

Madawaska Maliseet First Nation

**CANNABIS AND TOBACCO
LICENSING LAW
2023**

– in accordance with –

*Madawaska Maliseet First Nation Land Code and the
Framework Agreement on First Nation Land Management*

February 28, 2023

DATE: May 3, 2023

*"I certify that I have seen the original documentation and
this copy is a complete and accurate copy of that original."*

Patricia Bernard

Patricia Bernard
A Commissioner of Oaths
Being a Solicitor and Member of the Law Society of New Brunswick



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**MADAWASKA MALISEET FIRST NATION
CANNABIS AND TOBACCO LICENSING LAW, 2023**

PREAMBLE

Whereas in regard to Indigenous peoples, it is essential for Canada to reject colonialism and engage in a contemporary approach based on good faith and the principles of justice, democracy, equality, non-discrimination and good governance;

And Whereas Madawaska Maliseet First Nation (“MMFN”) has and recognizes its inherent right and duty to protect its homeland in respect of all generations past, present and future to the full extent of its ability which includes exercising control over its lands for the use and benefit of its Members;

And Whereas MMFN has and recognizes its inherent right to regulate economic activities, to preserve and promote the health and well-being of its community, and to maintain law and order in the Territory;

And Whereas Madawaska Maliseet First Nation has jurisdiction, authority, control and management over its lands, resources, and interests for the use and benefit of its Members pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Madawaska Maliseet First Nation Land Code* effective the 1st day of January 2018;

And Whereas section 7 of the *Madawaska Maliseet First Nation Land Code* provides the Madawaska Maliseet First Nation with authority to enact Land Laws in relation to Reserve Land;

And Whereas Madawaska Maliseet First Nation has and continues to exercise an inherent Aboriginal and Treaty right to govern its citizens and lands that is recognized and affirmed by, *inter alia*, Articles 3, 4, 20, 24, 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 Whereas Madawaska Maliseet First Nation intends that this Cannabis and Tobacco Licensing Law will serve as a fundamental and dynamic document to be adapted to fit the capacity and aspirations of Madawaska Maliseet First Nation as they evolve over time and to eventually address the governance of all aspects of Cannabis and Tobacco production, distribution, sale, possession, and use within and on the St. Basile Indian Reserve #10;

And Whereas the Council of Madawaska Maliseet First Nation deems it necessary to enact a Land Law to deal with Cannabis and Tobacco in order to ensure the comfort, safety, and protection of people, lands, buildings, and resources on the St. Basile Indian Reserve #10;

NOW THEREFORE, this Madawaska Maliseet First Nation Cannabis and Tobacco Licensing Law is hereby enacted as a Land Law of the Madawaska Maliseet First Nation.

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PART I: PRELIMINARY MATTERS

1. TITLE

- 1.1 This Law may be cited as the *Madawaska Maliseet First Nation Cannabis and Tobacco Licensing Law, 2023*.

2. PURPOSE

- 2.1 The purpose of this Law is to ensure the comfort, health, safety, welfare, and protection of the Madawaska Maliseet First Nation, its Members, community, Lands, buildings, and resources by Licensing and regulating Cannabis and Tobacco on Madawaska Maliseet First Nation Land to:
- (a) regulate the cultivation, production, manufacture, Distribution, transport, storage, sale, purchase, promotion, exposure, and use of Cannabis, Tobacco, and related products on MMFN Land;
 - (b) establish a regulated and controlled mechanism for Members, Member-owned businesses, and MMFN-owned businesses to lawfully obtain Licences and Permits for Cannabis and Tobacco-related activities on MMFN Land;
 - (c) ensure a safe and regulated supply of quality-controlled Cannabis and Tobacco and promote stable and well-regulated Cannabis and Tobacco markets that eliminates involvement with criminal activity;
 - (d) apply the highest universally accepted Cannabis and Tobacco control standards;
 - (e) promote access to medicinal Cannabis products in order to realize the health benefits of Cannabis fully;
 - (f) provide guidance with respect to the enforcement of Cannabis and Tobacco related laws on MMFN Land;
 - (g) reduce negative perceptions of First Nations' manufacture and Distribution of Cannabis and Tobacco;
 - (h) benefit from the Lands and resources of MMFN;
 - (i) support, manage, and enhance community, economic, and socio-economic development;
 - (j) provide own-source and taxation revenues for fiscal self-sufficiency;
 - (k) facilitate trade between First Nations and other Indigenous peoples;



- (l) protect the jurisdictional integrity of MMFN by ensuring mutual respect and cooperation in relation to jurisdiction;
- (m) minimize addictions and the damaging health effects of Cannabis and Tobacco in the community; and
- (n) protect the overall well-being of our children and youth concerning Cannabis and Tobacco.

3. DEFINITIONS

3.1 The following definitions apply in this Law:

“Cannabis” means a Cannabis plant or any part or mixture of a Cannabis plant as defined in the *Cannabis Act*, S.C. 2018, c. 16;

“Commissioner” means a Person appointed by the Committee in accordance with Subsection 35.2 for the purpose of administrating the excise stamping scheme pursuant to Section 35;

“Committee” means the Madawaska Maliseet First Nation Cannabis and Tobacco Committee appointed pursuant to Subsection 10.1;

“Council” means the Chief and Council of the Madawaska Maliseet First Nation;

“Distribute” or “Distribution” means administering, giving, transferring, transporting, sending, delivering, providing, or otherwise making available in any manner, whether directly or indirectly, and offering to Distribute;

“Inspector” means a Person appointed pursuant to Section 36 to carry out inspections in accordance with this Law;

“Land” or “Madawaska Maliseet First Nation Land” for the purposes of this Law, has the same meaning as set out in the *Madawaska Maliseet First Nation Land Code*;

“Land Law” means a law, including, but not limited to, regulations and standards restricted to Madawaska Maliseet First Nation Land, enacted in accordance with the *Madawaska Maliseet First Nation Land Code*;

“Law Enforcement” means the Person or Persons appointed by Council, from time to time, to administer and enforce the provisions of Madawaska Maliseet First Nation Land Laws enacted by Council and includes a Peace Officer and any delegate and any assisting personnel as required and requested by a Law Enforcement Officer or a Peace Officer;

“Licence” means a Licence issued pursuant to this Law;



“Licensee” means the holder of a Licence;

“Madawaska Maliseet First Nation” or “MMFN” means the Madawaska Maliseet First Nation and its Members;

“Member” means a Person whose name appears, or is entitled to appear, on the Madawaska Maliseet First Nation Membership List;

“Member Business Entity” means a business wholly owned by Madawaska Maliseet First Nation or a Member;

“Minor”, for the purposes of this Law, means an individual less than nineteen (19) years of age;

“Notice” means a written communication issued in accordance with Section 38;

“Peace Officer” has the same meaning as defined in the *Criminal Code*, RSC 1985, c C-46 [*Criminal Code*] and includes an officer appointed by Council to enforce the laws of Madawaska Maliseet First Nation;

“Permit” means a temporary Licence granted in accordance with Section 33;

“Person” means a Non-Member or a Member of the Madawaska Maliseet First Nation, including any other entity having a separate personality or style for carrying out business recognized in law, such as a corporation of any type, partnership, society, or association whether or not incorporated;

“Personal Use” means non-commercial Possession and use by an individual for their own consumption;

“Possession”, of Cannabis or Tobacco, means when a Person has it in their personal Possession or knowingly has it in the actual Possession or custody of another Person, or has it in any place, whether or not that place belongs to or is occupied by them, for the use or benefit of themselves or of another Person. When two or more Persons, with the knowledge and consent of the rest, have Cannabis or Tobacco in their custody or Possession, it shall be deemed to be in the custody and Possession of each and all of them;

“Produce” means, in respect of Cannabis and Tobacco, to obtain Cannabis or Tobacco by any method or process, including by manufacturing, synthesis, altering its chemical or physical properties by any means, or cultivating, propagating, or harvesting it or any living thing from which it may be extracted or otherwise obtained;

“Retail” means the direct sale of Cannabis or Tobacco to the final consumer of the product rather than for resale or Distribution through a third-party service;



“Retail Location” means a Retail facility located on MMFN Land that is operated by the holder of a Retail Licence and, for greater certainty, does not include a website for online sales;

“Sell” means to offer, expose for sale, and have in Possession for sale; and

“Tobacco” means any part of a Tobacco plant or other substance which contains nicotine.

4. INTERPRETATION

- 4.1 Unless it is otherwise clear from the context, whenever the singular is used, it will include the plural, and the use of the plural includes the singular.
- 4.2 Unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to,” and the use of the word “includes” means “includes, but is not limited to.”
- 4.3 For greater certainty, the language of the *Madawaska Maliseet First Nation Land Code* may be used to clarify the meaning of any provision in this Law if the meaning of that provision is not otherwise clear in English or French.
- 4.4 If there is an inconsistency or conflict between this Law and the *Madawaska Maliseet First Nation Land Code*, the *Land Code* shall prevail to the extent of the inconsistency or conflict.
- 4.5 For the purposes of this Law, dried Cannabis, being any part of a Cannabis plant that has been subjected to a drying process other than seeds, is a class of Cannabis and the equivalent weight of different classes of Cannabis shall be determined in accordance with the following table:

Dried Cannabis	1 g
Fresh Cannabis	5 g
Solids containing Cannabis	15 g
Non-solids containing Cannabis	70 g
Cannabis solid concentrates	0.25 g
Cannabis non-solid concentrates	0.25 g
Cannabis plant seeds	1 seed

- 4.6 For the purposes of this Law, a carton of cigarettes is a class of Tobacco and the equivalent of different classes of Tobacco shall be determined in accordance with the following table:

Carton of Cigarettes	1
Cigarettes (Tobacco cylinders wrapped in non-Tobacco substance)	200
Loose Tobacco	200 g
Pipe Tobacco	250 g



Cigars (Tobacco cylinders wrapped in Tobacco)	25
Cigarillos (cigars weighing less than 1.4g, excluding mouthpiece)	200
Smokeless (chewing) Tobacco	170 g
E-Liquid	2400 mg nicotine

5. SEVERABILITY

5.1 Should any section of this Law be declared by a court of competent jurisdiction to be ultra vires or illegal for any reason, the remaining parts shall nevertheless remain valid and binding and shall be read as if the offending section or part has been struck and interpreted in a manner that upholds the spirit and intent of this Law.

PART II: REGULATORY AUTHORITY

6. AUTHORITY

6.1 This Law is enacted pursuant to the following authorities:

- (a) Section 7 “Law-Making Powers” of the *Madawaska Maliseet First Nation Land Code* as a Land Law of Madawaska Maliseet First Nation;
- (b) the Aboriginal and Treaty rights of Madawaska Maliseet First Nation, in particular the inherent right of self-government, as recognized and affirmed by Section 35 of the *Constitution Act, 1982* (Canada);
- (c) the inherent right of economic self-determination of Madawaska Maliseet First Nation as recognized and affirmed by Articles 3 - 5, 20(1) of the United Nations Declaration on the Rights of Indigenous People.

7. PARAMOUNTCY OF LAW

7.1 This Law occupies the jurisdiction of Cannabis and Tobacco Licensing on Madawaska Maliseet First Nation Land.

7.2 This Law supersedes in jurisdiction and full application of its provisions where it relates to other jurisdictions’ involvement to support and recognize the interests of MMFN on matters of Cannabis and Tobacco.

7.3 This Law is not dependent on the approval of any other governmental body or agency outside of MMFN but may serve as the basis for the harmonization of laws and regulations concerning Cannabis and Tobacco in other jurisdictions and for cooperation and mutual assistance between MMFN, other First Nations, and other regulatory and Law Enforcement agencies.

7.4 For greater certainty, a Licence issued by a regulatory authority other than MMFN, with respect to Cannabis or Tobacco, has no validity on MMFN Land unless the Licence



holder has also been authorized under this Law.

- 7.5 Permits and Licences issued pursuant to this Law do not authorize the holder to violate any other MMFN or federal laws. In the event of an inconsistency or vagueness in interpretation and application, Council will issue a statement clarifying the perceived or actual conflict and amend the laws as needed.
- 7.6 Council shall liaise regularly and cooperate with any appropriate agency within or outside MMFN in the application of this Law.

8. LEGAL DEFENCE OF REGULATORY REGIME

- 8.1 MMFN shall defend itself, Council, the Committee, and any MMFN governmental agency recognized by Council, and shall be responsible for all reasonable costs, charges, expenses, damages, and other liabilities sustained or incurred by such bodies or Persons in connection with any action, suit, or other proceeding which is commenced against them if such action, suit, or other proceeding challenges the validity or enforceability of this Law, its regulations, or the right of MMFN to establish the Cannabis and Tobacco regulatory regime contemplated hereunder.
- 8.2 MMFN may defend any Person holding (in good standing) a Licence issued pursuant to this Law and may elect to be responsible for any reasonable costs, charges, expenses, damages, and other liabilities sustained or incurred by such bodies or Persons in connection with any action, suit, or other proceeding which is commenced against them if such action, suit, or other proceeding challenges the validity or enforceability of this Law, its regulations, or the right of MMFN to establish the Cannabis and Tobacco regulatory regime contemplated hereunder.

PART III: GENERAL

9. APPLICATION

- 9.1 This Law governs Cannabis and Tobacco on MMFN Lands, including, but not limited to its:
 - (a) importation and exportation;
 - (b) growth, cultivation, production, manufacturing, and processing;
 - (c) packaging and labelling;
 - (d) transportation and storage;
 - (e) wholesale Distribution;
 - (f) Retail sale;



- (g) advertising, signage, and promotion; and
- (h) Possession, use, and consumption.

9.2 This Law applies to:

- (a) all activities related to Cannabis and Tobacco within, into, and from MMFN Land; and
- (b) all Persons, organizations, and business entities situated or found on MMFN Land.

9.3 For greater certainty, possession of a license or other authorization under provincial or federal legislation does not exclude the application of this Law.

10. CANNABIS AND TOBACCO COMMITTEE

- 10.1 Council shall appoint a Cannabis and Tobacco Committee to administer and oversee the application of this Law and its regulations.
- 10.2 The Cannabis and Tobacco Committee shall administer this Law and its regulations in the best interest of Madawaska Maliseet First Nation and in accordance with the principles of natural justice and procedural fairness.
- 10.3 In addition to any other duties and responsibilities that may be provided to it in this Law, the Cannabis and Tobacco Committee will make any decision and take any action as is necessary to fulfill the purposes of this Law.

11. ANCILLARY POWERS

- 11.1 The Committee shall employ or engage such personnel, construct or otherwise acquire such facilities, purchase or lease such equipment, enter into such other contracts or arrangements, and otherwise incur such expenses as may be necessary to carry out its functions and duties under this Law including as necessary to establish and operate the necessary facilities and to otherwise carry out the functions contemplated herein.
- 11.2 The Committee may engage the services of Persons having technical or specialized knowledge to advise the Committee in respect of its powers, duties, or functions under this Law and fix their remuneration.

12. GENERAL PROHIBITIONS

- 12.1 No Person shall engage in Cannabis or Tobacco activities on MMFN Land except as authorized by this Law, a regulation made pursuant to this Law, or subsequent laws duly passed by MMFN. Cannabis or Tobacco activities include, but are not limited to:

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- (a) the Possession, use, and consumption of Cannabis or Tobacco;
- (b) the importation and exportation of Cannabis or Tobacco;
- (c) the cultivation, propagation, and harvesting of Cannabis or Tobacco;
- (d) the production, manufacturing, and processing of Cannabis or Tobacco;
- (e) the alteration or synthetization of Cannabis or Tobacco;
- (f) the packaging and labelling of Cannabis or Tobacco;
- (g) the transportation and storage of Cannabis or Tobacco;
- (h) the Distribution and sale of Cannabis or Tobacco;
- (i) the advertising and promotion of Cannabis or Tobacco;
- (j) the production, Distribution, or Possession of anything with the intention that it will be used for the above activities; and
- (k) offering to do or the promotion of any of the above things.

12.2 For greater certainty, a licence issued by a regulatory authority outside of MMFN for application on MMFN Land has no validity within MMFN unless authorized by this Law.

12.3 No Minor shall be allowed to Produce, process, transport, Sell, purchase, use, or otherwise Possess or handle Cannabis or Tobacco on MMFN Land, and no Person shall knowingly facilitate the Possession or handling of Cannabis or Tobacco by Minors, except for in accordance with Section 14.

12.4 It is prohibited to:

- (a) involve a Minor in the commission of any offence under this Law;
- (b) aid or abet the commission of any offence under this Law;
- (c) Possess anything with the intention that it will be used in the commission of any offence under this Law; and
- (d) knowingly Possess the proceeds of an offence under this Law.

13. PERSONAL USE AUTHORIZATIONS

13.1 Persons who are not Minors may only use or consume Cannabis and Tobacco on or in a property with the consent of the occupier being, as the case may be:

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- (a) the holder of a Certificate of Possession for the property;
 - (b) a tenant with a leasehold interest in the property;
 - (c) Council, as representatives of MMFN, in respect to community Land; or
 - (d) a Person duly authorized to act on behalf of an occupier.
- 13.2 Persons who are not Minors are authorized to Possess the following amounts of Cannabis for Personal Use on MMFN Land, excluding their residence:
- (a) up to thirty (30) grams of dried Cannabis or its equivalent; and
 - (b) up to four (4) Cannabis plants;
- except if exempted under Section 15.
- 13.3 Persons who are not Minors are authorized to Possess the following amounts of Cannabis for Personal Use in their residence on MMFN Land:
- (a) a reasonable amount of dried Cannabis or its equivalent; and
 - (b) up to four (4) Cannabis plants;
- except if exempted under Section 15.
- 13.4 Persons who are not Minors are authorized to Possess Tobacco up to five (5) cartons of cigarettes or its equivalent for Personal Use on MMFN Land, excluding their residence.
- 13.5 Persons who are not Minors are authorized to Possess a reasonable quantity of Tobacco for Personal Use in their residence on MMFN Land.
- 13.6 Persons who are not Minors are authorized to transport for Personal Use on, to, from, or through any part of MMFN Land:
- (a) not more than thirty grams (30g) of dried Cannabis or its equivalent;
 - (b) up to four (4) Cannabis plants; and
 - (c) up to five (5) cartons of cigarettes or its equivalent;
- except if exempted under Section 14 or Section 15.

14. TRADITIONAL USE OF TOBACCO

14.1 The traditional use of Tobacco is an integral part of Wolastoqey culture and spirituality



specifically, and to Indigenous culture generally.

- 14.2 No law, by-law, or regulation that prohibits the Possession or Distribution of loose Tobacco prohibits a Person from Possessing or Distributing loose Tobacco if the activity is carried out for traditional Indigenous cultural or spiritual purposes.
- 14.3 For greater certainty, Subsection 12.3 does not prohibit a Person from gifting fifty grams (50g) or less of loose Tobacco to an Indigenous Person who is, or appears to be, a Minor if the gift is made for traditional Indigenous cultural or spiritual purposes.

15. MEDICAL PRESCRIPTION EXEMPTION

- 15.1 In the event of a conflict between this Law and the terms of a medical Cannabis prescription from a licensed medical practitioner, the terms of the prescription shall prevail to the extent of the conflict.

PART IV: LICENSING

16. MANDATORY LICENSING

- 16.1 All Cannabis and Tobacco activities on MMFN Land may only be undertaken by a Licensee with a valid Licence issued by the Committee pursuant to this Law in accordance with the terms and conditions of the Licence and this Law.
- 16.2 The Committee may, on application, issue, renew, or amend Licences authorizing activities in relation to Cannabis or Tobacco.
- 16.3 The Committee may establish additional eligibility criteria and conditions that must be met before or during the consideration of applications.
- 16.4 A Licence will authorize the applicant(s) to conduct Cannabis or Tobacco-related business operations at specified locations on MMFN Land and shall incorporate the terms and conditions set out in the Licence agreement made in accordance with Section 21.
- 16.5 All Licensees must comply with the provisions of this Law, its regulations, any conditions to which the Licence may be subject, and all other laws, regulations, and policies that are applicable on MMFN Land.
- 16.6 All Licences may be revoked, amended, suspended, or extended by the Committee in accordance with this Law and any regulations made thereunder.
- 16.7 A Licence is not valid unless and until any Licensing fees, excise taxes, and any other tax, fee, royalty, or levy prescribed by the Committee have been paid in full.
- 16.8 The maximum number of Licences an applicant and its affiliates may hold between them is one (1) per class.



17. CLASSES OF LICENCES

- 17.1 Council may issue a restricted number of Licences of the following classes:
 - (a) Cannabis Production Licence: for the growth, cultivation, production, manufacturing, processing, or packaging of Cannabis;
 - (b) Tobacco Production Licence: for the growth, cultivation, production, manufacturing, processing, or packaging of Tobacco;
 - (c) Cannabis Distribution Licence: for the wholesale Distribution, import, export, transportation, and storage of Cannabis;
 - (d) Tobacco Distribution Licence: for the wholesale Distribution, import, export, transportation, and storage of Tobacco;
 - (e) Cannabis Retail Licence: for the Retail sale of Cannabis;
 - (f) Tobacco Retail Licence: for the Retail sale of Tobacco; and
 - (g) any other such other Licence category that the Committee may create by regulation.
- 17.2 A valid Production Licence will permit the Licensee to grow, cultivate, Produce, manufacture, and process Cannabis or Tobacco on MMFN Land, in accordance with the terms of the Licence.
- 17.3 A valid Distribution Licence will permit the Licensee to wholesale Distribute, import, export, transport, and store Cannabis or Tobacco on MMFN Land, in accordance with the terms of the Licence, for the purposes of Distribution to a Licensee or export to a jurisdiction other than MMFN.
- 17.4 A valid Retail Licence will permit the Licensee to Sell Cannabis or Tobacco to a Person who is not a Minor from a Licensed Retail Location on MMFN Land in accordance with the terms of the Licence.
- 17.5 For greater certainty, an applicant who wishes to deal in both Cannabis and Tobacco or products containing both Cannabis and Tobacco must hold both a valid Cannabis Licence and a valid Tobacco Licence in accordance with the terms of both Licences.

18. APPLICANTS

- 18.1 Only an individual Member, Member Business Entity, or an MMFN-owned business may apply for a Licence pursuant to Section 16.
- 18.2 Two or more individual Members may apply for a Licence as co-applicants.

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- 18.3 A Member Business Entity may apply for a Licence pursuant to Section 16 as:
- (a) in the case of a sole proprietor, as a single applicant; or
 - (b) in the case of a partnership of two or more partners, each partner as joint applicants.
- 18.4 A wholly MMFN-owned business may apply for a Licence as an MMFN-owned business applicant.
- 18.5 All applicants, except for MMFN-owned business applicants, must be:
- (a) at least 19 years of age or older;
 - (b) a Member of Madawaska Maliseet First Nation;
 - (c) be in good financial standing with Madawaska Maliseet First Nation; and
 - (d) not be convicted of an indictable offence for which they have not received a pardon.

19. PREMISES

- 19.1 All activities undertaken pursuant to a Licence shall not be in any location other than authorized by the Licence.
- 19.2 A Licensed Cannabis or Tobacco operation or activity site shall not be:
- (a) in a lot that is meant for residential housing;
 - (b) in an area designated an exclusion zone by Council; or
 - (c) of a mobile or unfixed nature.
- 19.3 A Retail Location will not be permitted:
- (a) within one hundred metres (100 m) of a park, library, school, playground, community centre, or recreation centre; or
 - (b) where, in the opinion of the Committee, a Retail Location is likely to disturb or endanger the community.

20. LICENCE APPLICATIONS

- 20.1 Each application for a Licence pursuant to this Law must contain:

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- (a) identification of the individual or individuals applying for the Licence, including:
 - (i) in the case of a sole proprietor, the individual’s full name, date of birth, and membership number; or
 - (ii) in the case of a Member Business Entity, identification of the business entity and the identification of each individual with an ownership or representative interest in the business entity, including the individual’s full name, date of birth, membership number, and relation to the business entity;
 - (b) identification of all individuals who will have managerial responsibility for the operations and a description of their intended functions;
 - (c) a detailed description of each proposed location of operation on MMFN Land and evidence of the consent of registered interest-holders in those locations;
 - (d) a detailed description of the proposed operations with respect to the type and terms of Licence being applied for; and
 - (e) any other prescribed criteria.
- 20.2 During the review of the application, the applicant(s) must provide such further information as required by the Committee to assess the application.
- 20.3 The Committee may require the submission of any additional information that is necessary for the Committee to consider the application.
- 20.4 The Committee may require a site inspection of each proposed location of operation identified in the application under review.
- 20.5 The Committee may refuse to consider an application if any information required to be provided by this Law is not provided.
- 20.6 An application for a Licence pursuant to this Law, or for its renewal or amendment, must be filed with the Committee in the form and manner specified.
- 21. LICENCE AGREEMENT**
- 21.1 Prior to the issuance of a Licence, applicants must enter into a Licence Agreement with MMFN setting out the terms and conditions applicable to the business operations of the applicant, including any fees, taxes, royalties, or levies to be paid to MMFN during the term of the Licence.
- 22. LICENSING FEE**
- 22.1 The Committee may set a prescribed Licensing fee.



22.2 Any prescribed Licensing fee must be paid in full prior to the Licence being issued.

23. LICENCE TERM AND RENEWAL

23.1 A Licence shall be valid for one (1) year from its issuance.

23.2 A Licence may be renewed, in accordance with this Law, provided that the Licensee complies with the terms of the Licence agreement and remains in good standing.

24. LICENCE ISSUANCE AND REFUSAL

24.1 The Committee shall provide for the disposition of applications.

24.2 The Committee shall approve an application for a Licence if, in the opinion of the Committee, doing so would be consistent with the purposes of this Law.

24.3 The Committee may refuse to issue, renew, or amend a Licence in accordance with this Law.

24.4 If the Committee refuses an application, the applicant may not submit a new application for the same type of Licence unless, in the opinion of the Committee, the circumstances relating to the reasons for the refusal have materially changed such that the reasons for the refusal no longer exist.

25. CHANGES DURING TERM

25.1 All material changes which may affect any matter pertaining to the terms and conditions of a Licence must be reported to the Committee, including but not limited to a change in ownership or representation.

25.2 The Committee may amend, suspend, revoke, or terminate a Licence as a result of a material change reported to the Committee in accordance with Subsection 25.1.

26. LICENCE AMENDMENT OR TRANSFER

26.1 A Licence may be amended by the Committee by amending the Licence agreement issued pursuant to Section 21.

26.2 A Licence may not be transferred to a different applicant; therefore, a change in ownership or representation requires applying for a new Licence.

26.3 For greater certainty, a change in applicant requires a new Licence to be issued; however, a temporary Permit may be issued in accordance with Section 33 to facilitate a change of Licence for a Cannabis or Tobacco operation.



27. DISPLAY OF LICENCE

27.1 Each Licence must be prominently displayed at the premises for which it is issued and be made available for inspection upon request.

28. SUSPENSION, REVOCATION, OR TERMINATION OF LICENCE

28.1 A Licence may be suspended, revoked, or terminated if the Licensee:

- (a) fails to comply with the terms and conditions of the Licence; or
- (b) fails to pay remittances owed to MMFN when due.

28.2 The Committee may suspend or revoke a Licence at any point during an investigation pursuant to Section 38 prior to decision of Council being issued in accordance with Section 38.10.

28.3 If this Law is amended to change the classes of or the number of Licences that may be issued, then the Committee may terminate a class of applications and Licences on any date fixed by it for such purpose.

28.4 No Person has a right of recourse or indemnity against MMFN, its Council, or the Committee in connection with a suspension, revocation, or termination pursuant to this Law.

29. PRODUCTION LICENCES

29.1 Every Cannabis Production Licence or Tobacco Production Licence is deemed to have, at minimum, the following terms and conditions:

- (a) a Licensee must not Sell Cannabis or Tobacco directly to a Retail customer;
- (b) a Licensee shall conform with the standards established by this Law and its regulations;
- (c) a Licensee must maintain records and report information that, for example, demonstrate compliance with good practices and describes product recall activities and adverse effects;
- (d) a Licensee shall give preference to Members in recruiting, training, and hiring employees in all job categories, particularly management positions; and
- (e) a Licensee must report information with respect to production levels, inventory amount, and sales volume.

29.2 MMFN may place additional terms and conditions on a Production Licence which may



be amended at any time.

30. DISTRIBUTION LICENCES

30.1 Every Cannabis Distribution Licence or Tobacco Distribution Licence is deemed to have, at minimum, the following terms and conditions:

- (a) a Licensee must not Sell Cannabis or Tobacco directly to a consumer;
- (b) a Licensee shall only purchase or receive Cannabis or Tobacco that conforms with the standards established by this Law and its regulations.
- (c) a Licensee shall give preference to Members in recruiting, training, and hiring employees in all job categories, particularly management positions; and
- (d) a Licensee must report information with respect to inventory amount and sales volume.

30.2 MMFN may place additional terms and conditions on a Distribution Licence which may be amended at any time.

31. CANNABIS RETAIL LICENCE

31.1 Every Cannabis Retail Licence is deemed to have, at minimum, the following terms and conditions:

- (a) a Licensee shall not Sell, barter, give, or exchange Cannabis to a Minor and shall verify a customer’s age when necessary;
- (b) a Licensee shall not employ a Minor in any capacity;
- (c) a Licensee shall not Sell Cannabis to a Person who is or appears to be intoxicated;
- (d) a Licensee shall Sell no more than thirty grams (30 g) of dried Cannabis or its equivalent to a Person per calendar day;
- (e) a Licensee shall only Sell Cannabis at the Retail Location authorized by the Licence;
- (f) a Cannabis Retail Location may not be in a location that is easily accessible by Minors;
- (g) a Licensee shall only obtain Cannabis from suppliers which conform to the standards established by this Law and its regulations;
- (h) a Licensee shall only Sell Cannabis that conforms with the standards established



by this Law and its regulations;

- (i) a Licensee shall give preference to Members in recruiting, training, and hiring employees in all job categories, particularly management positions; and
- (j) a Licensee must report information with respect to inventory amount and sales volume.

31.2 MMFN may place additional terms and conditions on a Cannabis Retail Licence which may be amended at any time.

32. TOBACCO RETAIL LICENCE

32.1 Every Tobacco Retail Licence is deemed to have, at minimum, the following terms and conditions:

- (a) a Licensee shall not Sell, barter, give, or exchange Tobacco to a Minor and shall verify a customer's age when necessary;
- (b) a Licensee shall Sell no more than five (5) cartons of cigarettes or its equivalent to a Person per calendar day;
- (c) a Licensee shall only Sell Tobacco at the Retail Location authorized by the Licence;
- (d) a Licensee shall only obtain Tobacco from suppliers which conform to the standards established by this Law and its regulations;
- (e) a Licensee shall only Sell Tobacco that conforms with the standards established by this Law and its regulations;
- (f) a Licensee shall give preference to Members in recruiting, training, and hiring employees in all job categories, particularly management positions; and
- (g) a Licensee must report information with respect to inventory amount and sales volume.

32.2 MMFN may place additional terms and conditions on a Tobacco Retail Licence which may be amended at any time.

33. TEMPORARY PERMITS

33.1 The Committee may issue a temporary Permit of less than one (1) year authorizing any activity or activities in relation to Cannabis or Tobacco, including, but not limited to, activities requiring a Licence pursuant to this Law.



- 33.2 If, in the opinion of the Committee, it is in the best interest of MMFN, the Committee may:
- (a) renew, amend, suspend, revoke, or terminate a Permit; or
 - (b) refuse to issue, renew, or amend a Permit.
- 33.3 If the Committee refuses an application, the applicant may not submit a new application for a Permit unless, in the opinion of the Committee, the circumstances relating to the reasons for the refusal have materially changed such that the reasons for the refusal no longer exist.

PART V: EXCISE TAX AND STAMPS

34. EXCISE TAX

- 34.1 Council may prescribe an excise tax on Cannabis and Tobacco sold on or from MMFN Land.
- 34.2 An excise tax levied pursuant to Subsection 34.1 shall not exceed the amount that would be collected as an excise tax, including an excise tax duty, on the sale of the products in a neighbouring jurisdiction.

35. EXCISE STAMPS

- 35.1 All Tobacco and Cannabis on MMFN Land must bear a valid excise stamp issued by:
- (a) Madawaska Maliseet First Nation; or
 - (b) the Government of Canada;
- except if exempted under Section 14.
- 35.2 The Committee shall appoint a Commissioner to affix an MMFN Excise Stamp to unstamped Cannabis or Tobacco Retail products to which an excise tax has been paid to MMFN by the Licensee receiving the products.
- 35.3 No Licensee shall Sell to any Person any product containing Cannabis or Tobacco unless it is a Retail product to which an Excise Stamp issued by MMFN or the government of Canada has been duly applied.
- 35.4 Unless authorized by Council in writing, no Person shall produce, Possess, Sell, or otherwise supply or offer to supply anything that is intended to resemble or pass for an MMFN Excise Stamp.
- 35.5 Unless authorized in writing by the Committee and appointed as a Commissioner by the Committee, no Person shall apply an MMFN Excise Stamp to any container or package



that contains Cannabis or Tobacco.

- 35.6 Any Licensee Possessing Cannabis or Tobacco not bearing a valid excise stamp in accordance with Subsection 35.1 will:
- (a) be fined a minimum of ten thousand dollars (\$10,000) to a maximum of one hundred thousand dollars (\$100,000); and
 - (b) have their Licence immediately revoked.

PART VI: INSPECTION, BREACHES, AND OFFENCES

36. INSPECTION

- 36.1 The Committee may designate Persons as Inspectors for the purpose of carrying out inspections or other duties under and ensuring compliance with this Law.
- 36.2 Every Peace Officer is deemed an Inspector for the purposes of this Law.
- 36.3 The Committee shall issue a certificate of designation in a form established by the Committee to every Inspector, other than to Peace Officers.
- 36.4 A Person that has been designated an Inspector under Subsection 36.1 shall, on request, if carrying out the duties of an Inspector, produce their certificate of designation.
- 36.5 For the purposes of carrying out an inspection under this Law, an Inspector may, at any reasonable time, enter any place other than any place or part of a place that is actually being used as a residence for which there are reasonable grounds to believe the place is being used for an activity that is regulated under this Law, and such Inspector shall be deemed to be taking such action under the authority of Council in order to oversee and maintain the health and safety of all Persons at MMFN.
- 36.6 An Inspector conducting an inspection under this Law may:
- (a) examine inventory and records, including financial records or anything else that is relevant to the inspection;
 - (b) take photographs or make any other kind of recording or sketch;
 - (c) call upon such experts as are necessary to assist in an inspection; and
 - (d) call upon Law Enforcement for assistance, and Law Enforcement officers may use whatever force is reasonably necessary in the circumstances to effect the inspection.



37. PUBLIC HEALTH AND PUBLIC SAFETY MATTERS

- 37.1 At the written request of any Person or on its own initiative, the Committee may investigate an actual, perceived, or potential issue of public health or public safety.
- 37.2 The Committee may, by order, require a Person that is authorized under this Law to conduct any activity in relation to Cannabis or Tobacco to take any measures that the Committee considers necessary to address an issue of public health or public safety.
- 37.3 An order made pursuant to Subsection 37.2 must include a statement of reasons for the making of the order and specify the measures to be taken and the time and manner in which they are to be taken.

38. INVESTIGATION OF BREACH OF LICENCE

- 38.1 At the written request of any Person or on its own initiative, the Committee may investigate a Licensee's alleged breach of this Law, including the terms and conditions of its Licence, subject to Subsection 38.2.
- 38.2 The Committee shall not investigate alleged breaches that, in its opinion, are unmeritorious, frivolous, or vexatious on their face.
- 38.3 The Committee shall investigate alleged breaches in the manner it considers adequate and proportionate to the significance of the alleged breach.
- 38.4 If, as a result of an investigation, the Committee is of the opinion that the alleged breach has occurred, it shall provide Notice to the Licensee.
- 38.5 A Notice pursuant to Subsection 38.4 shall include:
 - (a) the particulars of the alleged breach;
 - (b) a copy of all evidence in the Committee's possession or control relating to the alleged breach; and
 - (c) a deadline by which the Licensee may deliver written submissions, including reasonable amounts of time to retain legal counsel, gather evidence, draft submissions, or do any other thing necessary to prepare a defence.
- 38.6 Upon request by the Licensee, the Committee shall grant adjournments or time extensions that are reasonable and will not cause undue delay.
- 38.7 When the Licensee delivers written submissions to the Committee, or when the deadline for delivering written submissions passes, in accordance with Subsection 38.5(c), the Committee shall schedule an oral hearing with Council, with Notice to the Licensee.



- 38.8 At the oral hearing, Council shall provide the Licensee and the Committee a reasonable amount of time to make submissions.
- 38.9 After the oral hearing, Council may deliberate in a private meeting.
- 38.10 Council shall issue a decision, with written reasons, within a reasonable amount of time after the oral hearing.
- 38.11 A Committee member or Council member who is party to an alleged breach shall recuse themselves from all business relating to the alleged breach.

39. REMEDIES FOR BREACH OF LICENCE

- 39.1 If Council determines that the Licensee is liable for the breach, it shall order an appropriate remedy including, but not limited to:
- (a) issuing a warning;
 - (b) amending the terms and conditions of the Licence;
 - (c) suspending, revoking, or terminating the Licence;
 - (d) prohibiting the Licensee from obtaining a Licence for a specific period of time;
 - (e) imposing a fine of not more than one hundred thousand dollars (\$100,000.00); or
 - (f) any other remedy consistent with the purposes of this Law.

40. OFFENCES

- 40.1 A Person who is party to any contravention of any provision of this Law, any regulations made under this Law, or any order made pursuant to this Law is guilty of an offence punishable by a fine of not more than one hundred thousand dollars (\$100,000), payable to MMFN, in addition to any other enforcement action that MMFN may take pursuant to this Law.
- 40.2 MMFN may seize any property used in the commission of an offence and may seize the proceeds of an offence.
- 40.3 Where reasonable and probable grounds exist to believe that a provision of this Law has been contravened, Law Enforcement may seek remedies under other jurisdictions.

41. PARTIES TO AN OFFENCE

- 41.1 Every Person is a party to an offence who:



- (a) actually commits it;
 - (b) does or omits to do anything for the purpose of aiding any Person to commit it; or
 - (c) abets any Person in committing it.
- 41.2 A director or officer of a corporation, or the directing mind of another type of organization, who causes, authorizes, or permits an offence to be committed under this Law by the organization is guilty of an offence.
- 41.3 A director or officer of a corporation, or the directing mind of another type of organization, is party to an offence if:
- (a) knowing that a representative of the organization is or is about to be a party to the offence, the director or officer does not take all reasonable measures to stop the representative from being party to the offence; or
 - (b) the director or officer is an officer responsible for the aspect of the organization's activities that are relevant to the offence, and they depart markedly from the standard of care that, in the circumstances, could reasonably be expected of them to prevent a representative of the organization from being party to the offence.

42. OBSTRUCTION

- 42.1 Every Person shall furnish all necessary means in the Person's power to facilitate any entry, search, inspection, investigation, examination, testing, or inquiry by an Inspector in the exercise of their powers or the performance of their duties under this Law or its regulations.
- 42.2 No Person shall hinder, obstruct, molest, or interfere with or attempt to hinder, obstruct, molest, or interfere with an Inspector, Council, or the Committee in the exercise of their power or the performance of their duty under this Law.
- 42.3 No Person shall knowingly furnish an Inspector with false information or neglect or refuse to furnish information required by an Inspector in the exercise of their powers or the performance of their duties under this Law or its regulations.
- 42.4 No Person shall knowingly make, participate in, assent to, or acquiesce in the making of a false or misleading statement in any record, report, electronic data, or document that is required to be prepared, retained, or provided by any Person under this Law.

43. ENFORCEMENT

- 43.1 A breach of this Law or its regulations, if the breach is regulatory in nature, will be addressed by the Committee in accordance with the procedures established by the regulations and, if a finding of culpability is made, will be sanctioned in accordance with



the provisions of the regulations, which sanctions may include, but are not limited to, the imposition of a fine and the suspension, amendment, or revocation of a Licence.

- 43.2 A breach of this Law or the regulations, if the breach is criminal in nature, will be investigated by Law Enforcement, and where appropriate, criminal proceedings will be initiated and adjudicated in a court of competent jurisdiction.
- 43.3 MMFN may obtain an injunction to prevent a breach of this Law if the breach:
- (a) is likely to occur imminently; and
 - (b) is likely to cause significant harm to MMFN.

44. APPEALS

- 44.1 All appeals of a Council order or decision made pursuant to this Law are subject to the *MMFN Administrative Appeals Policy*.

PART VII: REGULATIONS AND ENACTMENT

45. REGULATIONS

- 45.1 Council may make regulations pursuant to this Law including, but not limited to:
- (a) licensing and fees;
 - (b) taxes and other levies;
 - (c) Cannabis and Tobacco Committee, Inspectors, and Commissioners;
 - (d) health and safety;
 - (e) business and operational requirements;
 - (f) review and amendments of this Law; and
 - (g) any other matter consistent with the purposes of this Law.

46. COMING INTO FORCE

- 46.1 This Law shall come into effect upon enactment pursuant to the *Madawaska Maliseet First Nation Land Code Regulation No. 1* (Land Law Consultation and Enactment Regulations).