

Nipissing First Nation DRAFT Cannabis Law Consultations

April 2019



Cannabis laws in Canada

- Federal - Cannabis Act (Bill C-45) – other
 - Production, distribution;
 - Health and safety;
 - Criminal prohibition;
- Provincial - Ontario law
 - Personal use;
 - Sales;
 - Certain Taxation;
 - Enforcement;



Ontario Cannabis Control Act, 2017

- **Agreement with council of the band**
- **26 (1)** Subject to subsection (2) and to the approval of the Lieutenant Governor in Council, the Minister may, on behalf of the Crown, enter into arrangements and agreements with a council of the band with respect to the sale, distribution, purchase, possession, consumption, cultivation, propagation or harvesting of cannabis on a reserve.



Section 88 Indian Act

- Subject to the terms of any treaty and any other Act of Parliament, all laws of general application from time to time in force in any province are applicable to and in respect of Indians in the province, except to the extent that those laws are inconsistent with this Act or the *First Nations Fiscal Management Act*, or with any order, rule, regulation or law of a band made under those Acts, and except to the extent that those provincial laws make provision for any matter for which provision is made by or under those Acts.



Gichi-Naaknigewin (Constitution)

- section 11.5 Nipissing First Nation has the power to make laws on the rights and freedom of its Debendaagziwaad and the privileges of Endaawaad;
- Section 6.1 (a) of the Nipissing First Nation Land Code, Nipissing First Nation may make land laws for the development, conservation, protection, management, use and possession of Nipissing First Nation land;



Purpose of the Cannabis Law

- for the purposes of improving the health, safety and well-being of our community and citizens and to support and manage community and economic development.
- This law shall apply on all Lands within the boundaries of Nipissing First Nation.
- This law does not apply with respect to the sale, distribution, purchase, possession, consumption, of cannabis for medical purposes in accordance with the Cannabis regulations of Canada.



General rule in the law

2. All applicable federal Cannabis and Ontario Cannabis laws shall apply on the Lands within the boundaries of Nipissing First Nation to the extent that they are not inconsistent with this Cannabis law.
3. This means all federal and provincial laws respecting cannabis apply unless the Nipissing First Nation cannabis law contradicts or inconsistent with it;



Personal Use

- No person under 21 years of age shall possess, consume, attempt to purchase or distribute Cannabis.
- No person shall purchase Cannabis except from an Authorized Cannabis Retailer.
- No person shall consume Cannabis in a Public Place.
(roads, streets, parks, or other areas generally accessible to the public)



Commercial Retail

- No person shall sell Cannabis, Cannabis extracts or Cannabis accessories or products that may contain Cannabis, other than an Authorized Cannabis Retailer.
- An Authorized Cannabis Retailer shall not sell Cannabis or Cannabis products other than Cannabis obtained from a producer authorized by permit issued by Nipissing First Nation.
- No person shall sell or distribute Cannabis to a person under 21 years of age.
- No person shall distribute Cannabis that is sold, or is intended to be sold, other than by an Authorized Cannabis Retailer.



Commercial Retail

- Nipissing First Nation may make regulations respecting retail sales of Cannabis and Cannabis accessories, including authorizing cannabis retail operations, location, security, bonding, advertising, display and promotion of cannabis;
- No person may sell Cannabis from a mobile or temporary structure, or a household dwelling where people normally reside. Commercial Cannabis must be sold exclusively from the Authorized Cannabis Retailer's Cannabis retail store.



Commercial Retail

- An Authorized Commercial Retailer may be granted a Cannabis Retail Store Permit if the following circumstances apply:
 - a) They are a member of Nipissing First Nation;
 - b) They have clear criminal record check;
 - c) They agree to possess a Nipissing First Nation business license;
 - d) They are in compliance with all Nipissing First Nation laws and by-laws;
 - e) The proposed location of the Cannabis Retail Store is not in a residential area, and can be safely accessed by the public.
 - f) They agree to enter into an agreement with Nipissing First Nation in regards to Cannabis retail sales.
 - g) Authorizing the Cannabis retail store to them is in the interests of the community;



Commercial Retail

- An application the Authorized Commercial Retailer must include a written expression of interest including which geographic area(s) the person wishes to locate a Cannabis retail store and how the Cannabis retail store will work towards the following objectives:
 - a. Protecting community and citizen health and safety.
 - b. Protecting youth and restricting their access to Cannabis.
 - c. Preventing illicit activities in relation to Cannabis.
 - d. Keeping appropriate records respecting their business activities in regards to Cannabis.
 - e. Efficient and effective administration of a community health and benefit fee.



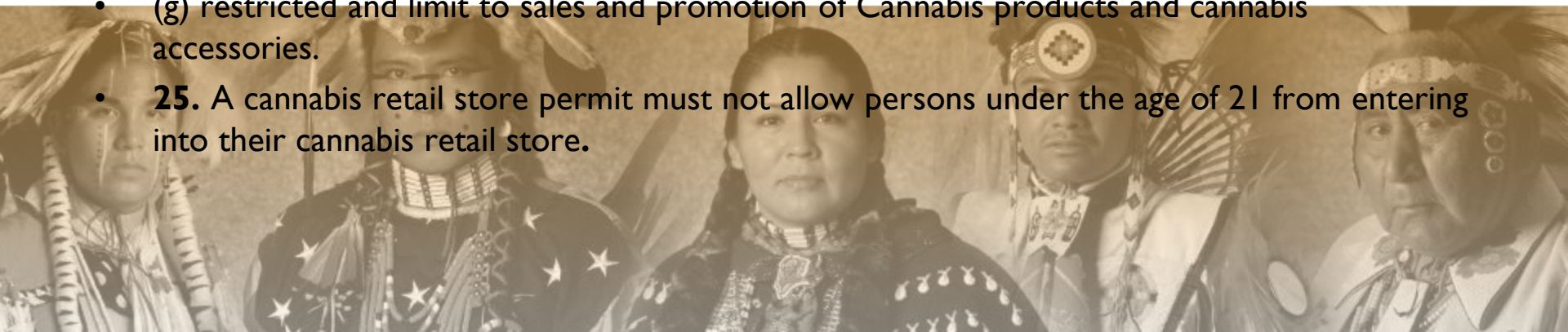
Commercial Retail

- A Cannabis retail store permit is conditional upon the Authorized Commercial Retailer entering into and maintaining compliance with an agreement with Nipissing First Nation that includes a community health and benefit fee.



Commercial Retail

- A Cannabis retail store must:
- (a) be physically separate from other non-cannabis related retail space in the building so that individuals under 21 may be restricted from the area and restricted from viewing the retail space for cannabis;
- (b) be a permanent commercial grade building and fully enclosed physically with walls;
- (b) be staffed with individuals over the age of 21;
- (c) verify identification of individuals who appear to be under the age of 25 to verify that they are at least 21 years of age;
- (d) have staff that are trained on compliance with federal, provincial and First Nation Cannabis laws and responsible Cannabis sales;
- (e) not advertise nor promote their products by making reference to the medicinal or indigenous spirituality or culture;
- (f) not sell edibles that could be mistaken as not containing Cannabis by children;
- (g) restricted and limit to sales and promotion of Cannabis products and cannabis accessories.
- **25.** A cannabis retail store permit must not allow persons under the age of 21 from entering into their cannabis retail store.



Commercial Cultivation - Production

- No person shall cultivate Cannabis for commercial purposes other than those authorized by permit issued by Nipissing First Nation.
- No person shall produce Cannabis and cannabis products for commercial purposes other than those authorized by permit issued by Nipissing First Nation.
- No person under 21 years of age shall cultivate, propagate, harvest, produce or offer to cultivate, propagate or harvest Cannabis.
- Nipissing First Nation may make regulations respecting cultivation and production including authorizing Cannabis cultivation operations, security, quantities, and quality.
- No person may cultivate Cannabis or produce Cannabis products for commercial purposes in a private dwelling where people normally reside. Commercial Cannabis must be cultivated and produced exclusively on commercial premises identified in a permit issued by Nipissing First Nation.



Commercial Cultivation - Production

A person is eligible to apply for a commercial Cannabis cultivation or production permit if the following circumstances apply:

- a) They are a member of Nipissing First Nation;
- b) They have clear criminal record check;
- c) They possess a Nipissing First Nation business license;
- d) They are in compliance with all Nipissing First Nation laws and by-laws;
- e) They will enter into an agreement with Nipissing First Nation in regards to Cannabis commercial cultivation or production.
- f) Issuing a commercial Cannabis cultivation or production permit is in the interests of the community;



Commercial Cultivation - Production

- An application for a commercial Cannabis cultivation or production permit must include a written expression of interest including which geographic area(s) the person wishes to locate a Cannabis cultivation or production activity and how the commercial Cannabis cultivation or production activity will work towards the following objectives:
 - a. Protecting community and citizen health and safety.
 - b. Protecting youth and restricting their access to Cannabis.
 - c. Preventing illicit activities in relation to cannabis.
 - d. Keeping appropriate records respecting their business activities in regards to Cannabis.
 - d. Effective and efficient administration of a community health and benefit fee.



Commercial Cultivation - Production

- A commercial Cannabis cultivation or production permit may include conditions as determined by Nipissing First Nation.
- A commercial Cannabis cultivation or production permit is specific to the person and is non-transferable and is specific to the geographic location set out in the permit.
- A commercial Cannabis cultivation or production permit will be valid for a three (3) year period unless otherwise extended or renewed, and may be suspended, revoked or cancelled at any time with written reasons.
- A holder of a commercial Cannabis cultivation or production permit must immediately cease all operations if their permit is suspended, revoked or cancelled



Commercial Cultivation - Production

- A holder of a commercial Cannabis cultivation or production permit must retain the services of a qualified individual as a quality assurance person who has the training, experience and technical knowledge related to the requirements under Canada's legal quality standards for cannabis cultivation and production.



Conclusion

- To be compliant with Federal and Provincial laws an agreement is required with Ontario to recognized Nipissing's Cannabis law;
- The law may be asserted by Nipissing First Nation independent of an agreement with Ontario but there are risks for all involved in doing so.

