



Wahnapitae First Nation

Bylaw No. 2019-01

**A bylaw to provide for the regulation of Cannabis retail sales within the
Wahnapitae First Nation**

WHEREAS Anishinaabe law has existed in the territory and lands of Wahnapitae First Nation since time immemorial;

AND WHEREAS section 35 of the *Constitution Act*, 1982 recognizes and affirms the existing aboriginal self-government and treaty rights of the aboriginal peoples of Canada;

AND WHEREAS Wahnapitae First Nation have the existing and inherent right of self determination, which includes the inherent jurisdiction over their lands, people and territory.

AND WHEREAS the safety of the people in Wahnapitae First Nation territory is of paramount importance and there may arise circumstances in which precautions in law are required to protect the safety of the people.

AND WHEREAS the Council of the Wahnapitae First Nation desires to make a bylaw to provide for the regulation of Cannabis related businesses within the Wahnapitae First Nation;

AND WHEREAS the Council of the Wahnapitae First Nation is empowered to make such a bylaw pursuant to paragraphs and section 81 of the Indian Act;

AND WHEREAS the Council of the Wahnapitae First Nation will align the Wahnapitae First Nation Cannabis Bylaw and Law.

NOW THEREFORE the Council of the Wahnapitae First Nation hereby makes the following bylaw.

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Section I

1.0 Short Title

This bylaw may be cited as the "Wahnapitae First Nation Cannabis Retail Regulation Bylaw."

1.1 The purposes of this Bylaw are,

(a) to establish regulations relating to the sale, and distribution of cannabis to Wahnapitae First Nation that:

(i) protect public health and safety, and

(ii) protect youth and restrict their access to cannabis, and

(iii) ensure the sale of cannabis in accordance the federal *Cannabis Act*; and,

(b) to deter illicit activities in relation to cannabis through appropriate enforcement.

Section II

2.0 Definitions

"Band" means the Wahnapitae First Nation.

"Cannabis" has the same meaning as in the Cannabis Act (Canada), and includes all legalized cannabis substances subject to any prescribed modifications.

"distribute" includes administering, giving, transferring, transporting, sending, delivering, providing or otherwise making available in any manner, whether directly or indirectly, and offering to distribute or having in possession for distribution;

"Executive Director" means the Band's Executive Director, or the senior administrative person for the Band..

"Council" means the Chief and Council of the Wahnapitae First Nation, as defined in the *Indian Act*, or any successor to such council of the Band pursuant to a federal Stature or otherwise.

"CP Holder" means a holder of a valid Certificate of Possession.

"Cannabis Retail Store" means a store operated under the authority of a retail store authorization

"illicit cannabis" means cannabis that is or was sold, produced or distributed by a person prohibited from doing so under the *Cannabis Act* or any provincial Act or this bylaw or that was imported by a person prohibited from doing so under the Cannabis Act.

"Licence" means a business licence issued pursuant to this bylaw.

"Licensee" means a person who has been issued a Licence.

"sell" includes offer for sale, expose for sale and have in possession for sale;

Section III

3.0 Application of this Bylaw

3.1 The provisions of this Bylaw do not apply to production and distribution of Cannabis licensed by Health Canada under the Cannabis Act and Regulations or the Controlled Drugs and Substances Act (Canada).

3.2 No person shall sell cannabis, other than an authorized Cannabis Retail Store Licensee.

3.3 Applications for a licence pursuant to this bylaw do not create an exception, defense, or immunity to any person regarding any potential criminal liability the person may have for the production, distribution, or possession of "illicit cannabis".

3.3 A Cannabis Retail Store Licensee must obtain the applicable permits and remain in compliance with fire, building and zoning codes.

Section IV

4.0 Requirements for all Cannabis Retail Stores

4.1 General

A person carrying on a Cannabis Retail Store must:

- (a) be the registered CP Holder of the premises;

- (b) prominently display a sign on the premises indicating that no persons under nineteen (19) years of age are permitted on the premises;
- (c) post health and safety warning signs on the premises as required by the licence;
- (d) ensure that at least two employees, who are “CannSell” certified, are present on the premises at all times when the business is open to the public, including one manager;
- (e) ensure that windows on any street frontage of the premises are not blocked by translucent or opaque material, artwork, posters, shelving, display cases or similar elements;
- (f) conduct business within a completely enclosed building, with the doors remaining closed when not in use for immediate ingress and egress;
- (g) must not make Cannabis or Cannabis items available for sale from a vendor cart, temporary structure, or satellite location, or through exterior openings of the licensed Cannabis Retail Store , such as drive-thru facilities or walk up windows.
- (h) install and maintain an air filtration system that effectively minimizes odour impacts on neighbouring properties;
- (i) implement the following security measures:
 - (i) install video surveillance cameras that monitor all entrances and exits and both the interior and exterior of the business premises at all times with a high definition resolution;
 - (ii) retain video camera data for at least 21 days after it is gathered;
 - (iii) install a security and fire alarm system that is, at all times, monitored by a licenced third party; and
 - (iv) not allow Cannabis, products containing Cannabis or other valuables to remain on the premises when the business is not open to the public, unless the Cannabis, products and other valuables are securely stored on the premises.
- (j) Must obtain all supplies, inventory, and cannabis products from a licenced producer that is licenced by Health Canada.
- (j) Promptly bring to the attention of the Executive Director:
 - (i) the name of any new manager, officer, director or shareholder of the licensee;
 - (ii) any criminal charge laid or pending against the licensee or a manager, officer, director or shareholder of the licensee;

(iii) a current police information check, birth certificate and most recently issued driver's licence and passport for any new manager, officer, director or shareholder of the licensee; and,

(iv) comply with any other reasonable condition on the licence.

4.2 Cannabis Packaging

- (a) Cannabis Retail Store shall not distribute Cannabis products that are licenced within jurisdictions other than Canada.
- (b) Cannabis Retail Store shall not distribute Cannabis products that are non-compliant with Cannabis Act restrictions on advertising and promotion.
- (c) Cannabis packaging and labels must follow the regulations and prohibitions as stated by Health Canada related to food safety and edibles.

4.3 Advertising

- (a) Each Cannabis Retail Store is limited to one sign identifying the retail outlet by the licensee's business name that is affixed or hanging in the windows or on the outside of the premises that is visible to the general public from the public right of way. The size of the sign is limited to one square metre.
- (b) All Cannabis advertising and labels of Cannabis products sold on Reserve may not contain any statement or illustration that:
 - (i) Is false or misleading;
 - (ii) Promotes over consumption;
 - (iii) Represents the use of Cannabis as having curative or therapeutic effects;
 - (iv) is prohibited in the Cannabis Act.
- (c) A Cannabis Retail Store may not use "giveaway" coupons as promotional materials or conduct promotional activities such as games or competitions to encourage sale of Cannabis or Cannabis products.
- (d) All advertising must contain the following warnings:
 - (i) "For use only by adults nineteen (19) years of age and older";
 - (ii) "This product may have intoxicating effects";
 - (iii) "Cannabis can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug";

- (iv) "There may be health risks associated with consumption of this product;"
and,
- (v) "Keep out of the reach of children."
- (e) No Cannabis Retail Store shall place or maintain, or cause to be placed or maintained, an advertisement of a Cannabis business or Cannabis product, including Cannabis concentrates, dried flower, or Cannabis-infused product in any form or through any medium whatsoever within 500 meters of the perimeter of a recreation center or facility, child care center, or public park, or establishment that children may frequent or, to which it is not restricted to persons aged nineteen (19) years or older.
- (f) All advertising for Cannabis businesses or Cannabis products, regardless of what medium is used, must contain text stating that Cannabis products may be purchased or possessed only by persons nineteen (19) years of age or older.
- (g) No Cannabis Retail Store may use or employ a Commercial Mascot outside of, and in proximity to, a Cannabis Retail Store business.

Section V

5.0 Restrictions for all Cannabis Retail Stores

A person carrying on a Cannabis Retail Store must not:

- 5.1** Allow a person under the age of nineteen (19) to enter or remain on the premises;
- 5.2** Advertise or promote the use of Cannabis to a person under nineteen (19) years of age, including through product displays, names, logos or other signage;
- 5.3** Allow a person to smoke, vape, consume or otherwise ingest Cannabis or products containing Cannabis on the premises;
- 5.4** Sell Cannabis or other substances contrary to the Controlled Drugs and Substances Act;
- 5.5** Be open for business between the hours of 9pm and 9am the next day;
- 5.6** Permit intoxicated people inside of the premises or serve them in any way;
- 5.7** Mail or deliver any products from the business premises; and
- 5.8** Use the premises to carry on business other than the Cannabis Retail Store.

- 5.9 Operate within 500 metres of the perimeter of a recreation center or facility, child care center, or public park, or establishment that children may frequent or, to which it is not restricted to persons aged nineteen (19) years or older.

Section VI

6.0 Business Licence Requirements

- 6.1 A person must not operate a Cannabis Retail Store unless the person holds a valid licence issued under the provisions of this Bylaw.
- 6.2 A person applying for the issuance or renewal of a licence to carry on a Cannabis Retail Store must:
- (a) complete and submit an application for a licence in a form satisfactory to the Band;
 - (b) pay to the Band the applicable licence fees prescribed by Chief and Council
 - (c) provide a security plan for the premises that describes adequate security measures to mitigate risk of theft or robbery at the premises;
 - (d) provide proof of a security alarm contract that includes monitoring at all times during the period for which the licence is being sought;
 - (e) provide contact information for a responsible person or persons available to be contacted at any time;
 - (f) provide a list of the names of all staff, together with a copy of photo identification for each staff member; and
 - (g) provide a current police information check for:
 - (i) the applicant;
 - (ii) all investors and partners;
 - (iii) if the applicant is a corporation, each shareholder, officer and director, and
 - (iv) each manager.

Section VII

7.0 Authority to Refuse or Suspend a Business Licence

In addition to any power of refusal, suspension or revocation of licences issued by Chief and Council, the Chief and Council may suspend, revoke or refuse to issue or renew a licence for a Cannabis Retail Store if the applicant or licence holder, or a shareholder, officer, director or manager of the applicant or licence holder:

- 7.1** Was convicted of a serious offence anywhere in Canada or the United States of America (USA) contrary to the Criminal Code of Canada or the USA.
- 7.2** Was convicted, found guilty of, or liable for any contravention or offence relating to the conduct of a business similar to that to which the licence relates;
- 7.3** Was convicted, found guilty of, or liable for any contravention or offence on the Reserve against this bylaw or against any bylaw authorizing the issuance of a business licence or regulating the conduct of a business; or
- 7.4** Has been proven to have misrepresented, failed to disclose or concealed any material fact relating to the subject matter of the licence or required to be stated in, the application.

Section VIII

8.0 Severability

If any section, subsection, sentence, clause, or phrase of this bylaw is for any reason held to be invalid, void, illegal or unconstitutional, either on its face or as applied, such decision shall not affect the applicability, constitutionality, legality or validity of any remaining portions of this bylaw. The Council hereby declares its intention to have adopted this bylaw, and each section, subsection, sentence, clause, and phrase of this bylaw, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases may be declared invalid, void, illegal or unconstitutional, and that the same would have been adopted by the Council had such invalid, void, illegal or unconstitutional sections, subsections, sentences, clauses, or phrases, if any, not been included in this bylaw.

Section IX

9.0 Penalties and enforcement

- 9.1** Every person violating any provision of this bylaw commits an offence punishable on summary conviction to a fine of not less than one Thousand dollars (\$1000.00) or more than fifteen thousand dollars (\$15,000.00). A separate offence shall be deemed to be committed on each day during or on which a violation occurs or continues.
- 9.2** Every person who fails to comply with any order or notice issued by an Officer, or who allows a violation of this bylaw and other applicable enactments to continue, contravenes this bylaw.

Section X

10.0 Prohibition

Unless authorized by this bylaw, the distribution and sale of recreational cannabis within and from the land or territory of Wahnapiitae First Nation is prohibited.

DATES OF ADOPTION

READ A FIRST TIME the 28th day of June 2019.

This bylaw is hereby passed at a duly convened meeting of the Council of the Wahnapiatae First Nation on the 28th June, 2019.

Voting in favour of this bylaw are the following members of the Council:



Chief – Larry Roque



Councillor – Bob Pitfield

Councillor Ted Roque



Councillor Craig Tyson



Councillor Mary Nicholls Russell

Being the majority of those members of the Council of the Wahnapiatae First Nation present. There are four (4) Council members and a quorum of Council is three (3) members.

Number of members of the Council present at the meeting: 3.

This bylaw comes into force on the day on which it is first published on the Wahnapiatae First Nation website.