

PROCLAMATION OF THE MI'KMAQ CANNABIS REGIME (2019)
EFFECTIVE _____

The Mi'kmaq of Nova Scotia hold Aboriginal Title, Aboriginal Rights and Treaty Rights over our territory of Mi'kma'ki. This is our land, over which we have authority in accordance with our own values and governing principles. We have never ceded Rights or Title to Mi'kma'ki.

Our relationship with the land, water and all wildlife in Mi'kma'ki laid the foundation for how we interact and govern ourselves, as an expression of Mi'kmaq law ways. It is, and has always been, our responsibility to provide for and preserve our Nation, to protect our language, culture and Rights, and to ensure health, sustainability and prosperity for our present and future generations.

The Nova Scotia Mi'kmaq Chiefs repeat and confirm our Nationhood Proclamation issued on October 1, 2008. We possess the inherent right of self-government, as an aspect of our Aboriginal Title, as an incident of our Aboriginal Rights, and as protected by our Treaties. These jurisdictions exist to protect our autonomy and our identity.

That right of self-government is recognized and protected by the *United Nations Declaration on the Rights of Indigenous Peoples*, which the Government of Canada endorsed on November 12, 2010, acknowledging it to be a protected section 35 constitutional right.

Our right of self-government includes the right for our Nation to make decisions as to the use of our lands, and to have effective political structures for making those decisions. It extends to all matters of governance that are essential to the preservation of the identity and autonomy of our Nation in a complex and changing world; these are matters that are internal to our Nation. We need to protect and nurture our Citizens, including those living on our reserve Aboriginal Title lands. We control those lands and it is for us to regulate commercial activities on them in a way which facilitates overall well-being and an appropriate standard of living for our Citizens.

The health, safety and well-fare of the members of our Nation are of fundamental concern to us. We have always used plants, herbs and grasses for our spiritual, physical and emotional health. Until recent decades, natural medicines were almost the only kind commonly available for Mi'kmaq. We need to increasingly recognize the value that the consumption and use of natural life provides to the overall well-being of our people, while at the same time reducing the use of unhealthy and illicit drugs in our communities. We need to help our Citizens who may be struggling with drug addiction, to reduce drug abuse, and to provide access to tax-free marijuana on reserve as required by the *Indian Act*.

We also need to identify additional sources of revenue, to finance initiatives required by our communities and to operate our governments. Our Citizens are subject to

discrimination in the provision of health care, as there are services not funded for our Citizens that are available to other Nova Scotia residents. Some examples of these health gaps include failure to provide acute nursing services, failure to provide required medical supplies, including critically important medications, and a lack of chronic nursing and home support services. There are also issues pertaining to the hours of operation of in-community health care providers and the scope of practice of in-community health care providers. We need funding to assist our Citizens in securing the health services that they need and deserve.

In 2018, the Canadian government passed the *Cannabis Act*, S.C. 2018, c. 16. The Province of Nova Scotia passed Bill 108, *Cannabis Control Act*, 1st Sess, 63rd Leg, Nova Scotia, 2018. Neither level of government involved the Mi'kmaq in their law-making or regulatory processes. Further the federal government ignored indigenous government rights by extending licencing privileges only to the province, leaving out the indigenous government of the Mi'kmaq.

This process, imposed without the adaptations required to reflect indigenous realities, has ignored Mi'kmaq jurisdictional integrity, and is therefore compromising the health, safety and well-being of Mi'kmaq communities in Nova Scotia. To effectively combat the destructive effect of illegal drug use and of prescription drug abuse in our communities, special measures are required that take into account the unique circumstances, culture, traditions, character and composition of our communities.

Our communities have, for many years, been subject to federal and provincial laws, practices and policies aimed at our extinction or assimilation, and, in some cases, genocide of our people. Our communities suffer from the legacy of these federal and provincial intrusions, some of which continue to operate. We have residential school survivors, and their families, for example, who are struggling to cope and live healthy lives. As a result of these externally-imposed laws and policies, we have a mental health crisis in our communities, problems with family violence, and struggles with addiction.

Despite government-sanctioned Reports, Commissions and Inquiries, not much has changed, as can be seen by our exclusion from the 2018 cannabis regimes of the federal and provincial governments.

We Mi'kmaq have the power to restore health and well-being to our communities. There are many internal Mi'kmaq successes. We are continuing that work with the development of our Mi'kmaq Health authority, for example. We cannot wait for outsiders to finally recognize what we need, and wait for them to decide to help us. As can be seen from our exclusion from the 2018 federal and provincial cannabis regimes, reconciliation remains, mostly, just talk, with little positive action. When it comes to money and power, the federal and provincial governments want it all.

We need to do this important work ourselves. We can do this important work ourselves.

We proclaim this Mi'kmaq Cannabis Regime to be in force and effect, governing cannabis production, distribution, sale, possession and use. The principles of our Mi'kmaq Cannabis regime include:

1. Protection of health and safety of users of cannabis on our reserves;
2. Encouraging the responsible social use of cannabis while limiting potential harm;
3. Protecting young people from the dangers of cannabis;
4. Establishing a stable and well-regulated cannabis market that minimizes involvement with criminal activity;
5. Protecting Aboriginal Rights, Aboriginal Title and statutory tax exemptions;
6. Promoting regulatory consistency; and
7. Providing funding for self-government initiatives, including over health, safety and the well-being of our communities.

In any instance of conflict between the federal *Cannabis Act* or the provincial *Cannabis Control Act*, we declare this Mi'kmaq regime to be paramount on Mi'kmaq reserves, and in dealings between indigenous communities. We reject and expressly displace the applicability of the *Cannabis Control Act* on our reserves, including in particular section 20 thereof.

This Mi'kmaq Cannabis Regime will utilize sections 81 and 85.1 of the *Indian Act*, to the extent that they are not inconsistent with our section 35 Rights and Title.

The Mi'kmaq Cannabis Regime

Definitions:

In the following:

- “Authorized Mi'kmaq Cannabis Seller” means a First Nation, a corporation or other entity owned by one or more First Nations, or one or more individual Mi'kmaq, licensed under this regime to sell cannabis;
- “Authorized Mi'kmaq Cannabis Grower” means a First Nation, a corporation or other entity owned by one or more First Nations, or one or more individual Mi'kmaq, licensed under this regime to grow cannabis and sell it to Authorized Mi'kmaq Cannabis Sellers;
- “Authorized Mi'kmaq Cannabis Wholesaler” means a First Nation, a corporation or other entity owned by one or more First Nations, or one or more individual

Mi'kmaq, licensed under this regime to acquire cannabis from outside the reserve and sell it to Authorized Mi'kmaq Cannabis Sellers;

- “Cannabis” means anything from the plant genus *Cannabis*, including cannabis seeds;
- “Cannabis Accessory” means any item, including rolling papers or wraps, holders, pipes, water pipes, bongs or vaporizers, that is represented to be used or customarily used in the consumption of cannabis;
- “Licence” means a licence issued in accordance with this regime to an Authorized Mi'kmaq Cannabis Seller, Authorized Mi'kmaq Cannabis Grower, or Authorized Mi'kmaq Cannabis Wholesaler;
- “Minor” means a person under the age of 19;
- “produce cannabis products” means the performance of any process or method by which the physical or chemical properties of cannabis are altered, extracted or combined with other substances, including but not limited to oils and edible cannabis products;
- “Public Place” means a building, structure or location (such as a park or playground) to which members of the public or community have access by express or implied invitation; and
- “Vehicle” includes any form of motorized transport (including motorcycle or ATV).

Sale, Growth, Possession, Production and Distribution

1. It shall be lawful for a First Nation, a corporation or other entity owned by one or more First Nations, or for one or more individual Mi'kmaq with the support of their First Nation Chief and Council, to sell cannabis at retail on one or more Mi'kmaq reserves in Nova Scotia if licensed under this regime as an Authorized Mi'kmaq Cannabis Seller.
2. If licensed under this regime as an Authorized Mi'kmaq Cannabis Grower, it shall be lawful for a First Nation, a corporation or other entity owned by one or more First Nations, or for one or more individual Mi'kmaq with the support of their First Nation Chief and Council, to grow cannabis or produce cannabis products on reserve for sale to one or more Authorized Mi'kmaq Cannabis Sellers.
3. If licensed under this regime as an Authorized Mi'kmaq Cannabis Wholesaler, it shall be lawful for a First Nation, a corporation or other entity owned by one or more First Nations, or for one or more individual Mi'kmaq with the support of their First Nation Chief and Council, to acquire cannabis from outside the reserve and sell it to Authorized Mi'kmaq Cannabis Sellers.
4. The Assembly will adopt, by regulation, licensing processes and other requirements, including for inspections, reporting, audit and compliance.

5. Except as otherwise provided herein, an Authorized Mi'kmaq Cannabis Seller may purchase, possess, sell and distribute cannabis, cannabis products, or Cannabis Accessories on reserve in Nova Scotia.
6. An Authorized Mi'kmaq Cannabis Seller may transport or deliver cannabis, cannabis products, or Cannabis Accessories from one reserve in Nova Scotia to another reserve in Nova Scotia, provided such cannabis is in a closed container or is not accessible to any person in the Vehicle, and may use a common carrier or other person to transport or deliver such material for them.
7. An Authorized Mi'kmaq Cannabis Seller shall not:
 - (a) sell or distribute cannabis unless the cannabis has been produced by a person who is authorized under the *Cannabis Act* (Canada), the *Cannabis Control Act* (Nova Scotia) or this Mi'kmaq Cannabis Regime to produce or wholesale cannabis;
 - (b) possess, produce, sell, or distribute anything with the intention that it will be used to produce, sell or distribute illicit cannabis; or
 - (c) sell or distribute cannabis or any Cannabis Accessory to a Minor.
8. An Authorized Mi'kmaq Cannabis Seller shall:
 - (a) keep appropriate records respecting its activities in relation to cannabis, to cannabis products or to Cannabis Accessories that it possesses for commercial purposes; and
 - (b) take adequate measures to reduce the risk of cannabis it possesses for commercial purposes being diverted to an illicit market or activity.
9. No person, other than an Authorized Mi'kmaq Cannabis Seller, shall, on a reserve in Nova Scotia:
 - (a) sell cannabis, or operate a store that sells cannabis;
 - (b) cultivate more than four (4) cannabis plants per residence; or
 - (c) be in possession of more than thirty (30) grams of dried cannabis or its equivalent in another form.
10. Notwithstanding sections 9 and 16 (a), a patient, including a Minor, holding a valid prescription for medical cannabis may possess cannabis in accordance with the terms of his/her prescription. Any person relying on this provision may be

required to show his or her prescription at the request of authorized enforcement official or peace officer.

11. No person on a reserve in Nova Scotia shall knowingly sell or distribute cannabis to an individual who is or appears to be intoxicated.
12. No person shall promote or advertise cannabis or Cannabis Accessories by means of a testimonial or endorsement.
13. The sale of cannabis or Cannabis Accessories by means of a display that allows for self-service or through a dispensing device (i.e. a vending machine) is prohibited.
14. No person, including a licence-holder, may use cannabis in a Public Place or in any other place that is adjacent to a school, public playground or daycare facility during its operating hours.

Prohibition on Consumption in Vehicle

15. No person on a reserve in Nova Scotia shall consume cannabis in a Vehicle.

Minors

16. No Minor may, on any reserve in Nova Scotia:
 - (a) possess, distribute, consume, purchase or attempt to purchase cannabis;
 - (b) cultivate, propagate or harvest cannabis or offer to cultivate, propagate or harvest cannabis;
 - (c) purchase or attempt to purchase a Cannabis Accessory; or
 - (d) enter into a licensed cannabis store.

Adoption of this Cannabis Regime

17. First Nations who proclaim this Mi'kmaq Cannabis Regime in effect in their communities will be expected to pass one or more Band Council Resolutions, in form similar to that in Appendix "A", which will:
 - (a) Identify areas on their reserve(s), such as near schools, day cares, arenas, recreation areas, libraries or children play areas, where cannabis stores are not permitted;

- (b) Identify areas on their reserve(s) where consumption of cannabis is not permitted, except by special permit;
- (c) Cause illegal sellers of cannabis (and other illegal drugs) on reserves to be deemed to be trespassers.

License Application

- 18. The process to apply for a Licence shall be determined by Assembly regulation. A Licence shall be valid for a term of one year, and may be renewed annually. A Licence is not transferable and an unapproved change of control of the Licence-holder will void the Licence.

Licensee Responsibilities

- 19. A Licence holder shall maintain adequate security for their location, including, but not limited to, locks on all doors, a security system with surveillance recorders, and proper employee checks and balances.
- 20. A Licence holder may not breach any term of their Licence. Any such breach may be cause for cancellation of the Licence.
- 21. The Assembly will pass regulations with respect to storage of cannabis, safe packaging, labeling, inventory controls and record-keeping.
- 22. An Authorized Mi'kmaq Cannabis Seller may sell Cannabis Accessories and related retail merchandise.
- 23. Licence holders may advertise their business but such advertising (a) must not be false, misleading or deceptive and (b) must not be directed at Minors or contain images, symbols or information that may be particularly appealing to Minors.
- 24. Licence Holders will pay a royalty (to be determined by future Assembly regulation) to fund programs for public education, addiction counseling, etc., which will, among other things:
 - (a) address the risk of drug abuse;
 - (b) protect the health and safety of users of cannabis and of community members;
 - (c) encourage responsible use of cannabis while minimizing potential harm;
 - (d) protect Minors from the dangers of cannabis; and

(e) establish a stable and regulated cannabis environment that minimizes involvement with criminal activity.

25. Sales by an Authorized Mi'kmaq Cannabis Seller are to be in compliance with the exemption from tax provided for in section 87 of the *Indian Act*.

Enforcement and Punishment

26. The Assembly may appoint a Cannabis Control Office and one or more inspectors or other enforcement officials to carry out roles consistent with upholding the provisions of this regime. No person shall interfere with or obstruct any such officer in the performance of his or her duties.
27. Any person who breaches this regime commits an offence and is liable on summary conviction to a fine, imprisonment not exceeding thirty (30) days, or both. In addition, the Mi'kmaq or any applicable Chief and Council may apply to a court of competent jurisdiction for an order enforcing this regime or prohibiting the continuation of or a repetition of a breach of this regime.
28. Offences committed by an employee of a Licence holder will be deemed to have been committed by the Licence holder.
29. A Cannabis Licence may be suspended or revoked for breach of any licence requirements or conditions.
30. At any point of entry onto a Mi'kmaq reserve in Nova Scotia, it shall be lawful for an inspector, authorized enforcement official, or peace officer to inquire of any person whether they have in their possession any cannabis, any other illegal drug, or any quantities of prescription drugs in excess of what is required by prescription for their personal use. Any non-resident of the reserve can be denied entry to the reserve for a refusal to answer such inquiries, or for possession of cannabis or other drugs in a manner not consistent with the rules provided for in this regime.

This Mi'kmaq Cannabis Regime is an evolving document and will be updated or amended as required.

Certified on this ____ day of _____, 20__.

Appendix "A"
Sample Cannabis Band Council Resolution

FIRST NATION GOVERNMENT:

DATE:

**Re: RESOLUTION RESPECTING THE IMPLEMENTATION OF THE MI'KMAQ
 CANNABIS REGIME**

QUORUM OF COUNCIL:

WHEREAS: A quorum of the First Nation Council (the "Council") met on the ___ day of ___ 20__;

AND WHEREAS the Mi'kmaq Chiefs of Nova Scotia have proclaimed a Mi'kmaq Cannabis Regime as an exercise of constitutional self-government effective _____,

AND WHEREAS pursuant to the *Indian Act*, the Council is empowered to act on behalf of the _____ First Nation (the "First Nation"), including in accordance with sections 81 and 85.1 thereof;

NOW THEREFORE BE IT RESOLVED THAT:

1. The _____ First Nation adopts participation under the Mi'kmaq Cannabis Regime in force on its reserves.
2. Cannabis stores will not be permitted on our First Nation reserve(s) within 100 metres of schools, licensed day cares, arenas, recreation areas, libraries or designated public playgrounds.
3. Council reserves the right to establish zoning on its reserve(s) that will control where cannabis sale or cultivation activities can occur.
4. Any person who grows, produces, wholesales, sells or distributes cannabis on our Reserve(s) without having the appropriate Mi'kmaq licence is deemed to be a trespasser and commits an offence under section 31 of the Indian Act, subject to a fine, imprisonment, or both.

Duly passed on _____, 20__.

Chief

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor