

# Wahnapiatae First Nation

## Cannabis Regulations



Adopted by Chief and Council by BCM #WFN 21/22-07-70  
At Chief and Council Meeting of: July 27, 2021



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## 1. Council as Decision-Makers

- 1.1 As per s. 21 and s. 43 of the Law, the Council of Wahnapiatae is responsible to grant licenses of Cannabis Retail Stores and licenses for Commercial Cannabis Production.
- 1.2 Where in this Regulation or the Law, decisions made by Council shall be made by a majority of the members of Council unless otherwise specified.

## 2. Delegation

- 2.1 The Council may delegate, with or without conditions, one or more of their powers and duties under this Regulation, except the power under this section to delegate, to
  - a. A Wahnapiatae employee, or
  - b. A contracted employee.

## 3. Collection of Information

- 3.1 The Council may collect from A Member any information necessary for the purposes of exercising its powers or performing its duties under the Law, this regulation or other regulations under the Law, despite
  - a. Any other enactment, or
  - b. Any claim of confidentiality or privilege, other than a claim based on solicitor-client privilege.
- 3.2 If any of the following entities have custody or control of information that the Council is entitled to collect under this Regulation, the entity must, despite any other enactment, disclose that information to the Council on request:
  - a. A public body within the meaning of the *Freedom of Information and Protection of Privacy Act*;
  - b. A provincial, municipal or First Nations police force.

## 4. Confidentiality

- 4.1 A Member who is engaged in the administration or enforcement of this Regulation and who has custody of, access to or control over information or records under this Regulation must not disclose the information or records except
  - a. for the purposes of the administration or enforcement of this Regulation, the Commission regulations, the Law, other laws or the regulations under those Acts,
  - b. in a proceeding before a court or a judicial or quasi-judicial tribunal,
  - c. to a law enforcement agency,
  - d. as required by an enactment of Wahnapiatae or Canada,
  - e. for the purpose of the compilation of statistical information by Wahnapiatae or the government of Canada.

## 5. Disclosure of Information to Protect Health or Safety

- 5.1 In this section, "personal information" has the same meaning as in s. 3 of the *Privacy Act*, RSC 1985, c P-21.

- 5.2 Council may disclose information obtained under this Regulation, other than personal information, if the Council considers that the disclosure is necessary to protect public health or public safety.
- 5.3 Council may disclose information under subsection (5.2) without the consent of the person to whom the information relates and without notifying that person.

## 6. Information Deemed to be Supplied in Confidence

- 6.1 For any information in the custody or under the control of the Council, whether or not supplied to the Council, that relates to an application under this Regulation or the Law, is deemed to be supplied in confidence.

## 7. Promoting Sales

- 7.1 A Member must not do any of the following activities unless the person holds a Retail Store Licence:
- a. Promote cannabis for the purpose of selling it;
  - b. Solicit, receive or take orders for the sale or purchase of cannabis;
  - c. Act as an agent for the sale or purchase of cannabis.
- 7.2 An Authorized Retail Store must not promote Cannabis:
- a. By communicating information about its price or distribution (unless at the point of sale);
  - b. By doing so in a manner that could be deemed as appealing to young persons;
  - c. By means of a testimonial or endorsement, however displayed or communicated;
  - d. By means of the depiction of a person, character or animal, whether real or fictional, or
  - e. By presenting it or any of its brand elements in a manner that associates it with, or evokes a positive or negative emotion about or image of, a way of life such as one that includes glamour, recreation, excitement, vitality, risk or daring.
  - f. In a place that is frequented by young people, or visible from such a place (such as a public playground, a daycare facility, or school).
- 7.3 Cannabis may not be promoted in a manner that is false, misleading or deceptive about its characteristics, value, quantity, strength, concentration, potency, purity, quality, safety or health effects and/or risks.
- 7.4 It is prohibited to:
- a. provide or offer any Cannabis or Cannabis accessory if it is provided or offered without monetary consideration or in consideration of the purchase of any thing or service or the provision of any service;
  - b. Provide or offer any thing that is not Cannabis or a Cannabis accessory, including a right to participate in a game, draw, lottery or contest, if it is provided or offered as an inducement for the purchase of Cannabis or a Cannabis accessory; or
  - c. To provide or offer to provide any service if done so as an inducement for the purchase of Cannabis.

- d. Permit a minor to enter or be in a place where a licensee conducts authorized cannabis activities (either a Licensed Retail store or a Licenced Commercial Production facility). A licensee or their employee do not contravene this subsection if, in reaching the conclusion that an individual is not a minor,
  - i. Requires the individual to produce valid identification, and
  - ii. Examines the identification and has reason to believe it is authentic.

## 8. Security

- 8.1 An Authorized Retail Store must have functioning security cameras. Cameras need to cover:
  - a. Entrances and exits, including where IDs are checked;
  - b. Pick up areas for cannabis purchased online or by telephone;
  - c. Cash registers and point of sale areas;
  - d. Receiving areas;
  - e. Storage areas;
  - f. Sales floor areas.
- 8.2 The holder of the Authorized Retail Store Licence must keep a log confirming the security equipment is functioning at all times. Such logs must be available for inspection by Council.
- 8.3 The security camera footage must be maintained and stored for 30 days.
- 8.4 Commercial Cannabis Production licensees must maintain security cameras on their premises. Cameras need to cover entrances to the facility and grow rooms.
- 8.5 Commercial Cannabis Production licensees must have locked and sealed doors to the entrances of the facility and on the grow rooms.

## 9. Storing, Sampling, and Testing

- 9.1 Cannabis products must be stored in a secure, locked safe or room at the end of each business day.
- 9.2 The holder of the Licence must keep a list of employees that are authorized to access the Cannabis storage safe or room.
- 9.3 The Cannabis storage room must not be used for any other purpose than the storage of Cannabis.
- 9.4 Licenced Retail Stores must carry out daily inventory counts at the end of each business day and report any discrepancies to the Council within 2 business days.
- 9.5 Each batch or lot of cannabis must be tested for contaminants and potency.
- 9.6 A sample of each batch or lot must be kept for six months for testing to determine it met the testing requirements.

## 10. Destruction of Cannabis

- 10.1 A licensee must record Cannabis that is to be destroyed because of contamination or for any other reason.

## 11. Distribution

- 11.1 A person from outside of Wahnapiitae may apply to become a distributor for licensees by submitting an application to the Council.
- 11.2 Licensed distributors must provide proof of where they source their products.

## 12. Employees and Agents

- 12.1 Unless the Regulations provide otherwise, employees of a person who is authorized to do something under this Regulation may do that thing if they do so:
- a. As part of their employment duties and functions, and
  - b. In a manner consistent with any conditions that applies to the employer doing that thing.
- 12.2 Unless the Regulations provide otherwise and subject to subsection (12.3), individuals who act as agents of a person who is authorized to do something under this Regulation or Law may do that thing if they do so:
- a. As part of their role as agents, and
  - b. In a manner consistent with any condition that applies to the principal doing that thing.
- 12.3 Subsection (12.2) does not apply if the individual is required under this Law or a Regulation to hold a license to act as an agent.

## 13. Power to Issue, Renew, Transfer or Amend Licenses

- 13.1 The Council may, on application:
- a. Issue a license;
  - b. Renew a license, including a license that has expired, provided that the renewal is within one year after the expiry of the license;
  - c. Transfer a license from a licensee to a different person, and
  - d. Amend a license, including:
    - i. By amending the terms and conditions of the license,
    - ii. By allowing changes to the structure and layout of the establishment, and
    - iii. By moving the location of the establishment.

## 14. Applicant Assessment Powers

- 14.1 In this section:

“Associate” means a person that, in the Council’s opinion,

- 1. May have direct or indirect influence over the licensee or applicant,

2. May be able to affect, directly or indirectly, the activities carried out under the licence or licence applied for, or
3. May have a prescribed direct or indirect connection to the licensee or applicant.

“Organized crime” means a group, however organized, that:

1. Is composed of three or more persons in or outside of Canada; and
2. Has as one of its main purposes or main activities the facilitation or commission of one or more of the following offences that, if committed, would likely result in the direct or indirect receipt of a material benefit, including a financial benefit, by the group or by any of the persons who constitute the group:
  - a. trafficking in persons or weapons as defined in the *Criminal Code of Canada*;
  - b. homicide as defined in the *Criminal Code of Canada*;
  - c. trafficking of (drugs/substances other than cannabis), as defined in the *Controlled Drugs and Substances Act* S.C. 1996, c. 19
  - d. conspiracy to commit any of the above;

- 14.2 In determining whether a licensee or an applicant is fit to hold a licence under the Law and Regulation, Council may take into account
  - a. The associates of the licensee or applicant, and
  - b. A Member having a connection to an associate of the licensee or applicant.
- 14.3 Council may make inquiries and conduct investigations that the Council considers necessary, including, without limitation, background investigations and prescribed checks in respect of
  - a. The licensee or applicant,
  - b. An associate of the licensee or applicant, or
  - c. A Member having a connection to that associate.
- 14.4 A licensee or applicant will not be considered fit to hold a licence under the Law and this Regulation if the Commission reasonably believes that the licensee or applicant, or an associate of the licensee or applicant, has been or is involved in organized crime as defined herein;
- 14.5 The Commission may take into account, in its assessment of an application, the environmental record of the licensee or applicant.

## 15. Community Benefit Fee

- 15.1 Each licensee must contribute 5% of their net revenue to Wahnapiitae First Nation as a Community Benefit Fee.
- 15.2 The Community Benefit Fee must be remitted on a monthly basis to the Finance Department of WFN.
- 15.3 Failure to provide the Community Benefit Fee on time will result in a suspension of the license until the Community Benefit Fee is paid, during which time the licensee must cease operations, and will result in the cancellation of the license if the Community Benefit Fee is not paid 2 months after it is due.

## 16. Bankruptcy and Death of Licensee

- 16.1 If a licensee dies, the executor or administrator of the estate must fill in application before receiving powers of the licensee.
- 16.2 If an interim receiver, receiver, custodian, trustee, receiver manager or liquidator has been appointed under the *Business Corporations Act* (Ontario), the *Bankruptcy and Insolvency Act* (Canada) or the *Winding-up and Restructuring Act* (Canada) for a licensee, the person appointed has the powers and obligations of the licensee.
- 16.3 The Council may determine whether an executor, an administrator or an appointed person referred to under subsection (16.2) is fit to hold a licence under the Law and this Regulation,
- 16.4 If the Council determines a that A Member who is the subject of a determination under subsection (16.3) is not fit to hold a licence under the Law and this Regulation, the Council will do one or more of the following:
- Suspend the license for a period of time the Council considers appropriate;
  - Authorize a transfer of the license; or
  - Cancel the license.

## 17. Reconsideration

- 17.1 The following people may request reconsideration of a decision of Council under the Law:
- An applicant for a license;
  - A licensee; or
  - A former licensee.
- 17.2 Council will only consider new evidence if it is satisfied that the new evidence is
- Substantial and material to the reconsideration, and
  - Did not exist when the licence decision was made or did exist at that time but was not discovered and could not, through the exercise of reasonable diligence, have been discovered.
- 17.3 A request for reconsideration must be received in writing within 30 days of the date of the decision made by Council, but exceptions may be made if special circumstances prevented the person from meeting the deadline or an injustice would result if the extension was not granted.
- 17.4 Council will provide written reasons for the reconsideration, detailing why the request is either rejected or accepted.
- 17.5 A decision of the Council on reconsideration is final and may not be appealed further.

## 18. Temporary Suspension or Imposition of Terms and Conditions

- 18.1 The Council may, without a hearing, suspend a licence or the authority to carry out certain activities under a licence for a period of not more than 24 hours if
- The conduct of the licensee's patrons or employees in the establishment is of a violent or disorderly nature;
  - The safety of one or more persons in the establishment is threatened; or
  - It is in the public interest to do so.



- 18.2 The Council may, without a hearing, suspend a licence or the authority to carry out certain activities under a licence or impose terms and conditions on a licence for a period not exceeding 14 days, if the majority of the Council find they have reasonable grounds to believe that it is in the public interest to do so as a result of extraordinary circumstances associated with the operation of the establishment.
- 18.3 If the Council takes an action under subsection (18.1) or (18.2), the Council may order the immediate:
- a. Removal of the licensee's patrons or employees from all or part of the establishment, and
  - b. Closure of all or part of the establishment for a period of not more than the period of suspension or period during which the terms and conditions are imposed.
- 18.4 If the Council makes an order under subsection (18.3), the licensee must take all reasonable steps to ensure that the establishment or part of it, as specified in the order, is immediately vacated and closed.

## 19. Practice and Procedure

- 19.1 The Council may make rules respecting the practices and procedures to be followed in the conduct of hearings under the Law and Regulations.

## 20. Witnesses

- 20.1 If an applicant or licence holder requests reconsideration of a decision made by Council, Council may, if it considers it appropriate, require A Member by summons:
- a. To attend as a witness, at a place and time set out in the summons and
  - b. To bring and produce for the Council all records or other things in the person's possession that are relevant to the subject matter of the hearing.
- 20.2 A Member named in and served with a summons must:
- a. Attend, in accordance with the summons, before the Council and give evidence, on oath or affirmation or another manner the Council authorizes, that is relevant to the subject matter of the hearing, and
  - b. Produce all records or other things in accordance with the summons.
- 20.3 A Member who fails or refuses to comply with a summons under this section is liable, on application to an arbitrator, to be committed for contempt as if in breach of an order or judgment of the Court.

## 21. Reports

- 21.1 Information or a record required to be provided or reported to the Council must be provided or reported in a form and manner satisfactory to the Council.
- 21.2 A licensee must, within the time specified by the Council, provide the Council with the following information:
- a. If the licensee is a natural person, any change in the person's contact information;
  - b. If the licensee is a partnership, any change in the partners who make up the partnership and any change in the partner's contact information; and
  - c. A prescribed change respecting the licensee or the licence.

- 21.3 A licensee must, as required and within the time specified by the Council, provide the Council with the following information and records:
- a. Information and records specified by the Council relating to the licensee or the license;
  - b. Records required to be maintained under the Regulations or the terms and conditions of the license;
- 21.4 A former licensee must maintain records required to be maintained under the license for 6 months after the former licensee's license expires or is cancelled.
- 21.5 If, within 6 months after a former licensee's licence has expired or been cancelled, the Council gives the former licensee a notice requiring the former licensee to provide the Council with information and records specified by the Council relating to the licence or former licensee, the former licensee must, within the time specified by the Council, provide the Council with the information and records.

## **22. Misleading Information or Records**

- 22.1 A licensee who is require to keep information or a record under this Regulation must not:
- a. Make a false or misleading entry in the information or record,
  - b. Destroy, dispose of, mutilate or hide the information or record, or
  - c. Fail to disclose a material fact in the information or record.
- 22.2 A licensee must not provide information or a record to the Council that:
- a. Contains false or misleading information, or
  - b. Fails to disclose a material fact.

## **23. Prohibited Sales Methods**

- 23.1 A licensee must not sell cannabis or a cannabis accessory
- a. By means of a display that allows for self-service, or
  - b. By means of a dispensing device.
- 23.2 A Licensee or an employee of a licensee must not:
- a. Sell cannabis to A Member who is intoxicated from alcohol or a drug or shows signs of intoxication from alcohol or a drug;
  - b. Allow a person who is intoxicated from alcohol or a drug or shows signs of intoxication from alcohol or a drug to enter or remain in an establishment;
    - i. Allow violent or disorderly conduct in an establishment;
    - ii. Allow unlawful activities or conduct in an establishment.
- 23.3 A licensee or an employee of a licensee may:
- a. If the licensee or employee believes the person is intoxicated from alcohol or a drug or shows signs of intoxication from alcohol or a drug;
    - i. Request that the person leave an establishment, or
    - ii. Forbid the person from entering an establishment.

- 23.4 A person must not:
- a. Remain in an establishment after the person is requested to leave in accordance with subsection (23.3), or
  - b. Enter an establishment within 24 hours after the time the person was requested to leave the establishment in accordance with subsection (23.3).
- 23.5 A peace officer may arrest, without a warrant, a person whom the peace officer believes on reasonable grounds is contravening subsection (23.4).

## 24. Inducements

- 24.1 A Member must not offer or give, or agree to offer or give, to a licensee or an employee of a licensee money, gifts, a reward or remuneration, directly or indirectly, to promote, induce or further the sale of a particular class or brand of cannabis.
- 24.2 A licensee or an employee of a licensee must not request or accept or agree to accept money, gifts, a reward or remuneration, directly or indirectly, to promote, induce or further the sale of a particular class or brand of cannabis.

## 25. Possession in a Public Place

- 25.1 Subject to subsections (25.2) and (25.3), an adult must not possess in a public place an amount of cannabis that is more than
- a. 30 g of dried cannabis, or
  - b. An amount of cannabis that is equivalent, as determined in accordance with the Commission regulations, to 30 g of dried cannabis.
- 25.2 Subsection (25.1) does not apply to an adult if:
- a. The cannabis the adult possesses is medical cannabis;
  - b. The adult is carrying the prescribed proof of authority to possess medical cannabis under the Cannabis Act (Canada), and
  - c. The amount of medical cannabis the adult possesses is not more than the amount permitted under the Cannabis Act (Canada).
- 25.3 Subsection (25.1) does not apply to cannabis that is a cannabis plant.

## 26. Possession of Cannabis Plants

- 26.1 An adult must not possess in a private residence more than 4 cannabis plants.
- 26.2 Subsection (26.1) does not apply to an adult if:
- a. The Cannabis plants the adult possesses are medical cannabis;
  - b. The adult is carrying the prescribed proof of authority to possess medical cannabis under the Cannabis Act (Canada), and
  - c. The number of cannabis plants the adult possesses is not more than the number permitted under the Cannabis Act (Canada);
- 26.3 An adult must not possess in a public place a cannabis plant that is budding or flowering.

## 27. Inspections

- 27.1 In addition to inspecting or authorizing the inspection of Cannabis Retail Stores and Cannabis Production Facilities, the Council may inspect or authorize the inspection of any records required under the Law or Regulations or by the terms and conditions of a license to be kept by the licensee or other records found in the premises.
- 27.2 Council may remove the records referred to in subsection (27.1) for the purposes of inspection or making copies or extracts.
- 27.3 Council may examine any substance or thing found in the premises, take a sample of any substance for the purpose of testing and analysis and remove any thing for inspection.
- 27.4 If the Council or its delegate removes records, cannabis or other things or takes samples under this section, the Council must:
- a. Give a receipt for the records, cannabis or other things or samples taken, and
  - b. Return the records or things removed, other than the cannabis or samples, within a reasonable time.

## 28. Insurance

- 28.1 Each Authorized Retail Store must carry \$10,000,000 in general liability insurance
- 28.2 Each Licenced Producer must carry \$10,000,000 in general liability insurance.