

EEL RIVER BAR FIRST NATION GOVERNMENT

**FIRST NATION LAW FOR THE DISTRIBUTION AND
SALE OF CANNABIS**

Revision 3

2021

Eel River Bar First Nation Government Cannabis Law

Effective as of: April 20th, 2021

WHEREAS Canada and the province of New Brunswick have adopted legislation to legalize and regulate access to cannabis for recreational purposes;

WHEREAS the application of such laws on Eel River Bar's Lands without any consideration or adaptation goes against the jurisdictional integrity of Eel River Bar and the health and well-being of its people;

WHEREAS in the absence of necessary harm reduction measures and appropriate restrictions, free and legal access to cannabis risks to adversely affect the health and security of Eel River Bar's membership residing in Eel River Bar and most notably vulnerable groups, those with a history of drug abuse or at risk of addiction;

WHEREAS Eel River Bar First Nation Government desires to protect public health, safety, and security; including preventing cannabis from being diverted to an illegal market and illegal cannabis from entering a legal source of supply;

WHEREAS in addition to public health, safety, and security, supporting the economic prosperity and well-being of the Mi'kmaq of Eel River Bar constitute a priority for the Eel River Bar First Nation Government. Our success is determined by a strong economy which makes our First Nation a future leader in development and in partnerships. Our efforts to promote the economic interests of the nation will effectively bring it closer to our goal of self-sufficiency;

WHEREAS in the circumstances, Eel River Bar First Nation Government considers necessary to exercise its jurisdiction regarding cannabis distribution and sale within Eel River Bar lands, as well as regulation, control and penalties for the violation thereof;

WHEREAS effectively combating the destructive effects of cannabis use and abuse in Eel River Bar, while capturing market opportunities created by the legalization of cannabis, requires special measures given our community's unique location, culture, traditions, language, history, and spirituality;

WHEREAS the Mi'kmaq of Eel River Bar as part of Mi'kmaq Nation, are and have always been a sovereign people having historically affirmed and exercises their exclusive jurisdiction over their territory to enable a prosperous future;

WHEREAS the Eel River Bar First Nation Government has the authority to make such laws based on its inherent right of self-government and self-determination, as recognized and affirmed in the domestic laws of Canada, including the *Constitution Act, 1982*;

WHEREAS the regulation of recreational cannabis falls within the Eel River Bar First Nation Government's exercise of its right to internal self-government;

WHEREAS the *United Nations Declaration on the right of Indigenous Peoples* (UNDRIP) recognizes the right of the Mi'kmaq of Eel River Bar First Nation, as represented by the council of Eel River Bar First Nation Government, to autonomy and self-government in matters relating to their internal and local affairs in the exercise of their right to self-determination, as well as the right to freely pursue and control their economic development;

AND WHEREAS at a duly convened council meeting on April 20th, 2021 the council of Eel River Bar First Nation have reviewed and approved the contents of this Law;

NOW THEREFORE IT IS HEREBY RESOLVED that the Chief and Council of Eel River Bar First Nation, at a duly convened council meeting, enact as follows:

1. Eel River Bar Government Cannabis Law

2. Interpretation

2.1 Definitions

In this Law;

“cannabis” means

- 1) Any part of a cannabis plant, including the Phyto cannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not, other than a non-viable seed of cannabis plant, a mature stalk, without any leaf, flower, seed or branch, of such a plant, or a fibre derived from such a stalk, or the root or any part of the root of such a plant;
- 2) Any substance or mixture of substances that contain or has on it any part of such a plant; and
- 3) Any substance that is identical to any Phyto cannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained;

“community” means the registered members of Eel River Bar First Nation, it’s lands, infrastructure, and assets;

“Council” means the elected officials of Eel River Bar First Nation, namely the Chief and councillors;

“Directive” means a directive issued under and for purposes of the application of this Law by the Eel River Bar Cannabis Control and Quality Assurance Office;

“distribution”, in respect to cannabis, means administering, transferring, transporting, sending, delivering, providing or otherwise making available in any manner, whether directly or indirectly, for purposes other than direct consumption or use;

“dried cannabis” means any part of a cannabis plant that has been subjected to a drying process, other than seeds;

“Eel River Bar Lands” means Eel River Bar First Nation lands presently under the jurisdiction and control of the Eel River Bar First Nation Government and in which all members have a common interest, and any and all lands that may be added thereto in the future;

“Enforcement Officer” means an officer of the Eel River Bar Cannabis Authority;

“fresh cannabis” means freshly harvested cannabis buds and leaves, other than seeds or plant material that can be used to propagate cannabis;

“illegal cannabis” means cannabis that is or was produced, imported, distributed or sold otherwise than in accordance with this law or not licensed in accordance with the Eel River Bar Cannabis Authority;

“minor person” means a person who is less than nineteen (19) years of age

“Office” means the Eel River Bar Cannabis Control and Quality Assurance Office, as established under section 5 of this Law;

“Person” means any natural or legal person;

“Regulation” means a Regulation enacted under and for the purposes of the application of this Law by the Eel River Bar Cannabis Control and Quality Assurance Office;

“residence” means a dwelling unit, house or building in which one resides as their home, with the intent to stay for an undetermined period and with the intent to return to, irrespective of the nature of possessory or

“sale” in respect to cannabis, means any sale or intended sale at retail for purposes of consumption or use;

2.2 Scope of application

This law shall apply to Eel River Bar First Nation Lands and to all people residing or visiting these lands.

3. General prohibition on distribution and sale of cannabis within Eel River Bar First Nation

3.1 Except as permitted under this Law or relevant Regulations, no person shall:

(a) Engage in the distribution and sale of cannabis in or from Eel River Bar lands;

(b) Use, sell, distribute or produce cannabis in a public place, or any other place that is adjacent to a school, public playground or daycare facility;

(c) Be in possession, in a public place, of more than thirty (30) grams of dried cannabis or its equivalent in other forms in the following amounts;

- 5 grams of fresh cannabis
- 15 grams of edible product
- 70 grams of liquid product
- 0.25 grams of concentrates
- 1 cannabis plant seed

d) cultivate more than four (4) cannabis plants, per residence, or be in possession of the equivalent amount of fresh or dried cannabis harvested from those plants in her or his residence for personal use purposes.

3.2 Notwithstanding any other provisions in this Law or relevant Regulations, it is strictly prohibited:

(a) To engage in the distribution and sale of, illegal cannabis;

(b) To distribute and sell cannabis to a minor person;

(c) To distribute or sell any cannabis cultivated and harvested pursuant to paragraph 3.1 (d) of this Law;

(d) For a minor person to distribute and sell cannabis.

4. Exemption

4.1 Notwithstanding anything in this Law, the Eel River Bar First Nation Government is exempted from the general prohibition of sale of cannabis as provided for in paragraph 3.1 (a) of this Law.

4.2 The Eel River Bar First Nation Government may, for the benefit of the community, engage in the distribution and sale of cannabis within Eel River Bar lands, insofar as:

Eel River Bar Government owns and controls 100% of the distribution and sale of cannabis within the lands of Eel River Bar First Nation;

The business operations are deemed to serve the inclusive and sustainable economic growth of the community;

Necessary measures are taken to ensure that the business operations do not defeat the protective purpose of this Law; and,

The business operations are conducted in strict compliance with this Law and its Regulations.

4.3 An approved registered band member for licensing under as per criteria under section 5.

5. Licensing authority and process

Cannabis Control and Quality Assurance Office

Is hereby instituted the regulatory body, Eel River Bar Cannabis Control and Quality Assurance

- 5.1 Eel River Bar Cannabis Control and Quality Assurance, in charge of enforcing and administering this Law and enacting regulations to ensure its application; the whole in accordance with this Law.
- 5.2 The office (governing board) shall be composed of five (5) members to be selected by Eel River Bar Government for a term of (3) years, and with a possibility of a renewable term.
- 5.3 To be eligible for selection as a member of the regulatory body board, a person must:
 - (a) be a community member, residing within a 25 km radius of Eel River Bar lands;
 - (b) be at least nineteen (19) years of age;
 - (c) not have any interest, whether directly or indirectly, in a private entity having an actual or potential interest in a matter related to the application of this Law;
 - (d) have no criminal conviction for an indictable offence or have received pardon for any such conviction.

Terms of Reference

- 5.4 The Council shall replace any member of the Office is the member resigns or is deemed unable or unfit to assume its functions by the Office, in accordance with its Directives.
- 5.5 The Office members shall appoint a Chairperson and a Secretary among themselves by majority vote.

- 5.6 Meetings of the Office shall be held with a quorum of not less than three (3) Office members and decisions of the Office shall be made by majority vote of at least three (3) present or represented members.
- 5.7 The Office shall hold meetings one a year, or at the call of the Chairperson or a majority of its members.
- 5.8 The Office has the authority to issue Directives governing its internal operations and functioning, include a Code of Conduct for its members.

Mandate

- 5.9 The Office has the authority to:
 - (a) To oversee the distribution and sale of cannabis within the Lands of Eel River Bar;
 - (b) Issue, suspend and revoke the licenses provided in this Law and its Regulations;
 - (c) Regulate, monitor and inspect all the premises and activities of license holders to ensure compliance with the relevant license requirements; and,
 - (d) Make any relevant decisions and take any actions deemed necessary to fulfill the purposes of the Regulations enacted under this Law.
- 5.10 The Office shall publish and make available for consultation to all community members, on an annual basis, the aggregate revenues earned from and expenses incurred by the Eel River Bar First Nation Government from distribution and sale of cannabis.

Licences

- 5.11 The Office is in charge of assessing the applications, and issuing and administering the following categories of licenses:
 - a) Sale/Dispensary License;
- 5.12 Notwithstanding any other provisions of this Law and unless otherwise provided in its Regulations, the Distribution License and its subcategories may be granted to an Eel River Bar Community dispensary that is separate from the elected governing body and controlled by the cannabis authority office, or another business that is owned and controlled by 100% by an Eel River Bar registered band member, in accordance with paragraph 4.2 of this Law and eligible band members approved under the

licensing as per provisions of this Law in accordance with paragraph 4.3 of this Law;

Regulations

- 5.13 In fulfilling its mandate, the Office shall enact Regulations as required to ensure the proper implementation of this Law, namely Regulations providing for:
- a) The eligibility criteria and prior conditions of application for each license, including security background checks of owners, directors and personnel of license holders;
 - b) The application process, form and requirements in respect of each licence, applicants must be owned and operated 100% by a registered band member and must be of legal age of 19;
 - c) Applicable annual fees, term and renewal conditions in respect of each license; the license fee is \$1,000 monthly. Payments are due quarterly and on the first of the month. First payment upon license approval is due before license is issued.
 - d) The conditions of operations and restrictions applicable to sale/dispensary license-holders; such as the location of points of sale, the hours of operation, and the maximum amount of cannabis that can be distributed or sold within a specified period of time, the physical structure, ie; the location shall be and independent and separate from any band owned or financed residential building, nor shall it be located in a basement, attic, or porch;
 - e) The conditions applicable to advertising and marketing activities and packaging and labeling requirements
 - f) Quality assurance standards to ensure that all cannabis produced, distributed and sold within Eel River Bar are consistently and reliably safe and quality-controlled;
 - g) Standards regarding the composition, strength, concentration, potency, purity or quality or any other property of cannabis and cannabis products produced, distributed and sold within Eel River Bar Lands;

- h) The maximum and minimum prices for which cannabis and cannabis products can be sold by a licenced producer, distributor and point of sale;
- i) Procedures for addressing breach of provisions of this Law or its Regulations by license holders and applicable sanctions, including suspension and revocation of the license, fines not exceeding the amount of \$2,500.00
- j) mandatory measures and systems that producers, distributors and points of sale should put in place to ensure strict compliance with the provisions of section 3 this By-Law;
- k) licencing requirements and conditions of online sale of cannabis;
- l) the minimum safety and security standards, youth protection measures and reporting obligations;
- m) harm reduction mechanisms or services for users and preventative education measures for the youth.

5.14 In order to be enforceable, all Office Regulations shall be annexed to the present By-Law, after having received prior approval of the Council through an Order-in-Council

Funding and Finances

5.15 For the interim period, as needed, the Council shall provide the Office an annual operational budget to ensure the Office can satisfy its duties and responsibilities under this By-Law. During this period, members of the Office may be remunerated for the time required to provide the services associated with their offices, as determined by Council.

5.16 Licencing fees, fines and other amounts collected by the Office shall be collected by the Office and set aside in order to ensure the Office is financially self-sustaining.

6. Offences and penalties

6.1 Any person commits an offence under paragraphs 3.1 (a) and 3.2 of this Law is liable on summary conviction to:

(a) a fine and or the withholding of future royalties and/or any of Eel River Bar program benefits in the amount of up to one two thousand five hundred dollars (\$2,500.00)

6.2 Each day a person is in contravention of the provisions of this Law represents a separate offence and is subject to the penalties set forth under subsection 6.1 of this law

6.3 subject to any criminal penalty under the criminal code of Canada

7. Enforcement

7.1 This Law and its Regulations are enforceable by an Enforcement Officer

7.2 Where an Enforcement Officer has reasonable grounds to believe to a person subject to this Law to be or have been contravention thereof, she or he may:

(a) issue a warning and / or immediately discontinue the distribution and sale of cannabis;

b) with warrant, except if otherwise authorized by the law, conduct a reasonable search of the person and any objects in her or his immediate possession;

c) take the necessary measures to initiate proceedings against any person having contravened the provisions of this law.

7.3 the cannabis authority officer may liaise with and collaborate with local RCMP.

7.4 An Enforcement Officer may, with warrant except if otherwise authorized by the law, conduct a reasonable search of any building, premises or place of business situated within the Eel River Bar Lands in which there are reasonable grounds to believe that the By-Law was contravened or an offence under this By-Law is being or was committed.

8. Coming into force

8.1 The provisions of this Law shall come into force and effect on the date of its publication in the *First Nations Gazette*, after having been:

(a) Reviewed and received positive endorsement after community engagement and consultation has taken place.

(b) duly executed by a quorum of Council.

9. Amendment

9.1 This Law may be amended following the same procedure as its enactment and as per the need and as a recommendation from the Eel River Bar Cannabis Control and Quality Assurance Office

THIS LAW IS HEREBY enacted by a quorum of the Eel River Bar Chief and Council at a duly convened council meeting on this 20th day of April, 2021.

Quorum: 5

Chief

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor