



CHIPPEWAS OF NAWASH

BAND COUNCIL RESOLUTION

(DONOK-NAH-GAHMIN)

FILE REFERENCE

The Council of the **CHIPPEWAS OF NAWASH FIRST NATION**
Of **Neyaashiinigmiing**
In the Province of **Ontario**

On the Fourth of December AD 2020
(Day) - Kee-shi-gag (Month) - Geezis

Motion No. 686

Moved by: Bernard Keeshig, Seconded by: Geewadin Elliott,
We, The Chippewas of Nawash Unceded First Nation, Band Council hereby approve of By Law No. 242-12-04-2020 (Cannabis Control Law).

WHEREAS The Chief and Council of the Chippewas of Nawash Unceded First Nation Band Council has the authority under it's inherent jurisdiction to control the production, distribution, and consumption of Cannabis, and that jurisdiction is confirmed by international law, including the *United Nations Declaration on the Rights of Indigenous Peoples*, section 35 of the *Constitution Act*, 1982, and sections 2 and 81 of the *Indian Act*;

AND WHEREAS a well-regulated Cannabis industry present opportunity for economic development;

AND WHEREAS the legalization of Cannabis calls for the Chippewas of Nawash Unceded First Nation to address matters of public health, safety and security;

THEREFORE BE IT RESOLVED The Council of the Chippewas of Nawash Unceded First Nation enact the Cannabis Control Law (Bylaw No. 242-12-04-2020), attached to this Band Council Resolution.

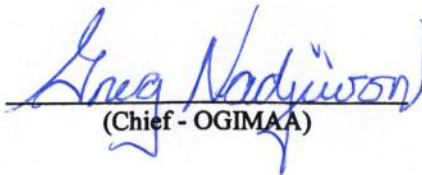
Enacted this 4th day of December, 2020

8 For

1 Abstained – Arlene Chegahno ~ I think it should be a by-law; significant changes, will get questions; do support

Carried

Quorum: 5


(Chief - OGIMAA)

(Councillor - KEEG-DOH-NINI)

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(Councillor - KEEG-DOH-NINI)

"CAUTION - - CONFIDENTIAL - - CAUTION"

This Resolution, and any documents accompanying this Resolution, contain information belonging to the Chippewas of Nawash First Nation, which is CONFIDENTIAL. Any publication or dissemination of this document by any party other than the Chippewas of Nawash First Nation is a breach of confidence and a breach of the privacy rights of this First Nation.

**Cannabis Control Law
Chippewas of Nawash Unceded First Nation**

PREAMBLE

WHEREAS the legalization of Cannabis calls for Chippewas of Nawash Unceded First Nation to address matters of public health, safety, and security;

AND WHEREAS a well-regulated Cannabis industry presents opportunities for economic development;

AND WHEREAS the First Nation has inherent jurisdiction to control the production, distribution, and consumption of Cannabis, and that jurisdiction is confirmed by international law, including the *United Nations Declaration on the Rights of Indigenous Peoples*, section 35 of the *Constitution Act, 1982*, and sections 2 and 81 of the *Indian Act*;

NOW THEREFORE the Chippewas of Nawash Unceded First Nation Band Council hereby enacts as follows:

PURPOSES

1. The purposes of this Law are to:
 - (a) Protect the health, safety, and security of the First Nation;
 - (b) Control access to Cannabis, particularly by children and young persons;
 - (c) Place appropriate restrictions on in-community Cannabis use; and
 - (d) Regulate the sale of Cannabis through a system of licencing.

DEFINITIONS

2. In this Law:
 - (a) “Appeal Committee” means the Chippewas of Nawash Unceded First Nation Appeal Committee;
 - (b) “Approved Cannabis Product” has the meaning given in s. 47(g);
 - (c) “Approved Supplier” has the meaning given in s. 47(e);
 - (d) “Band Council” has the same meaning as “council of the band” in the *Indian Act*;

- (e) “Cannabis” means any part of a cannabis plant or any substance extracted from a cannabis plant, individually or in combination with non-cannabis substances;
- (f) “Cannabis Activities” means all activities related to the production, distribution, and consumption of Cannabis, including, without limiting the generality of the foregoing, cultivation, processing, sale, possession, and use;
- (g) “Commission” means the Cannabis Control Commission;
- (h) “First Nation” means Chippewas of Nawash Unceded First Nation;
- (i) “Member” has the same meaning as “member of a band” in the *Indian Act*;
- (j) “Licence” has the meaning given in s. 37;
- (k) “Licence Fee” has the meaning given in s. 71;
- (l) “Licence Remittance” means the share of revenue a Licensee must remit to the Commission on a monthly basis;
- (m) “Licensee” means the holder of a Licence;
- (n) “Person” includes an individual, corporation, partnership, limited liability company, and any other lawful business entity;
- (o) “Reserve” means Chippewas of Nawash Unceded Indian Reserve;
- (p) “Retail Site” means the premises where a Licensee sells Cannabis, and, for greater certainty, does not include a website; and
- (q) “Use,” with respect to Cannabis, means to smoke, vape, inhale, ingest, absorb, or otherwise consume.

APPLICATION

- 3. This Law applies to all Cannabis Activities on the Reserve.
- 4. Possession of a licence or other authorization under provincial or federal legislation does not exclude the application of this Law, including, for greater certainty, s. 8.
- 5. In the event of a conflict between this Law and the terms of a medical Cannabis prescription from a licensed medical practitioner, the terms of the prescription shall prevail to the extent of the conflict.
- 6. In the event of a conflict between this Law and provincial or federal laws, this Law shall prevail to the extent of the conflict.

HARMONIZATION

7. This Law may serve as the basis for:
 - (a) The harmonization of laws concerning Cannabis among the First Nation and other jurisdictions;
 - (b) Co-operation and mutual assistance among the Cannabis Control Commission and other regulatory and law enforcement agencies; and
 - (c) Agreements with other jurisdictions with respect to Cannabis Activities, including, without restricting the generality of the foregoing:
 - (i) The supply of Cannabis to Licensees; and
 - (ii) Coordination between Licensees and licensed Cannabis retailers in other jurisdictions.

PROHIBITION

8. Commercial cannabis activities are prohibited except as authorized under this Law.
9. Notwithstanding any other provision of this Law, no person younger than 19 years of age may use Cannabis.
10. A person may possess Cannabis for his or her personal use provided that the person:
 - (a) Is at least 19 years of age;
 - (b) Acquires the Cannabis from a Licensee; and
 - (c) Possesses no more than 30 grams of Cannabis at any one time outside the person's dwelling-house.
11. The Chippewas of Nawash First Nation strongly believes that the Anishinaabeg have an inherent right to personally use traditional plants, herbs, and medicines for food and ceremonial purposes. This law does not purport to interfere with the right of Members to use plants, herbs, and medicines for food and ceremonial purposes. This purpose of this law, for greater certainty, is to control cannabis use for recreational purposes to persons 19 years of age or older, and to provide a legal framework for the production, distribution and retail sales through licenced commercial activities.
12. A person may cultivate Cannabis in his or her dwelling house for personal use provided that the person:
 - (a) Is at least 19 years of age;
 - (b) Acquires the Cannabis from a Licensee;

- (c) Cultivates the Cannabis for his or her personal use only;
- (d) Ensures that any and all cannabis and cannabis related products are out of reach of children and youth; and
- (e) Possesses no more than four plants at any one time. For clarity, this would be a limit of four plants per individual, over 19 years of age.

CANNABIS CONTROL COMMISSION

- 13. The Commission is hereby established as a corporation without share capital.
- 14. The Commission shall administer this Law:
 - (a) In the First Nation's best interests;
 - (b) Consistently with the Band Council's policies; and
 - (c) According to the highest standards of impartiality, independence, transparency and integrity.
- 15. The Commission shall submit annual budgets to the Band Council.
- 16. The Band Council may approve an annual budget or request reasonable amendments.
- 17. Licence Fees and Licence Remittances shall go toward funding the Commission.

Commission Members

- 18. The Commission shall have at least three Commission Members and no more than 5 Commission members.
- 19. Commission Members shall be elected for terms of four years.
- 20. Despite section 19, the Band Council may appoint the initial Commission Members, to serve as interim Commissioners until the first election is held.
- 21. Any Band Member may be a Commission Member.
- 22. A Commission Member may be re-elected any number of times.
- 23. The Commission shall appoint a Commission Member as Chairperson to preside over Commission meetings.
- 24. The Band Council may remove a Commission Member for cause by resolution.
- 25. A Commission Member may resign by providing written notice of at least 60 days to the Band Council.

26. When a Commission Member position become vacant, the Band Council shall make the final decision to hold a by-election or not within 30 days. The cost of a by-election and the proximity to a general election of Commission members will be the main factors under consideration by the Band Council in making this decision.
27. The Commission may authorize persons or organizations to acts as its agents.

Commission Meetings

28. The Commission shall meet on a monthly basis.
29. The Chairperson may call additional meetings as necessary.
30. The Chairperson shall schedule meetings.
31. The Chairperson shall provide the other Commission Members at least five days' notice of a meeting unless the other Commission Members both waive this requirement.
32. Commission Members shall attend meetings in person if possible, but may attend meetings by teleconference or videoconference as necessary.
33. The quorum of the Commission is at least two Members, specific reference to the terms prescribed in the Commission's regulations will set the circumstances where a quorum greater than two Commissioners will be required.
34. Commission decisions are made by majority vote.
35. Commission meetings shall presumptively be open to the public.
36. The Chairperson may choose to conduct part or all of a Commission Meeting privately, to the extent necessary to prevent the disclosure of confidential information.

LICENCES

37. The Commission may issue Licences to sell Cannabis.
38. Subject to any regulations, after a period of several months of licenced activity, the Commission may restrict either production licences or retail store licences to five licences of that type, operational at any one time for a period of up to six months. This period is meant to foster sustainability for all present licence-holders and an orderly entry of new licence-holders after a formal review or audit.

Application for a Licence

39. The owner of or holder of a majority interest in a Licensee must be one or more persons who is:
 - (a) A Band Member; and,
 - (b) At least 19 years of age.

40. An application for a Licence must include:
 - (a) The names of all persons with an ownership interest in the proposed Licensee;
 - (b) The names of any of the proposed Licensee's employees with managerial responsibilities prescribed in the regulation;
 - (c) One or more proposed Retail Sites; and
 - (d) Any other prescribed criteria.
41. The Commission may inspect proposed Retail Sites.

Issuance of a Licence

42. The Commission shall approve an application for a Licence if, in its opinion, doing so would be consistent with the purposes of this Law.
43. The Commission may place terms and conditions on a Licence.
44. The Commission may amend the terms and conditions of a Licence at any time, at a Licensee's request or on its own initiative.
45. A Licence becomes invalid if the Licensee fails to pay any Licence Fees or Licence Remittances by the time are due.
46. The Commission may renew a Licence if the Licensee is in good standing.

Standard Licence Terms and Conditions

47. Subject to any regulations under s. 72(f), every Licence is deemed to have the following terms and conditions:
 - (a) The term of a Licence is five years;
 - (b) A Licensee shall not sell Cannabis to a person younger than 19 years of age, and shall verify a customer's age when necessary;
 - (c) A Licensee shall not sell Cannabis to an intoxicated person;
 - (d) A Licensee shall sell no more than 30 grams of Cannabis to a person per day;
 - (e) A Licensee shall only sell Cannabis at the Retail Site or Sites approved by the Licence;
 - (f) A Licensee shall only obtain Cannabis from Approved Suppliers;
 - (g) A Licensee shall only sell Approved Cannabis Products;

- (h) A Licensee shall mark all Approved Cannabis Products with a Retail Seal provided by the Commission;
- (i) A Retail Site shall not be:
 - (i) Within 150 metres of a park, library, school, playground, community centre, or lifestyles centre;
 - (ii) In a residential lot that is meant for residential housing; or
 - (iii) In another prescribed place; and
- (j) A Licensee will be required to employ Band Members who are at least 19 years of age.

Appeals

- 48. If the Commission rejects a Licence application, the applicant may appeal the decision.
- 49. If the Commission approves a Licence application, any Band Member or person resident on the Reserve may appeal the decision.
- 50. The First Nation's Appeal Committee shall hear appeals.
- 51. The Appeal Committee shall only hear appeals initiated within 30 days of the decision being appealed.
- 52. Notwithstanding s. 51, the Appeal Committee may hear a late appeal if, in its discretion, doing so would be in the best interests of justice.

ENFORCING COMPLIANCE WITH LICENCES

Investigation of Alleged Breaches

- 53. The Commission may, at the written request of any person or on its own initiative, investigate a Licensee's alleged breach of this Law, including the terms and conditions of its Licence.
- 54. The Commission shall not investigate alleged breaches that, in its opinion, are unmeritorious, frivolous, or vexatious on their face.
- 55. The Commission shall investigate alleged breaches in the manner it considers adequate and proportionate to the significance of the alleged breach.
- 56. If, as a result of an investigation, the Commission is of the opinion that the alleged breach has occurred, it shall provide notice to the Licensee.
- 57. A notice shall include:
 - (a) The particulars of the alleged breach;

- (b) All evidence in the Commission's possession or control relating to the alleged breach; and
 - (c) A deadline by which the Licensee may deliver written submissions, including reasonable amounts of time to retain legal counsel, gather evidence, draft submissions, or do any other thing necessary to prepare his or her defence within a reasonable amount of time.
58. Upon request by the Licensee, the Commission shall grant adjournments or time extensions that are reasonable and will not cause undue delay.

Determination of Alleged Breaches

59. When the Licensee delivers written submissions to the Commission, or when the deadline for delivering written submissions passes, the Commission shall schedule an oral hearing with notice to the Licensee.
60. At the oral hearing, the Commission shall provide the Licensee a reasonable amount of time to make submissions.
61. After the oral hearing, the Commission may deliberate in a private meeting.
62. The Commission shall issue a decision, with written reasons, within a reasonable amount of time after the oral hearing.

Remedies

63. If the Commission decides that the Licensee is liable for the breach, it shall order an appropriate remedy, including, without limitation:
- (a) Issuing a warning;
 - (b) Amending the terms and conditions of the Licence;
 - (c) Revoking the Licence;
 - (d) Suspending the Licence;
 - (e) Prohibiting the Licensee, and the persons with ownership interests therein, from obtaining a Licence for a specific period of time;
 - (f) Imposing a fine of up to \$100,000; or
 - (g) Any other remedy consistent with the purposes of this Law.

Appeals

64. The Licensee may appeal the Commission's decision to the Appeal Committee.
65. The Appeal Committee shall only hear appeals initiated within 30 days of the decision being appealed.

66. Notwithstanding s. 65, the Appeal Committee may hear a late appeal if, in its discretion, doing so would be in the interest of justice.

OFFENCE

67. A person other than a Licensee that breaches this Law commits an offence, and is liable for a fine not exceeding \$100,000 or 30 days' imprisonment.
68. The Band Council may enforce this "offence" section including any punishment listed in section 67, and may also obtain an injunction against a continuing breach of this Law.
69. The Band Council may obtain an injunction to prevent a breach of this Law if the breach:
- (a) Is likely to occur imminently; and
 - (b) Is likely to cause significant harm to the First Nation.

REGULATIONS

70. The Commission may make recommendations to the Chief and Council on the proper form and function of a First Nation business entity that the Commission may licence to distribute cannabis to licenced retail stores within the Chippewas of Nawash Unceded Reserve.
71. The Commission shall prescribe:
- (a) The amount of Licence Fees;
 - (b) The formula for calculating Licence Remittances;
 - (c) The maximum allowable price markup;
 - (d) Approved Suppliers; and
 - (e) Approved Cannabis Products;
72. The Commission may make regulations respecting:
- (a) Rules of procedure for Commission meetings;
 - (b) The maximum number of Licences the Commission may issue at any one time;
 - (c) Forms and procedures for making Licence applications;
 - (d) Procedures for processing Licence applications;

- (e) Procedures for inspecting proposed Retail Sites;
- (f) Standard Licence terms and conditions;
- (g) Quality standards and testing procedures;
- (h) Standards for Retail Sites;
- (i) Places where Licensees may not sell Cannabis;
- (j) Forms and procedures for requesting an investigation under s. 53;
- (k) Procedures for conducting investigations under s. 55;
- (l) Rules of practice and procedure for Licence reviews;
- (m) Rules for marketing Cannabis; and
- (n) any other matter consistent with the purposes of this Law.

COMING INTO FORCE

73. This Law comes into force when posted on the Chippewas of Nawash Unceded First Nation's Internet site, in the *First Nations Gazette* or in a newspaper that has general circulation on the Reserve.