



CHIPPEWAS OF GEORGINA ISLAND FIRST NATION

CANNABIS CONTROL BY-LAW

BEING A BY-LAW TO REGULATE THE CANNABIS WITHIN THE LANDS OF THE CHIPPEWAS OF GEORGINA ISLAND FIRST NATION

By-Law # 20190812-001

This By-Law shall come into effect on August 15, 2019.

WHEREAS the Chippewas of Georgina Island First Nation has and recognizes its inherent right to self-government, and its jurisdiction to pass laws and powers within the First Nation Lands;

AND WHEREAS the aforementioned rights of the Chippewas of Georgina Island First Nation have been recognized and affirmed in the domestic laws of Canada, including the Constitution Act, 1982 and other federal and provincial legislation;

AND WHEREAS the Chippewas of Georgina Island First Nation have affirmed their right of jurisdiction with the implementation of the Gchi naaknewgewin (Constitution);

AND WHEREAS the Chippewas of Georgina Island First Nation have affirmed their right to enact a Land Code through the First Nation Lands Management Act of Canada providing the ability to enact their own laws with the Lands of the Chippewas of Georgina Island First Nation;

AND WHEREAS Canada and other states worldwide reaffirmed their solemn commitment to respect, promote and advance the rights of indigenous peoples and to uphold the principles of the United Nations Declaration on the Rights of Indigenous Peoples;

AND WHEREAS, in regards to indigenous peoples, it is important for Canada to reject colonialism and engage in a contemporary approach based on good faith and on principles of justice, democracy, equality, non-discrimination, good governance and respect for human rights;

AND WHEREAS the By-Laws enacted by the Chippewas of Georgina Island First Nation remain in accordance with section 81(1) of the Indian Act which empowers the First Nation to create By-Laws providing for the Health and Safety of the residents on and visitors to the Lands of the Chippewas of Georgina Island First Nation;

AND WHEREAS the Chippewas of Georgina Island First Nation wishes to make regulation respecting retail sales of Cannabis and cannabis accessories, including authorization of cannabis retail operations, location, security, advertising, display and promotion of cannabis and related items

AND WHEREAS Chief and Council seek to establish safe environments as well as safe access to regulated, quality controlled and managed cannabis;

NOW THEREFORE the Chief and Council of the Chippewas of Georgina Island First Nation hereby make the following By-Law;

1 SHORT TITLE

1.1 This document may be referred to as "CGIFN Cannabis Control Bylaw" or "Cannabis Bylaw".

2 APPLICATION

2.1 This law applies to:

- a) *All Areas under the jurisdiction of the First Nation based on the Chippewas Georgina Island First Nation Land Code including those held in common or those where a certificate of possession (CP) has been issued;*
- b) *All activities related to the production, distribution, sale, possession and use of cannabis within, into, and from the Lands of the Chippewas of Georgina Island First Nation; and,*
- c) *All persons and business entities situated within the Lands of the First Nation*

3 DEFINITIONS

3.1 In this Law:

- a) *"Cannabis Act" is a set of regulations developed by the Government of Canada for the control of cannabis*
- b) *"Cannabis" means a plant that belongs to the genus Cannabis and includes:*
 - i. *any part of a cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not, other than a part of the plant referred to below;*
 - ii. *any substance or mixture of substances that contains or has on it any part of such a plant; and,*
 - iii. *any substance that is identical to any phytocannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained;*

But does not include:

- i. *A non-viable seed of a cannabis plant;*
- ii. *A mature stalk, without any leaf, flower, seed or branch, of such a plant;*
- iii. *The root or any part of the root of such a plant;*
- c) *"Cannabis Accessory (ies)" means anything , including rolling papers or wraps, holders, pipes, water pipes, bongs and vaporizers, that is represented to be used in the consumption of cannabis or a thing that is represented to be used in the production of cannabis;*

- d) **"Council"** means the Chief and Council of the Chippewas of Georgina Island First Nation
- e) **"First Nation"** means the Chippewas of Georgina Island First Nation
- f) **"Jurisdiction"** means the official power to make legal decisions and judgments
- g) **"Medical Exception"** means a prescribed medical need of an individual provided to them by an authorized medical professional;
- h) **"Officer"** means a person provided with the authority through appointment or other agreement of the Chippewas of Georgina Island First Nation Chief and Council for the enforcement of this and other laws within the community;
- i) **"Operator"** means the management company that is provided with the license to sell cannabis within the First Nation lands by the First Nation
- j) **"Place of Assembly"** means a location where a group of people gathered together in one place for a common purpose. Specific examples would include school zones, sidewalks and roads, or any building with public traffic;
- k) **"Produce" or "Production"** in respect of cannabis, means to obtain it by any method or process, including by;
 - i. Manufacturing;
 - ii. Synthesis;
 - iii. Altering its chemical or physical properties by any means; or
 - iv. Cultivating, propagating, or harvesting it or any living thing from which it may be extracted or otherwise obtained;
- l) **"Regulations"** means any regulation enacted under this By-Law;
- m) **"Sell"** means to transfer ownership or exchange for money or something of value and includes offer for sale, expose for sale and have in possession for sale;
- n) **"Use"** means to smoke, vape, inhale, ingest, absorb or otherwise consume cannabis in raw or produced form;

4 PURPOSE

4.1 The purpose of this By-Law is to:

- a) Provide consideration for the protection of Health and Safety of members, employees, visitors and guests of the First Nation;
- b) Ensure that young persons within the community are able to fully comprehend their choice in using cannabis and cannabis related products;

- c) *Consider, assert and uphold the jurisdictional integrity of the First Nation by ensuring control and regulation of cannabis within the areas of jurisdiction held by the First Nation;*
- d) *Provide ability for legal production, distribution, sale, possession and use of cannabis within the jurisdiction of the First Nation through regulation and enforcement;*
- e) *Deter illicit and illegal activities in relation to cannabis, including but not limited to;*
 - i. *Preventing cannabis from being diverted into the illicit or illegal market;*
 - ii. *Preventing uncontrolled cannabis product from entering the source of supply of the legal cannabis through appropriate sanctions and enforcement measures*
 - iii. *Enforcement of the laws preventing operators of motor vehicles from driving impaired or under the influence as enacted under the Criminal Code of Canada*

5 PERMITTED ACTIVITIES

5.1 An person is permitted to possess cannabis for their personal use so long that:

- a) *The individual is at least 19 years of age;*
- b) *The cannabis has been acquired from a medical dispensary that is licensed by Health Canada;*
- c) *The cannabis has been purchased from an authorized retailer through licensing;*
- d) *The cannabis has been acquired from home grown plants;*
- e) The amount possessed does not exceed 30 grams per person.

5.2 The First Nation will control a single license to be issued for the purpose of retailing cannabis. The First Nation may designate an operator or management company to oversee the operations of such facility as outlined in SCHEDULE A.

Any persons selling cannabis outside of the First Nation's license will be considered in violation of this bylaw.

5.3 Members may become a cultivator or manufacturer of cannabis items provided they are licensed and remain in compliance with The Cannabis Act.

5.4 An individual is permitted to use cannabis in private dwellings subject to a building's rules or lease agreement. In the event of a conflict between a building's rules and this by-law, this by-law and any regulations arising from this by-law shall prevail.

5.5 An individual or retailer may provide cannabis accessories for sale.

5.6 An individual with a medical exception to use cannabis shall do so in consideration of this bylaw and shall provide proof of such exemption upon request.

- 5.7 Any commercial enterprise that is set up for the purpose of cultivating, manufacturing or distribution of cannabis or cannabis related products is subject to taxation as established by the First Nation.

6 PROHIBITIONS

- 6.1 Individuals may grow, cultivate or manufacture cannabis products provided they are licensed by Health Canada.
- 6.2 No person shall smoke or vape cannabis in a place of assembly. This prohibition on smoking and vaping includes a presumptively reasonable minimum distance of 9 meters or 29.5 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking and vaping is prohibited so as to ensure that cannabis smoke or vapors does not enter the area through entrances, exits, open windows or other means;
- 6.3 Places of employment for the First Nation shall be designated as a "No Smoking" and "No Vaping" zone except as provided for by this By-Law and shall display signage clearly indicating the restrictions and penalties;
- 6.4 No person or business shall promote, sell or supply Cannabis, including cannabis by-products to a person who is less than 19 years of age. For greater certainty, promotion includes any signage depicting cannabis leaf or usage on the exterior of a business or facility, (excluding the business name and logo), or any event that may be attended at any time by an individual who is less than 19 years of age, including signage at places of public assembly;
- 6.5 No person shall grow more than four plants per residence, unless otherwise authorized through license of the Cannabis Act;
- 6.6 No person shall drive or have the care and control of a motorized vehicle or vessel, whether or not it is in motion, while the person's ability to operate the vehicle or vessel is impaired by cannabis within the jurisdiction of the First Nation.

7 ENFORCEMENT

- 7.1 This By-Law shall be enforced by a persons designated by the Chippewas of Georgina Island First Nation Council under written authorization, the Chippewas of Georgina Island First Nation By-Law Enforcement Officers, the Chippewas of Georgina Island First Nation Police Service and/or police designate under agreement.
- 7.2 Employers, Proprietors and Managers are required upon becoming aware of a breach of this By-Law, to notify the offender that they are in contravention of this By-Law and ask them to immediately comply or to remove themselves to an area of compliance. In the event that the person fails to comply, the Employer, Proprietor or Manager must immediately report the offence to an Officer and remain on scene to assist the officer with their investigation.

7.3 A person who fails or refuses to comply with any provision of this By-Law, or who fails or refuses to comply with an order made under this By-Law, or who resists or interferes with an Officer acting under this By-Law is deemed to have committed an offense under this By Law.

8 PENALTIES

- 8.1 Any person who commits an offence under this By-Law is liable on conviction to a fine of not more than \$1,000 (one thousand dollars) or to imprisonment for a term of 30 days (thirty days), or to both.
- 8.2 Any Proprietor or Employer who fails or neglects to perform the duties imposed on him by any of the provisions of this By-Law commits an offence and is liable on summary conviction to a fine of not more than \$1,000 (one thousand dollars) or to imprisonment for a term of 30 days (thirty days), or to both.
- 8.3 Any person charged under this By-Law shall have the right to appear before a justice or provincial court judge for adjudication.

9 SEVERABILITY

- 9.1 If any section or part of this By-Law is found to be invalid for any reason, such section or part or item shall be deemed to be severable and all other sections or parts of this By-Law shall be deemed to be separate and independent therefrom and to be enacted as such.

10 FORCE AND EFFECT


- 10.1 This By-law is enacted under the Chippewas of Georgina Island First Nation Land Code.
- 10.2 This By-Law shall come into effect on August 15, 2019.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Chief and Council of the Chippewas of Georgina Island First Nation this day of August 6, 2019.


Chief Donna Big Canoe


Councillor William (Bill) McCue


Councillor Patricia Big Canoe


Councillor Lauri Hoeg


Councillor Benson Big Canoe



SCHEDULE "A"

CANNABIS VENDOR LICENSE

1) PURPOSE

- a) To ensure that any Operator selected on behalf of the First Nation will act responsibly towards the community and encompass the same guiding purposes as the First Nation with regards to membership, residents and visitors.
- b) The First Nation wishes to make regulation respecting retail sales of Cannabis and cannabis accessories, including authorization of cannabis retail operations, location, security, advertising, display and promotion of cannabis and related items.
- c) The First Nation reserves the right to make alterations to the Schedule as deemed necessary.

2) DEFINITIONS

- a) Affiliates are defined as the following:
 - i) a corporation that is affiliated with the person for the purposes of the Business Corporations Act, as set out in subsection 1 (4) of that Act;
 - ii) a corporation of which the person beneficially owns or controls, directly or indirectly, shares or securities currently convertible into shares carrying more than 9.9 per cent of the voting rights under all circumstances or by reason of the occurrence of an event that has occurred and is continuing, or a currently exercisable option or right to purchase such shares or such convertible securities;
 - iii) a partner in the same partnership as the person;
 - iv) a trust in which the person has a substantial beneficial interest, whether vested or contingent, or with respect to which the person acts as a trustee;
 - v) a member of the same joint venture, unincorporated association, unincorporated syndicate or unincorporated organization as the person; or
 - vi) a person who is deemed under subsection (2) or (3) to be an affiliate of the person or an affiliate of an affiliate of the person. A person is deemed to be an affiliate of another person if;
 - (1) the person is a corporation and the other person, or a group of persons or entities acting jointly or in concert with the other person, owns a beneficial interest in shares of the corporation, carrying at least 50 per cent of the votes for the election of directors of the corporation and the votes carried by the shares are sufficient, if exercised, to elect a director of the corporation; or
 - (2) if the other person, or a group of persons or entities acting jointly or in concert with the other person, has any direct or indirect influence that, if exercised, would result in control in fact of that person.
 - vii) Subsections (1) and (2) apply with respect to a group of persons or entities acting jointly or in concert with another person whether or not they are acting pursuant to an agreement or arrangement.
- b) "Cannabis Vendor License" is a single license issued by the First Nation to an Operator
- c) "Supplier" means a person or business that supplies cannabis to the Operator for the purpose of resale

- d) "Operator" means a business and its affiliates that are provided a Cannabis Vendor License to sell cannabis within the jurisdiction of the First Nation;

3) LICENSING AND REVIEW

- a) License
 - i) An Operator will be selected by the First Nation to undergo a review by the First Nation
 - ii) The Cannabis Vendor License will be issued to the selected company upon completion of the review process
 - iii) The Operator will then be responsible for the store and any subsequent issues that may arise from further reviews based on the operations.
 - iv) Upon receipt of the Cannabis Vendor License, the Operator will ensure that it is prominently displayed in a conspicuous place within the cannabis store to be found easily by any patron or inspector entering the facility.
- b) Public notice of suspension of authorization
 - i) If a Cannabis Vendor License is suspended, the holder shall prominently display a sign respecting the suspension in a conspicuous place that is visible from the exterior of the public entrance to the cannabis retail store.
 - ii) The sign referred to in subsection (i) shall be in the form approved by the First Nation and shall be displayed for the duration of the suspension.

4) RESTRICTED LOCATIONS

- a) A proposed cannabis retail store may not be located less than 150 metres from a school (public or private), daycare or recreational facility to be determined by the following criteria.
 - i) If the facility is the primary or only occupant of a building, 150 metres shall be measured from the property line of the property on which the facility is located.
 - ii) If the facility is not the primary or only occupant of a building, 150 meters shall be measured from the boundary of any space occupied by the facility within the building.

5) RESTRICTED ACCESS

- a) No person under the age of 19 will be permitted into an establishment that retails cannabis unless the area in which cannabis is sold is separated by visible partition and restricted access from the rest of the store.
- b) The Operator shall ensure that no individual under the age of nineteen (19) is permitted to enter the store unless for employment purposes.
- c) For the purpose of employment, any individual eighteen (18) years of age or older is permitted to work in the retail sale of cannabis.

6) CANNABIS PRODUCT

- a) The consumer is to have available any information regarding the medicinal or hallucinogen properties of a product. All Cannabis product(s) sold must be clearly marked on the container the following:
 - i) THC content
 - ii) CBD content

- b) Where this is not available or is not fully and accurately disclosed by packaging, the supplier must have the product tested for CBD and THC quantities that outlines the medicinal or hallucinogen properties of a product for the purchaser to view prior to purchase and labelled accordingly.
- c) Any product without proper labelling and disclosure will be considered contraband. An Operator in possession of such contraband commits an offense under this bylaw and is subject to fines and penalties imposed by the First Nation.

7) INSPECTION

- a) The Operator will be notified of an inspection prior to the inspections taking place. The Operator must cooperate with the inspector. Failure to do so will result in the immediate revocation of the license.
- b) The First Nation will appoint the inspectors to conduct inspections on its behalf. The inspector will provide a written report regarding compliance of the vendor with a copy to the Operator and the First Nation.

8) OPERATION OF CANNABIS RETAIL STORES

- a) A cannabis retail store is authorized to be open to the public between 9:00 a.m. and 11:00 p.m. on any day.
- b) No individual will be able to purchase an amount in excess of 30 grams per visit to the store.
- c) All cannabis product sold within the store will have the proper labelling and disclosure of information required under this bylaw.
- d) The Operator may sell the Cannabis accessories within the meaning of Section 3.1(c) of the First Nation Cannabis By-Law.
- e) The Operator will be subject to the terms of taxation as determined by the Chippewas of Georgina Island First Nation.

9) TRAINING REQUIREMENTS

- a) The First Nation may approve training courses or programs, including but not limited to training courses or programs respecting,
 - i) the responsible sale of cannabis;
 - ii) record keeping requirements;
 - iii) permissible measures required to be taken to reduce the risk of cannabis being diverted to an illicit market or activity.
- b) The following individuals are required to successfully complete training courses or programs approved under subsection 9(a):
 - i) The Operator and Affiliates
 - ii) Members of Management including the Manager
 - iii) Individuals employed to work in a cannabis retail store 30 days from the start of their employment
 - iv) The Operator shall ensure that every person employed to work in the cannabis retail store meets the training requirements
 - v) Costs associated with the training will be the responsibility of the Operator.

10) FINES AND PENALTIES

- a) The First Nation shall develop regulations for infractions of the vendor. The First Nation reserves the right to suspend or revoke a license whether the vendor has been charged or convicted of an offense under this bylaw.

11) RECORD KEEPING

- a) Vendors will ensure that any product sold within the store is able to be traced to the producer. This will include all purchase invoices and MSDS forms associated with a product.
- b) All records will be made available to an inspector upon inspection.