

**Chapter 6-20**  
**Commercial Marijuana Production, Processing, Retail Sales**

**6-20-1**      **Purpose**

The purpose of this Chapter is to govern the production, processing, taxation, purchase, sale and distribution of marijuana products in the Colville Tribes' Indian Country and to generate revenue for the Confederated Tribes of the Colville Reservation from the sales of marijuana products for support of essential government services provided by the Colville Tribes.

**6-20-2**      **Title**

This Chapter shall be known as the Commercial Marijuana Code of the Colville Tribal Code.

**6-20-3**      **Definitions**

As used in this Chapter, the following words and phrases shall each have the designated meaning unless a different meaning is expressly provided.

- (a) "Auditor" means a certified public accountant licensed and in good standing in the State of Washington.
- (b) "Authorization" has the same meaning as RCW 69.51A.010.
- (c) "Board" or "LCB" means the Washington State Liquor and Cannabis Board and its staff.
- (d) "Commercial marijuana activity" means all planting, growing, producing, cultivating, processing, and selling marijuana, marijuana concentrates, marijuana-infused products, and useable marijuana in Indian Country in accordance with Colville Tribal laws that govern recreational marijuana.
- (e) "Compact" means the Marijuana Compact between the Confederated Tribes of the Colville Reservation and the State of Washington, as it may be amended.
- (f) "Enforcement Officer" means the enforcement personnel authorized to inspect and enforce this chapter.
- (g) "Essential Government Services" means services provided by the Tribe including, but not limited to, administration, public facilities, fire, police, health, education, elder care, social services, sewer, water, environmental and land use, transportation, utility services, community development, and economic development.
- (h) "Indian Country" means the lands of the Tribes as defined by 18 U.S.C. § 1151, including the Tribe's Reservation and all lands held in trust or restricted fee status by the United States for the Tribe or its Tribal Members within the state of Washington and not within another tribe's reservation.
- (i) "Marijuana," "marijuana concentrates," "marijuana-infused products," and "useable marijuana" as used in this Chapter shall have the same meanings as in RCW 69.50.101 or any amendments thereto. Together, these terms are referred to as "marijuana product" or "marijuana products."
- (j) "Processor" means any marijuana processor in Indian Country licensed or licensed by the Board pursuant to RCW 69.50.325 to process marijuana into useable marijuana, marijuana concentrates, and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale to retailers, or any Tribe or Tribes otherwise allowed to process marijuana under a marijuana compact with the Board.
- (k) "Producer" means any marijuana producer licensed by the Board pursuant to RCW 69.50.325 to produce and sell marijuana at wholesale to processors and other producers, and any marijuana

producer in Indian Country licensed or otherwise allowed to produce marijuana pursuant to a marijuana compact with the Board.

(l) “Retailer” means any marijuana retailer licensed to sell useable marijuana, marijuana concentrates, and marijuana-infused products in a retail outlet by the Board pursuant to RCW 69.50.325 and any marijuana retailer in Indian Country licensed or otherwise allowed by the Tribes or any other Tribes with a marijuana compact with the Board.

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

(n) “State Licensee” means any marijuana producer, marijuana processor, or marijuana retailer licensed by the Board pursuant to RCW 69.50 or WAC 314-55, RCW 69.51A, WAC 314-55, or any other regulations promulgated thereunder.

(o) “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, all as may be amended from time to time.

(p) “Tribal Code “or “CTC” means the Colville Tribal Code.

(q) “Tribal Council” means the Colville Business Council.

(r) “Tribal Enterprise” means CRMS LLC or other business or businesses formed by the Tribes which are authorized to sell marijuana products under this Chapter.

(s) “Tribal Tax” means a tax imposed by the Tribe on marijuana activities.

(t) “Tribe” or “Tribes” means the Confederated Tribes of the Colville Reservation.

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#### **Findings**

(a) Historically, the production, possession, delivery, distribution, and sale of marijuana have been illegal across the United States and in Indian Country. In 2012, Washington voters passed Initiative 502 (“I-502”) which sets forth a tightly regulated, state licensed system allowing for the production, processing, and retail sale of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products for recreational purposes within the State of Washington.

(b) Through State law and the Board’s implementing rules, the State has legalized possession of limited amounts of marijuana and the production, processing, and sale of marijuana by licensed businesses and has set forth a civil regulatory system that keeps marijuana production, processing, and sale in the State 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.

(c) After serious deliberation, the Tribes, as a sovereign nation, has also determined that present day circumstances make a complete ban of marijuana within Indian Country ineffective and unrealistic and has decriminalized its sale and possession in certain circumstances. At the same time, consistent with the priorities described above, the need still exists for strict regulation and control over the production, possession, delivery, distribution, sale, and use of marijuana in Indian Country.

(d) The State and the Tribes have recognized the need for cooperation and collaboration with regard to marijuana in Indian Country. The State has authorized the entry of this Compact by the Compacting legislation, enacted by the 2015 Regular Session of the Legislature. Laws of 2015, Chapter 207. Through Section 2 of this legislation, codified at RCW 43.06.490, the State authorized the Governor to enter into Compacts concerning the regulation of marijuana and to delegate the authority to negotiate the Compacts to the Board.

(e) The Tribes and the State share a strong interest in ensuring that marijuana production, processing, and sales in Indian Country are well-regulated to protect public safety and community interests. The Tribes and the State acknowledge that pursuant to federal law, 21 U.S.C. § 812, marijuana is a Schedule I controlled substance and that this Compact does not protect the sales or regulation of marijuana in Indian Country from federal law; however, the Parties have entered into this Compact in order to strengthen their ability to meet these mutual interests and to provide a framework for cooperation to ensure a robust tribal and state regulatory and enforcement system.

(f) It is in the best interests of the Tribes and the State that they further implement the government-to-government relationship between them, as recognized in the Centennial Accord of August 4, 1989, by entering into a compact to protect public health and safety, ensure a lawful and well-regulated marijuana market, encourage economic development in Indian Country, and provide fiscal benefits to both the Tribes and the State.

(g) The Tribe therefore enacts this chapter in an effort to strictly regulate and control the production, distribution, sale, and use of marijuana in Indian Country and to provide fiscal benefits to the Tribes and its members. (Resolution 2018-417)

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**Tribal Marijuana Tax**

(a) A tribal marijuana tax equal to one hundred percent (100%) of the state tax then in effect levied will be levied on all sales of marijuana products in Indian Country, except that, consistent with applicable law the Tribes may allow an exemption from tax for sales to Tribes, Tribal Enterprises, or enrolled members of the Tribes on marijuana grown, produced or processed within Indian Country, or for transactions otherwise exempt from Washington state marijuana taxation under state or federal law. The Tribes may choose to levy a Tribal Tax on any transaction that may otherwise be exempt.

(b) The tribal marijuana tax must be remitted to the Tribe's Accounting Office on a monthly basis pursuant to the requirements of this Chapter.

(c) The Tribes will use the proceeds of such tax for essential government services.

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**Sales, Production and Processing of Marijuana Products**

(a) Colville Tribal Members or Tribal Enterprises may produce, process or offer for sale or sell any marijuana products within the Colville Tribes' Indian Country only as allowed pursuant to the Tribes' Marijuana Compact with the State, the Tribal Code and the internal policies and controls of the Tribes or Tribal Enterprise

(b) A Colville Tribal LLC may operate businesses as referenced in the Marijuana Compact for the purpose of retail sales of marijuana located in the Tribes' Indian Country pursuant to notification as required by the Tribes' Marijuana Compact.

(c) A Colville Tribal LLC organized under the Colville Tribal Code may also operate a recreational marijuana production operation subject to all applicable laws and requirements for marijuana production and processing.

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**Requirements for Tribal Businesses Producing, Processing or Selling Marijuana Products**

(a) All employees of Tribal business(es) producing, processing or selling marijuana products must submit to and pass fingerprint-supported criminal background checks prior to beginning production, processing or sales of marijuana products.

(b) No Tribal business authorized for marijuana production, processing or retail sales may employ any person who has been convicted of, or entered a plea of guilty or no contest to, any of the following criminal offenses:

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

(2) 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.

(c) The business must provide to the Tribes' Accounting Office an operating plan detailing how requirements for security, traceability, employee qualifications and training, transportation of product, and destruction of waste product will be met, and include a description of what products will be sold and how they will be displayed and proof of liability insurance as required by this chapter.

(d) The operating plan will be accompanied by a floor plan of the business location, indicating the placement of security cameras and other security devices.

(e) All businesses authorized to produce, process or sell marijuana or marijuana products must follow the required processes in the Colville Tribal Code, Chapter 4-3, "Land Use and Development" and receive required permits for the proposed business location, and must comply with all other applicable Tribal laws, including Chapter 6-3, "Building Code." Applicants must attach to their application evidence that they have received the permits required under the Code.

(f) Authorized representatives/managers of businesses producing, processing or selling marijuana products must allow access to enforcement officers for purpose of enforcing all applicable laws.

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**Producing and Processing of Marijuana Products.**

(a) No producing or processing of marijuana products may occur within one thousand (1,000) feet of a school, playground, or daycare center.

(b) No persons under twenty-one (21) years of age may enter or be employed at a producing or processing facility.

(c) Production facilities may be located indoors or outdoors, provided that they are fully secure, have physical barriers, and meet safety and security protocols as outlined more specifically in this Chapter.

(d) No recreational marijuana planting may occur within four miles of the nearest boundary of any planting of a hemp cultivation site.

(e) No recreational marijuana planting may occur within fifteen miles of the nearest boundary of any hemp seed cultivation site.

(f) All processing facilities must meet the standards as would be required for food handling under Indian Health Services requirements.

(g) Before sale to any retailer, marijuana products must be tested by a tribally or state-licensed lab that follows quality assurance testing protocols at least as restrictive as state law.

(h) All marijuana products must be packaged and labeled in accordance with this Chapter. Packaging and labeling designed to be especially appealing to children is prohibited. All marijuana-infused products meant to be eaten, swallowed, or inhaled must be packaged in child proof packaging.

(i) All marijuana products sold by a tribally-licensed marijuana producer or processor to a state licensee must meet the testing, packaging, and labeling requirements otherwise required under state law. Such sales must be input into the state's traceability system within twenty-four hours of delivery.

(j) Tribal marijuana producers, processors or retailers may only purchase marijuana products only from (1) other tribes with marijuana compacts with the state of Washington or (2) state licensees.

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**Retail Sales of Marijuana Products.**

(a) No retail locations may be located within one thousand (1,000) feet of a school, playground or day care center.

(b) No persons under twenty-one (21) years of age may enter or be employed at a retail facility, except that a qualifying patient between eighteen (18) and twenty-one (21) years of age may enter a retail facility if (1) the qualifying patient enters the retail facility for the purpose of having his or her authorization entered into the medical marijuana authorization database or (2) the qualifying patient has already been entered into the medical marijuana authorization database and hold a valid recognition card and seeks to purchase products for his or her personal medical use.

(1) Acceptable identification for proof of age includes: driver's license or ID card, or instruction permit issued by any U.S. state or Canadian province; Washington temporary driver's license; tribal enrollment card; passport from any nation; U.S. military ID; or Merchant Marine card issued by U.S. Coast Guard.

(2) The Tribe may conduct its own compliance checks in Indian Country using minors ages eighteen (18), nineteen (19), or twenty (20) through the Enforcement Officer (or his/her designee) or other authorized agency in accordance with tribal regulations and policies. No criminal action may be taken against any minor who purchases marijuana as part of such a compliance check.

(c) Any advertising located outside of Indian Country must comply with RCW 69.50 and WAC 314-5(d) maximum sales.

(d) No retail location may sell more than one (1) ounce of useable marijuana, sixteen (16) ounces of marijuana-infused product in solid form, seventy-two (72) ounces of marijuana-infused product in liquid form, or seven (7) grams of marijuana concentrate in a single transaction.

(e) No retail location may sell more than three (3) ounces of useable marijuana, forty-eight (48) ounces of marijuana-infused product in solid form, two hundred sixteen (216) ounces of marijuana-infused product in liquid form, or twenty-one (21) grams of marijuana concentrate to a qualifying patient or designated provider who has been entered into the medical marijuana authorization database and holds a valid recognition card pursuant to and in compliance with state law, and who is eighteen (18) years of age or older.

(f) The Tribal Enterprise engaged in the authorized production, processing or sale of marijuana products shall develop policies and procedures governing records to be maintained, security requirements, advertising, maximum quantities on premises, transport and delivery, and other matters related to retail sales in accordance with applicable law and regulations.

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**Traceability of Marijuana Products**

All marijuana products purchased from tribal or state licensed marijuana producers and/or processors shall be inputted into the State's tracking system within 24 hours of delivery. Tribal

marijuana retailers may not purchase marijuana from other marijuana retailers, whether tribal or state licensees, for resale.

**6-20-11**      **Security Provisions**

(a) Marijuana producers, processors, and retailer sales operations will have alarm and surveillance systems at all locations involved in the commercial production, processing and sale of marijuana.

(b) Marijuana production and processing facilities must have locking doors and windows which provide emergency ingress and egress in accordance with applicable regulations.

(c) Outdoor and greenhouse cultivation operations will be enclosed by a secure perimeter fence at least six feet in height. The fence must include a lockable gate that is locked when a qualified employee is not in the immediate area.

**6-20-12**      **Indemnity**

(a) The Tribe indemnifies any Tribal Council member, board member, manager, or employee of the Tribe, made party to a proceeding because of their role in commercial marijuana activity, against personal liability incurred in a proceeding if:

(1) The individual acted in his or her official capacity;

(2) The individual acted in good faith; and,

(3) The individual acted in accordance with applicable laws and regulations, and in accordance with policies of the Tribe and/or a Tribal Enterprise.

(b) “Proceeding” means any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal related to the production, processing, or sale of marijuana.

(c) “Liability” means the obligation to pay a judgment, settlement, penalty, or fine, or reasonable expenses incurred with respect to a proceeding.

**6-20-13**      **Compliance**

(a) The Enforcement Officer (or his/her designee) or the Washington Liquor and Cannabis Control Board will conduct compliance checks consistent with the Tribes’ Marijuana Compact.

(b) All reports of non-compliance will be forwarded to the Accounting Office and the Washington Liquor and Cannabis Control Board.

(c) In the event of a finding of non-compliance, the Enforcement Officer and/or Washington Liquor and Cannabis Control Board will document the event, and work cooperatively to ensure that the issue is understood and corrected. The Enforcement Officer Board may check those same areas for compliance on unannounced future inspections.

(d) Corrective action for non-compliance will be taken as appropriate and required by applicable law.

(e) Nothing herein may be deemed to in any way limit or prohibit a criminal prosecution of a marijuana retail shop operator or marijuana production facility operator for any violation of the Colville Tribes’ criminal statutes.

**6-20-14**      **Liability Insurance**

All tribal marijuana producers, processors, and retailers shall maintain liability insurance upon their premises in the sum of \$100,000.00 and provide proof of insurance to the Tribes.