight-line distance from the building footprint to the perimeter of the entities listed in sections 46.05.010(a) through (c).

Chapter 46.06 Advertising

46.06.010 Restrictions on Content in Signage and Advertising

(a) The Nation and/or designated tribal enterprise may display signage or engage in advertising within Indian country, provided that it does not contain any statement or illustration that:

- (1) Is false or misleading;
- (2) Promotes overconsumption; or
- (3) Is designed in any manner that would be especially appealing to children or persons under twenty-one (21) years of age.

(b) Any signage or advertising located outside of Indian country must comply with RCW 69.50 and WAC 314-55.

46.06.020 Restrictions on Location of Advertising

No signage or advertising may violate the location restrictions contained in Chapter 46.05.

Chapter 46.07 Production and Processing

46.07.010 Procurement, Production and Processing for Wholesale and Retail Sales

The Nation and/or a designated tribal enterprise may procure from another producer or processor and/or produce, harvest, trim, dry, cure, process, package, and/or label marijuana in accordance with this Title:

(a) To be provided for sale at retail by the Nation and/or tribal enterprise;

(b) To be sold to another tribe in the State where the Nation has determined that the tribe has a marijuana statutory and regulatory structure that is sufficient to meet the requirements of this Title, the Nation's regulations, policies and/or procedures, or a tribe with a marijuana compact with the State; and/or

(c) To be sold to a State licensee in accordance with its license type.

46.07.020 Production and Sale of Plants, Seeds and Tissue

The Nation and/or its designated tribal enterprise may produce and sell marijuana plants, seed, and plant tissue culture to a marijuana producer; and may sell immature marijuana plants or clones and marijuana seeds to a research facility and to members of a registered cooperative located outside of Indian country under the conditions provided in WAC 314-55-410.

46.07.030 Quality Standards, Packaging and Sales to State Licensees

(a) Any marijuana produced and/or processed by the Nation and/or designated tribal enterprise must be produced and processed in a safe and secure manner pursuant to applicable Indian Health Service requirements, this Title, the Nation's other applicable laws, regulations, policies and/or procedures, and the Compact.

(b) All marijuana products must be packaged and labeled in accordance with the Nation's and/or designated tribal enterprise's regulations, policies and/or procedures. Marijuana products must be packaged and labeled in such a way as to not be especially appealing to children. All marijuana products identified as marijuana "edibles" must be packaged in child proof packaging.

(c) Any marijuana to be sold to a State licensee shall also meet or exceed the standards of State laws and regulations regarding quality assurance testing, packaging, and labeling. State preapproval of marijuana "edibles" product, packaging, and labeling prior to sale to the State licensee is required so long as such preapproval is not unreasonably withheld or delayed.

46.07.040 Testing

Prior to sale, marijuana products must be tested by:

(a) A testing lab operated by the Nation and/or its designated Tribal enterprise, provided the testing lab obtains and maintains certification consistent with any applicable laws of the Nation and in the absence of such a law, State law and LCB rules, including any amendment thereto; or

(b) A third-party laboratory to conduct quality assurance tests consistent with those specified under WAC 314-55-102, including any amendments thereto.

46.07.050 Restriction on Minors

No person under the age of twenty-one (21) years may be present or be employed at any production, processing or testing facility.

46.07.060 Samples

No marijuana samples may be received from any producer or processor or given to another producer, processor, retailer, or employee except in accordance with this Title, the Nation's regulations, policies and/or procedures and the Compact. Samples provided to a State licensee must also comply with the standards of State laws and regulations regarding sampling.

Chapter 46.08 Retail Sales of Marijuana Products

46.08.010 Retail Sales Authorized

The Nation and/or a designated tribal enterprise, may conduct retail sales of marijuana products processed by a marijuana processor.

46.08.020 Hours of Retail Sales

Hours of retail sales will be set by the manager of the marijuana enterprise.

46.08.030 Restrictions on Minors

(a) The Nation and/or tribal enterprises that engage in commercial marijuana activity, shall not employ any persons under the age of twenty-one (21) years of age.

(b) No person under the age of twenty-one (21) years may enter the retail store or purchase any

marijuana product, except that a qualified patient with a recognition card who:

(1) is at least eighteen (18) years of age may enter the retail store and purchase marijuana products for personal medical use; or

(2) is under the age of eighteen (18) years and is accompanied by their designated provider may enter the retail store but may not purchase products for their personal medical use.

(c) The forms of identification that are acceptable to verify a person's age for the purpose of purchasing marijuana must not be expired and include the following:

(1) Driver's license, instruction permit, or identification card of any state, or province of Canada, from a U.S. territory or the District of Columbia, or "Identicard" issued by the Washington State Department of Licensing per RCW 46.20.117;

(2) United States armed forces identification card issued to active duty, reserve, and retired personnel and their dependents, which may include an embedded, digital signature in lieu of a visible signature;

(3) Passport from any nation;

(4) Merchant marine identification card issued by the U.S. Coast Guard; or

(5) Enrollment card issued by the governing authority of a federally recognized Indian tribe that contains the information to verify the age and identity of the person presenting the card.

46.08.040 Transaction Limits

(a) A single transaction is limited to:

(1) One (1) ounce of useable marijuana;

(2) Sixteen (16) ounces of marijuana-infused product in solid form;

(3) Seventy-two (72) ounces of marijuana-infused product in liquid form; and

(4) Seven (7) grams of marijuana concentrates.

(b) A single transaction to a qualifying patient or designated provider who is entered into the medical marijuana database is limited to:

(1) Three (3) ounces of useable marijuana;

(2) Forty-eight (48) ounces of marijuana-infused product in solid form;

(3) Two hundred sixteen (216) ounces of marijuana-infused product in liquid form; and

(4) Twenty-one (21) grams of marijuana concentrates.

46.08.050 Notices and Warnings

The retail store shall post all applicable notices and warnings in accordance with this Title, the Nation's regulations, policies and/or procedures, and the Compact.

46.08.060 Samples, Consumption on Premises and Intoxicated Persons

(a) No samples of marijuana products may be provided to customers. Samples may be provided to employees in accordance with this Title, the Nation's regulations, policies and/or procedures and the Compact.

(b) No marijuana products may be opened or consumed on the retail premises.

(c) No marijuana products may be sold to a person who reasonably appears to be intoxicated.

Chapter 46.09 Licensing Not Required and Background Investigation

46.09.010 Entity and Employee Licenses Not Required

(a) Licenses are not required by the Nation or any designated tribal enterprise engaged in commercial marijuana activity. The Nation may revoke any tribal enterprise charter if it fails to meet its obligations under this Title, the Nation's policies and/or procedures, or the Compact.

(b) Employees of the Nation and/or a tribal

enterprise engaged in commercial marijuana activity are not required to be licensed.

46.09.020 Manager Background Investigation

In addition to any other employee background checks conducted by the Nation and/or a designated tribal enterprise, the manager must undergo a background investigation before he or she is employed by a tribal enterprise engaged in commercial marijuana activity and he or she must not have been convicted of, or entered a plea of guilty or no contest to, any of the following criminal offenses:

(a) Any felony in the preceding ten (10) years; and

(b) Any crime involving dishonesty within the preceding ten (10) years, including, not exclusively: fraud; forgery; possession of a forgery device; theft; counterfeiting; embezzlement; making a false representation; obstruction of justice; intent to defraud; bribery, mail fraud; perjury; willful tax evasion; attempt; aiding and abetting, being an accessory, and/or conspiracy.

Chapter 46.10 Research

46.10.010 Research Authorized

(a) The Nation and/or a designated tribal enterprise may operate a research facility consistent with this Title, the Nation's regulations, policies and/or procedures and the Compact, that may produce, process and possess marijuana for the following research purposes:

- (1) Testing chemical potency and composition levels;
- (2) Conducting clinical investigations of marijuana derived-drug products;
- (3) Conducting research on the efficacy and safety of administering marijuana products as part of medical treatment;
- (4) Conducting genomic or agricultural research;
- (5) Any other purpose allowed under the Nation's or if applicable, the State's laws.

(b) Marijuana research conducted by the Nation and/or its designated tribal enterprise that does not require the production, processing, or possession of marijuana products, is outside the scope the Compact but must be consistent with this Title and the Nation's regulations, policies and/or procedures.

46.10.020 Research Materials and Commingling

(a) Marijuana grown as part of research may be sold or given away for the purposes of conducting research to another tribe or its tribally owned enterprise located in the State where the Nation has determined that the tribe has a marijuana statutory and regulatory structure that is sufficient to meet the requirements of this Title, the Nation's regulations, policies and/or procedures, to any tribe with a marijuana compact with the State, or to any researcher who holds a State marijuana research license.

(b) No marijuana grown as part of research shall be comingled with any other marijuana possessed by the Nation and/or its tribal enterprise used for commercial purposes.

Chapter 46.11 Security, Traceability and Transportation

46.11.010 Security Regulations, Policies and/or Procedures

Reasonable and effective security regulations, policies and/or procedures shall be implemented for all tribal enterprises engaged in commercial marijuana activity that safeguard marijuana from theft and diversion, including marijuana intended for destruction as waste.

46.11.020 Traceability

Reasonable and effective inventory methods that allow marijuana to be traced from seed to sale shall be implemented by the Nation and/or its designated tribal enterprise consistent with this Title, the Nation's regulations, policies and/or procedures and the Compact.

46.11.030 Transportation

All transportation of marijuana products outside Indian country to or from a State licensee shall comply with applicable State laws. All other transportation of marijuana products shall

comply with this Title, the Nation’s regulations, policies and/or procedures and the Compact.

Chapter 46.12 Medical Marijuana

46.12.010 Medical Marijuana Authorized

The Nation or a designated tribal enterprise is authorized to produce, process, and sell marijuana for medical use to qualifying patients and designated providers in accordance with the provisions of this Chapter.

46.12.020 Recognition Cards

As a retail outlet, the Nation and/or designated tribal enterprise may accept valid authorizations, enter data into the medical marijuana authorization database, and issue recognition cards to qualifying patients and designated providers consistent with this Title, the Nation’s regulations, policies and/or procedures and, as applicable, a Memorandum of Agreement Between the Nation and the Washington State Department of Health Concerning Medical Marijuana.

46.12.030 Employee and Lummi Nation Police Department Access

(a) All retail store employees will receive training and will have access to the medical marijuana authorization database, including any necessary credentials, sufficient to electronically verify whether a recognition card is valid.

(b) The medical marijuana authorization database is only to be accessed in order to enter new qualifying patients and designated providers into the medical marijuana authorization database and issue a recognition card (or a renewed or replacement recognition card) by retail store employees with the proper training and/or certifications as required by this Title, the Nation’s regulations, policies and/or procedures and, as applicable, a Memorandum of Agreement Between the Nation and the Washington State Department of Health Concerning Medical Marijuana.

(c) The medical marijuana authorization database may be accessed by the Lummi Nation Police Department engaged in a bona

fide specific investigation of a suspected marijuana-related activity that may be illegal under the Nation’s laws or State law to confirm the validity of the recognition card of a qualifying patient or designated provider.

46.12.040 Confidentiality and Penalties

(a) Contents of the medical marijuana authorization database are considered confidential and may not be reviewed or disclosed except as otherwise stated herein.

(b) Penalties for improper access or disclosure of information from the medical marijuana authorization database are listed in Title 5 of the Lummi Code of Laws, Code of Offenses §§ 5.09A.055(g)(1) and (2).

Chapter 46.13 Compliance and Enforcement

46.13.010 Compliance Checks Authorized

The Lummi Nation Police Department or other authorized agency may conduct compliance checks consistent with this Title, the Nation’s regulations, policies and/or procedures and the Compact. In the event of a finding of non-compliance, the Lummi Nation Police Department or other authorized agency will document the event and work cooperatively with the employees of the retail store to ensure the issue is understood and corrected. The Lummi Nation Police Department or other authorized agency will check those same areas for compliance on future inspections. If the issue is serious or on-going, the findings will be reported to the LIBC.

46.13.020 Use of Minors for Premise and Compliance Checks

Notwithstanding the prohibition on minors contained in this Title, the Lummi Nation Police Department or other authorized agency may use minors 18, 19, or 20 years of age to conduct any minor compliance checks. No criminal action may be taken against a minor who purchases marijuana as part of a compliance check.

Chapter 46.14 Indemnity

46.14.010 Indemnified Parties

The Nation shall indemnify any LIBC member, board member, manager, employee of the Nation or tribal enterprise made party to any proceeding because of their role in commercial marijuana activity against personal liability incurred in a proceeding if:

- (a) The individual acted in their official capacity;
- (b) The individual acted in good faith;
- (c) The individual believed their conduct was in the best interests of the Nation; and
- (d) The individual acted in accordance with this Title, the Nation's regulations, policies and/or procedures and the Compact.

46.14.020 Proceeding and Liability

(a) Proceeding means any threatened, pending, or contemplated action, suit, or proceeding whether civil, criminal, administrative, or investigation related to commercial marijuana activity.

(b) Liability means the obligation to pay a judgment, settlement, penalty, or fine, or reasonable expenses, including legal expenses, incurred with respect to a proceeding.

Chapter 46.15 General Provisions

46.15.010 Sovereign Immunity and Jurisdiction Preserved

(a) Nothing in this Title shall be deemed, construed, interpreted, or implied to have waived, or authorized the waiver of, the sovereign immunity of the Nation or any of its entities, enterprises, instrumentalities, agencies, organizations, departments, tribally owned corporations, or political subdivisions, officers, agents, or employees.

(b) Nothing in this Title is intended, nor shall be construed, as limiting the jurisdiction of the Nation or as a grant of jurisdiction to the United States, the State, local or other tribal governments.

46.15.020 Severability

If any provision of this Title or its applicability to any person or circumstances is held invalid, the remainder of this Title or its application to other persons or circumstance is not affected.

45.15.030 Governing Law

This Title shall be construed and enforced according to the laws of the Nation.

46.15.040 Amendments

Amendments to this Title shall be subject to the process outlined in Title 27 Administrative Code of the Lummi Nation Code of Laws. The amendments may be adopted by the LIBC by a duly enacted resolution at a regular or special meeting.

46.15.050 Effective Date

This Title shall take effect after its adoption by the Nation in a duly enacted resolution at a regular or special meeting.

Title46Res2022-035