

**LAW NO. 19-01**

**ERMINESKIN CREE NATION  
CANNABIS LAW**

BEING A LAW OF THE ERMINESKIN CREE NATION WITH A PURPOSE OF REGULATING CANNABIS WITHIN THE ERMINESKIN CREE NATION RESERVE NO. 138.

**WHEREAS** the Ermineskin Cree Nation has and continues to exercise an inherent Aboriginal and Treaty Right to govern its citizens and lands that is recognized and affirmed by the *Ermineskin Tribal System Constitution (1983)*, as amended or replaced from time to time, Articles 34 and 35 of the *United Nations Declaration on the Rights of Indigenous Peoples* and Section 35 of the *Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK)*, 1982, c 11, and is protected by Treaty No. 6, 1876; and

**WHEREAS** Council of the Ermineskin Cree Nation deems it expedient and in the best interests of the Ermineskin Cree Nation to make a cannabis law for the health and safety of residents and the prevention of nuisance to residents;

**NOW THEREFORE, COUNCIL OF THE ERMINESKIN CREE NATION, DULY ASSEMBLED, ENACTS AS FOLLOWS:**

**PART I - TITLE, DEFINITIONS AND INTERPRETATION**

**1. SHORT TITLE**

1.01 This law may be known as the "Cannabis Law".

**2. DEFINITIONS**

2.01 In this Law, unless the context otherwise requires:

- (a) "**Appeal Committee**" means any three (3) member committee appointed by the Tribal Administrator to hear appeals under section 8.07 of this Law.
- (b) "**Cannabis**" has the meaning given to it in the *Cannabis Act*, SC 2018 c 16;
- (c) "**Cannabis Facility**" means any business engaged in growing, producing, processing, testing, destroying, storing, or distributing Cannabis;
- (d) "**Cannabis Store**" means any business engaged in the business of displaying, selling or offering Cannabis for sale;
- (e) "**Council**" means the Council of Ermineskin Cree Nation, comprised of the Chief and Councillors, duly elected from time to time in accordance with the Ermineskin Tribal Election Custom Law;
- (f) "**Court**" means a court of competent jurisdiction in the Province of Alberta;
- (g) "**Ermineskin**" means the Ermineskin Cree Nation #443;

- (h) "**Ermineskin Reserve**" means the geographic area of the Ermineskin Cree Nation Reserve #138 and such other lands that become tribal lands of the Ermineskin Cree Nation from time to time;
- (i) "**Licence**" means a licence to operate a Cannabis Store or a Cannabis Facility, or host an event issued pursuant to this Law;
- (j) "**Person**" means any individual, firm, partnership, association, corporation, trustee, executor, administrator or other legal representative;
- (k) "**Peace Officer**" means a peace officer, police officer, or any Person appointed by Council by way of a resolution in writing for the purpose of enforcing and carrying out the provisions of this Law;
- (l) "**Public Premises**" means all or any part of a building, structure or other enclosed area to which members of the public have access as of right or by express or implied invitation;
- (m) "**Tribal Administrator**" means the Tribal Administrator of Ermineskin or his/her delegate.

## PART II – CONSUMPTION AND USE OF CANNABIS

### 3. CONSUMPTION AND POSSESSION OF CANNABIS

3.01 Unless authorized by this Law, it is prohibited

- (a) for an individual who is eighteen (18) years of age or older to possess, in a Public Premises, Cannabis the amount of which is equivalent to more than 30 grams (1 ounce) of dried Cannabis;
- (b) for a minor to possess Cannabis;
- (c) for an individual to possess, in a Public Premises, one or more Cannabis plants that are budding or flowering; or
- (d) for an individual to possess more than four (4) Cannabis plants that are not budding or flowering.

3.02 For greater certainty, a person who is eighteen (18) years of age or older may consume Cannabis in a private residence.

3.03 An individual must not smoke or vape Cannabis:

- (a) in a Public Premises;
- (b) in, on or within 10 metres (33 feet) of a:
  - (i) school;
  - (ii) playground;

- (iii) sports field;
- (iv) cultural event; or
- (v) public or community arena.

to which the public has access; or

- (c) within 10 metres (33 feet) of an entrance or exit to a Public Premises.

#### **4. MEDICAL CANNABIS**

- 4.01 An individual who is entitled to possess Cannabis pursuant to a medical document issued pursuant to the *Access to Cannabis for Medical Purposes Regulations*, SOR/2016-230 may consume Cannabis in any public place, but is subject to section 3.03. (up to 3 ounces?)
- 4.02 A person referred to in subsection 4.01 must, on demand of a Peace Officer, produce a copy of the person's medical document.

#### **5. EVENTS**

- 5.01 Subject to section 5.04, a person may smoke, vape or consume Cannabis in a Public Premises at an event for which a permit has been granted by the Council.
- 5.02 The Council may impose conditions on a permit granted pursuant to subsection (1).
- 5.03 The Council may suspend or revoke a permit issued pursuant to subsection (1) if it determines that a permit holder or any person at an event for which a permit has been issued has contravened this Law.
- 5.04 No minor can consume Cannabis at an event for which a permit has been granted under 5.01.

### **PART III – PRODUCTION, DISTRIBUTION AND SALE OF CANNABIS**

#### **A. LICENSING**

#### **6. REQUIREMENT FOR A LICENCE**

- 6.01 A Person shall not carry on business as a Cannabis Facility or a Cannabis Store on the Ermineskin Reserve unless that Person has a valid and subsisting Licence from Council.
- 6.02 No Person shall contravene a condition of a Licence.
- 6.03 A Licence may only be issued in accordance with the regulations set out in this Law.

#### **7. APPLICATION FOR LICENCE**

- 7.01 Every Person applying for a Licence pursuant to this Law must provide any information required by the Council.
- 7.02 An application must be made in the form prescribed by Council.

7.03 An application for a Licence will not be considered by the Council until the applicant pays the non-refundable annual Licence fee set out in Schedule "A".

## **8. ISSUANCE, REFUSAL, SUSPENSION AND REVOCATION OF A LICENCE**

8.01 Upon application for a Licence, the Council may:

- (a) issue a Licence with any conditions,
- (b) require submission of further information, or
- (c) refuse an application.

8.02 The Council may suspend or revoke a Licence if it determines that a Licence holder or the Licence holder's business has contravened any applicable Ermineskin, federal or provincial law, or if in Council's opinion there are just and reasonable grounds to suspend or revoke the Licence, which for greater certainty includes, but is not limited to, sale of Cannabis to a minor.

8.03 The Council may suspend a Licence for up to ten (10) calendar days, after which it must make a decision to:

- (a) withdraw the suspension and restore the Licence,
- (b) restore the Licence with additional conditions, or
- (c) revoke the Licence if in Council's opinion there are just and reasonable grounds to do so.

8.04 If the Council refuses an application or suspends or revokes a Licence, it must send written notice of the refusal to the Person that made the application or the Licence holder, with reasons for the refusal, suspension or revocation.

8.05 A refusal or revocation of a Licence does not preclude submission of a new application for a Licence by the Person subject to the refusal or revocation.

8.06 Within five (5) business days of receipt of Council's decision under Section 8.04, the Person that submitted the application or who holds the revoked Licence may file a written notice of appeal of the decision to Council setting out the reasons for the appeal.

8.07 Upon receipt of a written notice of appeal pursuant to section 8.06, Council shall forward a copy of the notice of appeal to the Appeal Committee. The Appeal Committee shall hold a hearing within thirty (30) days of receipt of a written appeal filed in accordance with Section 8.06. After reviewing the appeal and hearing evidence at the appeal hearing from the appellant, the Tribal Administrator and anyone else having relevant information, the Appeal Committee may confirm, vary, substitute or cancel Council's decision. The Appeal Committee shall issue its decision in writing, firstly, to Council within fourteen (14) days of the hearing being closed and, secondly, to the appellant within twenty-four (24) hours following the delivery of notice to Council.

## **9. TERM**

9.01 A Licence in respect of a Cannabis Store is valid for a term of one (1) year from the date of issuance specified on the Licence.

- 9.02 A Licence in respect of a Cannabis Facility is valid for a maximum term of five (5) years from the date of issuance specified on the Licence.
- 9.03 A Person may apply for a renewal of a Licence in respect of a Cannabis Store in the manner and form prescribed by Council up to three (3) months before the expiration of the Licence term.
- 9.04 A Person may apply for a renewal of a Licence in respect of a Cannabis Facility in the manner and form prescribed by Council up to three (3) months before the expiration of the Licence term.

## **10. INSPECTIONS**

- 10.01 If the Tribal Administrator reasonably believes that a Person is carrying on business as a Cannabis Facility or a Cannabis Store without a valid Licence, that Person shall:
- (a) permit and assist in all inspections requested by the Tribal Administrator; and
  - (b) immediately furnish to the Tribal Administrator or its designate all identification, information, or documentation related to the inspection or licensing requirement.
- 10.02 A Person shall not provide false or misleading information with regard to any matter in connection with the inspection.

## **11. TRANSFER OF LICENCES**

- 11.01 A Licence is not transferable from one Person to another or from one Person's business to another business.

### **B. CANNABIS STORE AND CANNABIS FACILITY REGULATIONS**

## **12. CANNABIS STORE REGULATIONS**

- 12.01 Consumption or use of Cannabis is not permitted in a Cannabis Store.
- 12.02 Minors are not permitted in a Cannabis Store.
- 12.03 In addition to Cannabis, a Cannabis Store may sell Cannabis accessories, products ancillary to the consumption or use of Cannabis and retail merchandise.
- 12.04 All Cannabis offered for sale must be from a federally approved and licensed facility.
- 12.05 Unless authorized by Council by way of a band council resolution, a Cannabis Store must not be located within:
- (a) 400 metres (1312 feet) of any other Cannabis Store;
  - (b) 400 metres (1312 feet) of a school or school grounds, including any building occupied or under the authority of the Maskwacis Education Schools Commission;
  - (c) 150 metres (492 feet) of a residence; or
  - (d) 300 metres (984 feet) of a playground or a sports field.

12.06 A Cannabis Store may be located on the same property or in the same building as a Cannabis Facility.

### **13. CANNABIS FACILITY REGULATIONS**

13.01 Consumption or use of Cannabis is not permitted in a Cannabis Facility.

13.02 Minors are not permitted in a Cannabis Facility.

13.03 A Cannabis Facility must be federally licensed in accordance with the *Cannabis Act* or the *Access to Cannabis for Medical Purposes Regulations* for all activities associated with Cannabis growing, processing, packaging, testing, destruction or storage.

13.04 Unless authorized by Council by way of a band council resolution, a Cannabis Facility must not be located within:

- (a) 800 metres (2,625 feet) of a school or school grounds;
- (b) 300 metres (984 feet) of a residence; or
- (c) 300 metres (984 feet) of a playground or a sports field.

## **PART IV - ADMINISTRATION AND ENFORCEMENT**

### **14. ROYALTIES, LEVIES AND SHARED REVENUES**

14.01 Subject to the Tipakaywin Custom Law the Council may, from time to time, impose any royalties, duties, fees or levies on Cannabis grown, produced, distributed or sold within Ermineskin.

### **15. ADMINISTRATION**

15.01 The Council will designate responsibility for the administration of this Law.

15.02 Without restricting any other power, duty or function granted by this Law, Council may:

- (a) carry out or direct whatever inspections are reasonably required to determine compliance with this Law;
- (b) with the approval of Council, delegate any of his/her powers and authorities under this Law to any Ermineskin employee, contractor, a commission or any organization as he/she deems appropriate, provided that the Council shall at all times remain accountable to ensure that the power and authorities under this Law are carried out properly; and
- (c) establish forms for the purposes of this Law.

15.03 Council shall establish and maintain a centralized register for recording and monitoring Licences issued under this Law.

**16. OFFENCE**

16.01 Any Person who contravenes any provision of this Law is guilty of an offence.

**17. ENFORCEMENT**

17.01 Subject to section 17.03, a Person who contravenes any provision of this Law by doing any act or thing which the Person is prohibited from doing, or by failing to do any act or thing the person is required to do is guilty of an offence and liable on summary conviction to a fine of not more than one thousand (\$1,000.00) dollars or to imprisonment for a term of not more than thirty (30) days, or both.

17.02 Subject to section 17.03, a Person who contravenes any provision in Part III of this Law by doing any act or thing which the Person is prohibited from doing, or by failing to do any act or thing the person is required to do is guilty of an offence and liable on summary conviction to a fine of not more than five thousand (\$10,000.00) dollars or to imprisonment for a term of not more than thirty (30) days, or both.

17.03 The Tribal Administrator may, in its sole discretion, in lieu of or in addition to the penalties in sections 17.01 and 17.02, impose the following penalties:

- (a) Withholding all or a portion of any per capita distributions or any payment(s) otherwise payable to a member of Ermineskin; or
- (b) Community service.

**PART V - GENERAL**

**18. MISCELLANEOUS**

18.01 Nothing in this Law relieves a Person from complying with any applicable law, regulation, other law or any requirements of any lawful permit, order, consent or other direction.

18.02 Where this Law refers to another Act, Regulation or agency, it includes reference to any Act, Regulation or agency that may be substituted therefore.

18.03 Every provision of this Law is severable from all other provisions, if any provision of this Law is declared invalid for any reason by a Court, all other provisions of this Law shall remain valid and enforceable.

18.04 It is the intention of Council that all offences created by this Law be interpreted to be strict liability offences.

18.05 Words and phrases in this Law importing the singular number only shall include the plural and vice versa, and words importing the masculine gender shall include the feminine gender and neuter.

**19. PROOF OF LICENCE**

19.01 The onus of proving a Person has a valid and subsisting Licence is on the Person alleging existence of the Licence.

**20. AMENDMENT**

20.01 This Law shall be amended from time to time, as determined by Council.

**21. EFFECTIVE DATE**

21.01 This Law comes into force on the date of publication in accordance with the customs and traditions of the Ermineskin Cree Nation.

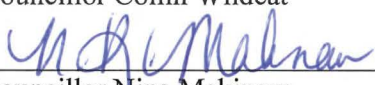
This Law is hereby passed at a duly convened meeting of the Council of the Ermineskin Cree Nation this \_\_\_ day of \_\_\_\_\_, 2018.



Chief Craig Makinaw



Councillor Collin Wildcat



Councillor Nina Makinaw



Councillor Dennis Whitebear



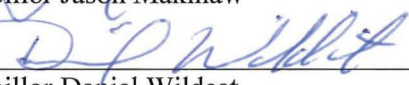
Councillor Ryan Ermineskin



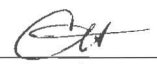
Councillor Brian Lee



Councillor Jason Makinaw



Councillor Daniel Wildcat



Councillor Cheryl Montour



**SCHEDULE "A" – FEES**

<b>Business</b>	<b>Fee</b>
Cannabis Store	\$500.00 / per year
Cannabis Facility	\$1,000.00 / per year