

# Pheasant Rump Nakota First Nation #68

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Chronological # 2019 / 06 / 19 - 03  
Year Month Day BCR #

WHEREAS Pheasant Rump Nakota First Nation ("Pheasant Rump") has always governed itself pursuant to its inherent right to self-government and traditional governance practices;

AND WHEREAS Pheasant Rump has always regulated the production and distribution of traditional medicinal plants for the purpose of promoting the health, safety and wellbeing of its members;

AND WHEREAS Pheasant Rump wishes to enact laws and regulations consistent with its traditional governance practices in order to regulate of the production and distribution of traditional medicinal plants on Pheasant Rump's reserves;

AND WHEREAS Pheasant Rump has prepared the Pheasant Rump Traditional Medicinal Plants Act (the "Traditional Medicinal Plants Act");

AND WHEREAS a draft version of the Traditional Medicinal Plants Act was reviewed and approved by Pheasant Rump members at a Pheasant Rump membership meeting held on May 16, 2019;

AND WHEREAS a majority of Pheasant Rump members in attendance at the May 16, 2019 meeting voted to proceed with the enactment and implementation of the Traditional Medicinal Plants Act;

AND WHEREAS the Council of Pheasant Rump has revised the Traditional Medicinal Plants Act to address comments and concerns raised by members at the May 16, 2019 meeting regarding the regulation of traditional medicinal plants, including cannabis, on Pheasant Rump's reserves;

AND WHEREAS a Council of Elders of Pheasant Rump has designated cannabis as a traditional medicinal plant within the meaning of the Traditional Medicinal Plants Act in accordance with the traditional governance practices of Pheasant Rump;

AND WHEREAS Part IV of the Traditional Medicinal Plants Act provides that the Council of Pheasant Rump may enact regulations consistent with the purpose of the Traditional Medicinal Plants Act;

AND WHEREAS Pheasant Rump has prepared the draft Cannabis Regulation pursuant to Part IV of the Traditional Medicinal Plants Act;

**NOW THEREFORE THE COUNCIL OF PHEASANT RUMP NAKOTA FIRST NATION RESOLVES TO:**

1. designate cannabis as a "Permitted Product" within the meaning of the Traditional Medicinal Plants Act;
2. take such steps as are necessary to enact and implement the Traditional Medicinal Plants Act, attached to this Band Council Resolution as Schedule "A;" and
3. take such steps as are necessary to enact and implement the Cannabis Regulation, attached to this Band Council Resolution as Schedule "B."

Signatures (quorum: 3) attesting to the approval and validity of this resolution.

  
Councillor Julie Kakakaway

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Councillor Misty McArthur

  
Councillor Juanita McArthur-BigEagle

  
Councillor Patsy McArthur Fleming

Approval, and witness to signatures:

  
Chief Ira McArthur

## **Pheasant Rump Nakota First Nation Traditional Medicinal Plants Act**

**BEING AN ACT OF THE PHEASANT RUMP NAKOTA FIRST NATION WITH A PURPOSE OF REGULATING THE PRODUCTION AND DISTRIBUTION OF TRADITIONAL MEDICINAL PLANTS WITHIN AND ON THE RESERVE LANDS OF THE PHEASANT RUMP NAKOTA FIRST NATION.**

**WHEREAS** Pheasant Rump has always governed itself and made decisions for its Members pursuant to its inherent right to self-government and Traditional Governance Practices

**AND WHEREAS** Pheasant Rump did not surrender its right to self-government on entering into Treaty 4 with the Crown

**AND WHEREAS** Pheasant Rump's inherent and aboriginal right to self-government continues to exist and is recognized and affirmed by section 35(1) of the *Constitution Act 1982* and articles 4, 20, 24, 34 and 35 of the *United Nations Declaration on the Rights of Indigenous Peoples*.

**AND WHEREAS** as part of the exercise of its right to self-government the Council of Pheasant Rump has and continues to make decisions to preserve and promote the health, safety and wellbeing of Pheasant Rump and its Members pursuant to its Traditional Governance Practices

**AND WHEREAS** Pheasant Rump has always regulated the production and distribution of Traditional Medicinal Plants for the purpose of promoting the health, safety and wellbeing of its Members pursuant to its Traditional Governance Practices;

**AND WHEREAS** as part of its regulation of the production and distribution of Traditional Medicinal Plants Pheasant Rump has always engaged in practices of sale, bargain and exchange with non-Members pursuant to its Traditional Governance Practices;

**AND WHEREAS** the Council of Pheasant Rump deems it in the best interests of Pheasant Rump and its Members as an expression and in furtherance of Pheasant Rump's right to self-government, to enact this legislation for the purpose of preserving and promoting the health, safety and wellbeing of Pheasant Rump and its Members

**AND WHEREAS** this Act represents the modern expression of Pheasant Rump's Traditional Governance Practices regarding the distribution of traditional medicinal Plants on Pheasant Rump Reserves.

**AND WHEREAS** the Council of Pheasant Rump has authority to enact by-laws pursuant to section 81 of the *Indian Act*, including for the purpose of providing for the health of residents on Pheasant Rump Reserves

**AND WHEREAS** the Council of Pheasant Rump wishes to enact this law pursuant to

(a) Pheasant Rump's inherent and aboriginal right to self-government as recognized under section 35(1) of the *Constitution Act, 1982*, and

(b) section 81 of the *Indian Act*

**AND WHEREAS** the Act has been approved by a Council of Elders in accordance with Pheasant Rump's Traditional Governance Practices.

**AND WHEREAS** at a duly convened meeting of Members the majority of Members present voted in favour of the Act:

**NOW THEREFORE THE COUNCIL OF PHEASANT RUMP ENACTS AS FOLLOWS:**

## **PART I – DEFINITIONS & PURPOSE**

### **Definitions**

1. In this Act.

(a) "Act" means the *Pheasant Rump Traditional Medicinal Plants Act*;

(b) "Activity" means an activity carried out pursuant to a Permit.

(c) "Application Fee" means a non-refundable fee in an amount prescribed by the Council of Pheasant Rump payable to the Council of Pheasant Rump as part of an application for a Permit.

(d) "Council of Elders" means Members who exercise decision-making authority as elders or knowledge-keepers in respect of Traditional Medicinal Plants pursuant to Pheasant Rump's Traditional Governance Practices

(e) "Council of Pheasant Rump" means the duly-elected chief and council of Pheasant Rump

(f) "Criminal Organization" has the same definition as in the *Criminal Code*, RSC 1985, c C-46;

(g) "Federal Law" means a law or regulation enacted by the Government of Canada;

(h) "*Indian Act*" means the *Indian Act*, RSC 1985, c. 1-5

(i) "Member" means a member of Pheasant Rump

(j) "Minor" means a Person who has not attained nineteen (19) years of age

- (k) "Person" means any individual, firm, partnership, association, corporation, trustee, executor, administrator or legal representative.
- (l) "Permit" means a permit issued pursuant to this Act;
- (m) "Permitee" means an individual who holds a Permit;
- (n) "Permitted Product" means a plant listed in Schedule 'A' to this Act.
- (o) "Pheasant Rump" means Pheasant Rump Nakota First Nation
- (p) "Pheasant Rump Law" means a law enacted by the Council of Pheasant Rump;
- (q) "Pheasant Rump Reserve" means lands set aside as reserve for Pheasant Rump within the meaning of the *Indian Act*;
- (r) "Premises" means a location identified in a Permit for the sale or distribution of a Permitted Product;
- (s) "Prohibited Area" means an area within a Pheasant Rump Reserve in which the use and consumption of a Permitted Product is prohibited
- (t) "Provincial Law" means a law or regulation enacted by the Province of Saskatchewan
- (u) "Public" means an individual or individuals who are not Members;
- (v) "Renewal Fee" means a non-refundable fee in an amount prescribed by the Council of Pheasant Rump payable to the Council of Pheasant Rump as part of an application for a renewal of a Permit;
- (w) "Traditional Governance Practices" means the values, structures, processes and protocols of the traditional government of Pheasant Rump;
- (x) "Traditional Medicinal Plant" means a plant identified by the Council of Elders as a plant used to treat or promote the health and wellbeing of Members, and
- (y) "Traditional Medicinal Plants Council" means the Traditional Medicinal Plants Council established by the Council of Pheasant Rump pursuant to this Act

## **Purpose**

2. The purpose of this Act is to preserve and promote the health, safety and wellbeing of Pheasant Rump and its Members through the regulation of the production and distribution of Traditional Medicinal Plants on Pheasant Rump Reserves in a manner consistent with Pheasant Rump's Traditional Governance Practices, as expressed in

their modern form

## **PART II- DESIGNATION & DISTRIBUTION OF TRADITIONAL MEDICINAL PLANTS**

### **Designation of Traditional Medicinal Plants**

- 3 The Council of Elders may designate a plant as a Traditional Medicinal Plant in accordance with the Traditional Governance Practices of Pheasant Rump.

### **Designation of Permitted Products**

- 4 The Council of Pheasant Rump may designate any plant designated as a Traditional Medicinal Plant as a Permitted Product

### **Criminal Organization**

5. No Person shall distribute or sell a Permitted Product on a Pheasant Rump Reserve if the Permitted Product has been obtained from or through a Criminal Organization

### **Permit Required**

- 6 No Person shall produce, distribute, sell or operate a business for the purpose of distributing a Permitted Product on a Pheasant Rump Reserve unless that Person holds a valid Permit

### **Application for Permit**

- 7 The Council of Pheasant Rump may prescribe a form for an application for a Permit
8. A Person must apply to the Council of Pheasant Rump for a Permit in the manner and form prescribed by Council of Pheasant Rump and in accordance with the requirements set out in this Act and any regulations
- 9 An application for a Permit must include
  - (a) the Person's name and mailing address;
  - (b) a description of the nature and purpose of the Activity;
  - (c) a description of the location for the Activity
  - (d) the Application Fee in the amount prescribed by the Council of Pheasant Rump, and
  - (e) any further information as may be requested by the Council of Pheasant Rump
- 10 In addition to any other requirements under this Act, an application for a Permit must

include information describing

- (a) how the Activity will contribute to the health, safety and wellbeing of Pheasant Rump and its Members, and
- (b) the steps taken by the applicant to ensure that the proposed Activity is consistent with Pheasant Rump's Traditional Governance Practices

### **Issuance of Permit**

- 11 On receipt of an application for a Permit the Council of Pheasant Rump may issue a Permit if it is satisfied that
- (a) the application includes the required information set out in sections 9 and 10,
  - (b) the Activity will contribute to the health, safety and wellbeing of Pheasant Rump and its Members and is consistent with Pheasant Rump's Traditional Governance Practices

### **Conditions on Permit**

- 12 The Council of Pheasant Rump may impose any conditions on a Permit it deems necessary to
- (a) protect the health and safety of Pheasant Rump its Members and the Public; and
  - (b) ensure that the Activity is carried out in a manner consistent with the purpose of this Act
- 13 For greater certainty the Council of Pheasant Rump may prescribe, as a condition of a Permit, the maximum amount of the Permitted Product that a Permittee may sell or distribute within a specified period of time.
- 14 A Permittee shall comply with all conditions of a Permit

### **Renewal of Permit**

- 15 The Council of Pheasant Rump may prescribe a form for an application for the renewal of a Permit
- 16 A Permittee may apply for a renewal of a Permit in the manner and form prescribed by Council of Pheasant Rump in accordance with the requirements set out in this Act and any regulations within three (3) months before the expiration of the Permit term
- 17 An application for a renewal of Permit must include the Renewal Fee in the amount prescribed by the Council of Pheasant Rump

## **Refusal to Issue or Renew Permit**

18. The Council of Pheasant Rump may refuse to issue or renew a Permit if

- (a) in the case of an application for a Permit the application does not meet the requirements in sections 9 and 10 of this Act;
- (b) in the case of an application for the renewal of a Permit, the application does not meet the requirements prescribed by the Council of Pheasant Rump pursuant to sections 15 and 16 of this Act;
- (c) the Council of Pheasant Rump has reasonable grounds to believe that the Person has submitted false or misleading information in support of his or her application
- (d) the Council of Pheasant Rump has reasonable grounds to believe that the Person has failed to comply with the terms and conditions of any Permit previously issued under this Act;
- (e) the Council of Pheasant Rump has reasonable grounds to belief that the Person has participated or is involved in the sale or distribution of a Permitted Product obtained from or through a Criminal Organization or
- (f) the Council of Pheasant Rump is not satisfied that the Activity will further the purposes of the Act

19 Notwithstanding any other provision in this Act or regulations the Council of Pheasant Rump may refuse to issue or renew a Permit if it is of the opinion that the issuance or renewal of the Permit would be contrary to the best interests of Pheasant Rump, its Members or the Public

## **Suspension or Revocation of Permit**

20 Notwithstanding any other provision in this Act or regulations, the Council of Pheasant Rump may suspend or revoke a Permit at any time if it has reasonable grounds to believe that

- (a) the Permittee is in breach of any applicable Pheasant Rump, Federal or Provincial Law relating to the Activity;
- (b) the Permittee has participated or is involved in the sale or distribution of a Permitted Product obtained from or through a Criminal Organization, or
- (c) the Activity poses a risk to the health and safety of Pheasant Rump and its Members or the Public

### **Transfer of Permit**

21 A Permittee may not transfer a Permit to any other Person without the Council of Pheasant Rump's written authorization.

### **PART III – VIOLATIONS**

22 A Person who contravenes a provision in this Act or regulations commits a violation and is liable to a penalty of not more than the maximum amount fixed by regulation

23 In addition to any penalty or enforcement measure set out in this Act or regulations the Council of Pheasant Rump may require a Person who commits a violation to participate in restorative justice, healing or other activities consistent with the Traditional Governance Practices of Pheasant Rump

### **PART IV – TRADITIONAL MEDICINAL PLANTS COUNCIL**

24 The Council of Pheasant Rump may establish a Traditional Medicinal Plants Council for the purpose of.

(a) providing the Council of Pheasant Rump with guidance and advice on the production and distribution of Traditional Medicinal Plants on Pheasant Rump Reserves, and

(b) carrying out, under the direction of the Council of Pheasant Rump, administrative and enforcement procedures pursuant to this Act and regulations

25. The Traditional Medicinal Plants Council shall be composed of at least three (3) and not more than five (5) Members, including at least one (1) of each of the following

(a) a member of the Council of Pheasant Rump;

(b) an Elder; and

(c) an employee of the Pheasant Rump Nakota First Nation Health Clinic

### **PART V – GENERAL**

26 Nothing in this Act relieves a Person from complying with any applicable law or regulation including the terms and conditions of any permit issued under an applicable law or regulation

27 In the event that any provision of this Act is declared invalid or unenforceable for any reason by a court of competent jurisdiction all other provisions of this Act shall remain valid and enforceable

28 In the event of any conflict or inconsistency between this Act and any applicable



Federal or Provincial Law this Act shall prevail to the extent of such conflict or inconsistency

29 The Council of Pheasant Rump may enact regulations consistent with the purpose of this Act

30 This Act and any regulations enacted pursuant to this Act may be amended by way of a resolution of the Council of Pheasant Rump.

31 This Act comes into force on the date of publication in accordance with section 86 of the *Indian Act* and the customs and traditions of Pheasant Rump

This Act is hereby passed at a duly convened meeting of the Council of Pheasant Rump this 19<sup>th</sup> day of June, 2019

**SCHEDULE "A"**  
**PERMITTED PRODUCTS**

1 The following are Permitted Products within the meaning of this Act

(a) cannabis

## **Cannabis Regulation**

### **Pheasant Rump Nakota First Nation Traditional Medicinal Plants Act**

This Regulation is enacted by the Council of Pheasant Rump pursuant to the *Pheasant Rump Traditional Medicinal Plants Act*.

#### **PART I - DEFINITIONS**

- 1 The definitions set out in Part I of the Act apply to this Regulation
- 2 For the purposes of this Regulation "cannabis" includes any product which contains cannabis, but does not include cannabis plants

#### **PART II – PERMITS**

##### **Application and Renewal Fee**

- 3 The Application Fee for a Permit for the sale and distribution of cannabis is \$1 000
- 4 The Renewal Fee for an application for the renewal of a Permit for the sale and distribution of cannabis is \$1,000.

##### **Sale and Distribution**

- 5 No Person shall sell or distribute cannabis on a Pheasant Rump Reserve without a valid Permit.
- 6 A Permittee shall display his or her Permit in a visible location within the Premises.
- 7 No Permittee shall sell or distribute cannabis on a Pheasant Rump Reserve in a location other than the Premises identified in the Permittee's Permit
8. Except as expressly provided in the Act or this Regulation, no Permittee shall display or advertise cannabis for sale or distribution
- 9 No Permittee shall sell or distribute cannabis to a Person who appears to be intoxicated

##### **Minors**

- 10 No Permittee shall sell or distribute cannabis to a Minor

11 No Permittee shall allow a Minor on a Premises

12 A Permittee shall demand proof of age from

- (a) every Person who is attempting to purchase cannabis at a Premises, and
- (b) every Person on a Premises who appears or should reasonably appear to be a Minor

13. If a Person fails or refuses to provide satisfactory proof of age when requested to do so pursuant to section 10, the Permittee shall

- (a) refuse to sell cannabis to that Person if the Person is attempting to purchase cannabis, and
- (b) request that the Person leave the Premises immediately

### **PART III – PROHIBITED AREAS**

14 The following are designated as Prohibited Areas in respect of the possession and consumption of cannabis on a Pheasant Rump Reserve

- (a) a school or on the grounds surrounding a school,
- (b) a childcare facility
- (c) a playground, or
- (d) within 20 metres of the Prohibited Areas described in this Regulation.

15 Section 13 (b) does not apply to a childcare facility that is a group family childcare home or a licensed family childcare home during the times that no childcare services are being provided in the facility.

### **PART IV – PENALTIES**

16 If a Person fails to comply with any provision of the Act or this Regulation or any term or condition imposed on a Permit for the sale and distribution of cannabis, the Council of Pheasant Rump may

- (a) issue a penalty of not more than \$10,000, and
- (b) if applicable suspend or revoke the Permit.

17 No penalty is to be issued by the Council of Pheasant Rump more than 3 years after the date on which the failure to comply with the Act or this Regulation or any term or condition of a Permit first came to the knowledge of the Council of Pheasant Rump.

18. Before issuing a penalty against a Person or suspending or revoking a Permit, the Council of Pheasant Rump shall provide the Person with written notice:

- (a) setting out the facts and circumstances that, in the opinion of the Council of Pheasant Rump, render the Person liable to the penalty or the suspension or revocation of the Permit; the proposed amount of the penalty; and, if applicable the period of time during which the Permit may be suspended, and
- (b) advising the Person that he or she may make written representations to the Council of Pheasant Rump respecting the proposed penalty and any other circumstances which are relevant to the violation within fifteen (15) days of receipt of the written notice.

19. If a Person does not provide written representations to the Council of Pheasant Rump within fifteen (15) days of receiving the notice the Council of Pheasant Rump may:

- (a) assess a penalty up to the amount proposed in the notice,
- (b) determine the date by which the penalty is to be paid in full
- (c) if applicable, order that the Permit is revoked or suspended for a period of time as determined by the Council of Pheasant Rump

20. If a Person provides written representations to the Council of Pheasant Rump within fifteen (15) days of receiving the notice the Council of Pheasant Rump may

- (a) issue a further notice to the Person rescinding or varying the proposed penalty and suspension of the Permit if applicable, or
- (b) assess a penalty up to the amount proposed in the notice,
- (c) determine the date by which the penalty is to be paid in full and
- (d) if applicable, order that the Permit is revoked or suspended for a period of time as determined by the Council of Pheasant Rump