

BY-LAW NO 13042021-3
OF THE EEL GROUND FIRST NATION

A BY-LAW FOR THE SALE, POSSESSION AND USE OF CANNABIS
[Short title: Eel Ground Cannabis By-Law]

WHEREAS Canada and New Brunswick have recently adopted legislation to legalize and regulate access to cannabis for recreational purposes;

AND WHEREAS the application of such laws on Eel Ground Lands without the required adaptations goes against the jurisdictional integrity of the Eel Ground First Nation (“Eel Ground”) and the health and well-being of its people;

AND WHEREAS the Eel Ground Chief and Council (Chief and Council) wish to exercise its’ jurisdiction regarding cannabis production, distribution, sale, possession and use within Eel Ground lands, as well as matters ancillary thereto and penalties for the violation thereof;

AND WHEREAS in exercising its jurisdiction, Chief and Council seek to establish safe environments and well as safe access to regulated cannabis;

AND WHEREAS Eel Ground, as a Mi’gmaq Indigenous community, has the authority to enact such laws through their inherent right to be self-governing and exercise jurisdiction over their internal and local affairs for the betterment of its community, its’ members and visitors to their territory;

AND WHEREAS the aforementioned rights of Eel Ground have been recognized and affirmed in Section 25 and Section 35 of the Constitution of Canada;

AND WHEREAS the *United Nations Declaration on the Rights of Indigenous Peoples* (“UNDRIP”) recognizes the right of the Mi’kmaq of Eel Ground, as an indigenous people, to autonomy and self-government in matters relating to their internal and local affairs in the exercise of their right to self-determination, as well as the right to freely pursue and control the health and safety of its members;

AND WHEREAS Chief and Council, as the elected government of Eel Ground, has jurisdiction to pass laws for the good government of its’ members for the purpose of protecting and promoting the health, safety and welfare of residents on Reserve and is empowered to make this By-law by virtue of Section 81 of the Indian Act, R.S.C. 1985, c. I-5, as amended and pursuant to the Eel Ground First Nation's inherent rights; a

AND WHEREAS Chief and Council wish to protect the health and safety needs of its' community members through the declaration of this Cannabis By-law;

NOW THEREFORE the Council of the Eel Ground First Nation hereby makes the following By-law:

PART I: DEFINITIONS AND INTERPRETATION

Short Title:

1. This By-law may be cited as the "Eel Ground Cannabis By-law".

Interpretation:

2. In this By-law

"Band" means the Eel Ground First Nation;

"Cannabis" means (1) any part of a cannabis plant, including the Phyto cannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not, other than a non-viable seed of a cannabis plant, a mature stalk, without any leaf, flower, seed or branch, of such a plant, or a fiber derived from such a stalk, or the root or any part of the root of such a plant; (2) any substance or mixture of substances that contains or has on it any part of such a plant; and (3) any substance that is identical to any Phyto cannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained;

"Cannabis Accessory (ies)" means anything, including rolling papers or wraps holders, pipes, wafer pipes, bongs and vaporizers, that is represented to be used in the consumption of cannabis or a thing that is represented to be used in the production of cannabis;

"Cannabis License" or *"Cannabis Retail License"* means a license issued by the Eel Ground First Nation and in accordance with this by-law, and any related regulations, for the purpose of the sale of cannabis;

"Cannabis Structure" means ta permanent building where cannabis products are sold.

"Community" means the registered members of the Eel Ground First Nation, and where the context requires, its' assets, as defined by the *Indian Act*;

"Council" means the Council of the Eel Ground First Nation as defined in the *Indian Act*;

"Distribution", in respect to cannabis, means administering, transferring, transporting,

sending, delivering, providing or otherwise making available in any manner, whether directly or indirectly, for purposes other than direct consumption or use;

“*Dried Cannabis*” means any part of a cannabis plant that has been subjected to a drying process, other than seeds;

“*Eel Ground*” means the Eel Ground First Nation, a Mi’kmaq community and Indian band as defined under section 2(2) of the *Indian Act*;

“*Eel Ground Cannabis Board*” means persons appointed under Part IX of this by-law;

“*Enforcement Officer*” means a person who has been provided with the authority through appointment or other agreement with the Eel Ground Chief and Council for the enforcement of this and other laws within Eel Ground lands;

“*Licensee*” means a person to whom a license is issued under this by-law;

“*Minor*” means a person who is under the age of eighteen (18) years old;

“*Peace Officer*” means any police officer, police constable or other person charged with the duty to preserve and maintain the public peace, and/or any person appointed by the Council for the purpose of maintaining law and order on the Eel Ground reserve lands;

“*Possession*”, in respect to cannabis, means:

(i) having personal possession of cannabis, or,

(ii) knowingly having cannabis in the actual possession or custody of another person, or to have it in any place, whether or not that place belongs to, or is occupied by the person in possession, for the use or benefit of the same or of another person. Where one of two or more persons, with the knowledge and consent of the rest, has cannabis in her or his custody or possession, it shall be deemed to be in the custody and possession of each and all of them;

“*Public Place*” includes any place whether publicly or privately owned or leased, to which the public have access as a right or by invitation, express or implied;

“*Regulations*” means any regulation enacted under this by-law;

“*Reserve*” means all the Eel Ground Indian Reserve lands defined as reserve lands within the meaning of subsection 2 (1) of the *Indian Act*, located at Eel Ground Indian Reserve #2, New Castle, Big Hole Tract 8 (South Half) Indian Reserve, Renous Indian Reserve # 12, or any future lands acquired by the Eel Ground First Nation through an Additions-to-Reserve Process;

“*Residence*” means a dwelling unit, house or building in which one resides as their home,

with the intent to stay for an undetermined period and with the intent to return to, irrespective of the nature of possessory or occupational rights that one holds therein;

"Resident of the reserve" means a person authorized to reside on the reserve pursuant to the *Indian Act* or by permission of the Eel Ground Chief and Council;

"Sale", in respect to cannabis, means any sale or intended sale at retail for purposes of consumption or use;

Trespass means entry onto, or the presence on, the reserve without lawful justification, or after being asked to leave such lands by a Peace Officer at the direction of the Council of the Eel Ground First Nation;

"Use", in respect of cannabis, means to smoke, vape, ingest, absorb or otherwise consume.

PART II: APPLICATION

3. This By-Law applies to:

- a) All areas under the jurisdiction of Eel Ground, including those lands held in common or those lands where a certificate of possession (CP) has been issued;
- b) All activities related to the production, distribution, sale, possession and use of cannabis within, into and from the Lands of Eel Ground;
- c) All persons and business entities situated within the Lands of Eel Ground.

PART IV: PURPOSE

4. The purpose of this By-Law is to:

- a) Provide consideration for the protection of Health and Safety of members, employees, visitors and guests of Eel Ground;
- b) Ensure that all persons within the community are able to fully comprehend their choice in using cannabis and cannabis related products;
- c) Consider, assert and uphold the jurisdictional integrity of Eel Ground by ensuring control and regulation of cannabis within the areas of jurisdiction held by Eel Ground;
- d) Provide ability for legal distribution, sale, possession and use of cannabis within the jurisdiction of Eel Ground through regulation and enforcement;

- e) Deter illicit and illegal activities in relation to cannabis, including but not limited to;
 - i. Preventing cannabis from being diverted into the illicit or illegal market; and
 - ii. Preventing uncontrolled cannabis product from entering the source of supply of the legal cannabis through appropriate sanctions and enforcement measures;

PART IV: MINORS

- 5. All minors are prohibited from possessing, consuming, purchasing, producing, distributing, or selling cannabis.
- 6. No licence that may be issued under this by-law shall be issued to a minor.
- 7. No minor is permitted in or within 10 metres of a business that holds a licence under this by-law.
- 8. A minor found to be in violation of this by-law is liable to a fine of not more than \$1000.
- 9. Section 7 does not apply to a minor under the age of 10 years old and in the accompaniment of a parent.

PART V: POSSESSION

- 10. A person has anything in their possession when they have it in their personal possession or knowingly:
 - a) has it in the actual possession or custody of another person, or
 - b) 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; and
 - c) Where one (1) of two (2) or more persons, with the knowledge and consent of the rest, has anything in their custody or possession, it shall be deemed to be in the custody and possession of each and all of them.
- 11. A person is permitted to possess cannabis for their personal use so long as:
 - a) The individual is at least 18 years of age;
 - b) The amount possessed does not exceed:
 - i. four (4) cannabis plants on Eel Ground lands, or
 - ii. thirty (30) grams of dried cannabis in a public place on Eel Ground lands.

PART VI: CONSUMPTION

12. Unless authorized under this by-law, no person shall consume cannabis in any public space in Eel Ground.
13. The Council may make regulations prohibiting, limiting or regulating the consumption of cannabis in public place, private place, or another prescribed place.

PART VII: CANNABIS LICENSE

Requirement of a Cannabis License

14. Every person conducting or carrying on a business related to the sale of cannabis in Eel Ground must hold a valid cannabis licence issued under this by-law.
15. The maximum number of businesses that will be authorized by Eel Ground to sell cannabis and be issued a cannabis license by the Cannabis Board (the “Board”), in accordance with this by-law will be six (6). One of the six cannabis licenses to be issued by the Cannabis Board will be designated for the Eel Ground First Nation.
16. No person may carry on more than one cannabis business in Eel Ground and/or be issued more than one cannabis license by Eel Ground.
17. Any person who conducts or carries on a business related to the sale of cannabis in Eel Ground and does not hold a valid licence under this by-law is in contravention of subsection 14, and subsection 30 of this by-law, as the case may be.

License Application and License Fee

18. Every person who wishes to conduct a retail cannabis business in Eel Ground must submit a License Application to the Board to obtain a cannabis license (“license”), in accordance with Schedule 1.
19. All License Applications been received by the Board will be reviewed on a monthly basis.
20. All applicants approved by the Board for a license will be required to pay an annual license fee in the amount of \$5,000.00.
21. Where a License Application is approved by the Board, the applicant must provide an initial fee payment of \$2,500.00 before they will be issued a license. The remaining fee payment balance of \$2,500.00 must be paid by the applicant within the calendar year. Where the initial

payment of \$2,500.00 is not provided to Eel Ground within 14 days of the board's approval, the license approval will be revoked by the Board.

Issuance of Cannabis License

22. The Board may, upon receiving an application for a licence under this by-law, issue, by delivery or mail, a licence to the licensee at the address shown in the licence application provided that:
 - a) the Board is satisfied that the applicant's business complies with all provisions in this by-law;
 - b) the applicant has disclosed all required information in the application form;
 - c) the Board is satisfied that the applicant's business would not, in the Board's sole discretion, be detrimental to the health, welfare, safety and environment of the community members of Eel Ground;
 - d) the required fee for the licence has been paid; and
 - e) less than five (5) cannabis licenses have been issued by the Board.
23. Where the Board receives more than five (5) applications for a license, and all of the applicants satisfactorily meet the requirements of section 22, the applications will be prioritized for approval by also considering whether the applicant:
 - a) has had a successful cannabis business operating prior to the enactment of this by-law; and
 - b) in the Board's opinion, the business operation has not been detrimental to the health, welfare, safety and environment to the community members of Eel Ground.
24. In rendering a decision to issue a license, the Board will ensure that they are not in a conflict-of-interest position with any of the applicants. Where a conflict of interest exists, the Board member will declare the conflict, and will not participate in the decision making of the Board.
25. Every licence granted pursuant to this by-law will be in duplicate; one copy will be issued to the licensee and the other copy retained by the Board. The licence so issued will be deemed a personal licence to the licensee.
26. If the applicant or licensee fails to comply with, or the Board is not satisfied with information received from the applicant or licensee under section 22 or section 35 of this by-law, the Board will forthwith serve the applicant notice of the refusal to issue the licence and said notice will be served personally or by registered mail to the applicant at the address shown in the licence application.

27. Once a cannabis license application is approved by the Board, the license will be valid for a one (1) year period, commencing on the date on which the license is issued and expiring 365 days later.
28. All Licenses approved by the Board must be renewed by license holders re-applying to the Board no later than two (2) months prior to the expiration of the license. All license renewal applications must include the annual fee of \$5000.00. Any renewal application that does not include a renewal fee payment will not be considered by the Board.
29. Where a license is not renewed within thirty (30) days of the expiry date, such license will be considered expired and will be suspended by the Board.

PART VIII: SALE OF CANNABIS

Retail Sale of Cannabis on Reserve Lands

30. Unless authorized by this by-law, no person shall conduct or carry on a business on Eel Ground lands that include the sale of cannabis, including promotion, retail, delivery, and all other aspects associated with the sale of cannabis, unless they are a holder of a cannabis retail license.
31. Every person who holds a license for the sale of cannabis is authorized under this by-law to sell cannabis, including promotion, retail, delivery, and all other aspects associated with the sale of cannabis.
32. All cannabis offered for sale by a licensee must be from a cannabis producer who is:
 - a) authorized to produce cannabis under any federal act;
 - b) authorized to produce cannabis under any provincial act; or
 - c) recognized in the cannabis industry as a reputable producer of cannabis products.
33. Every licensee who offers cannabis for sale shall be required to keep records on the origin of each cannabis product being offered for sale.
34. Every person who holds a licence for the sale of cannabis shall maintain the following records in respect of each producer and distributor who supplies cannabis products to the licensee:
 - a) the name of the producer or distributor;
 - b) the date on which the cannabis was received;
 - c) the date and location of the cannabis production;

- d) the strain or strains of cannabis received; and
 - e) the quantity of cannabis received.
35. Every licensee who offers cannabis for sale shall produce the documents referred to in section 34 upon request by the Eel Ground Cannabis Board.
36. No person shall sell cannabis known to contain poisonous or harmful substances, or is otherwise unfit for human consumption.
37. All cannabis that is offered for sale must be stored in safe packaging and labelled with the following information:
- a) the strain of cannabis;
 - b) the class of cannabis;
 - c) the name and address of the cannabis producer;
 - d) the date and location of the cannabis production;
 - e) the net weight, if the cannabis is in solid form, its net weight, in grams, and in any other case, its net volume, in millilitres;
 - f) the potency of the cannabis,
 - g) the warning KEEP OUT OF REACH OF CHILDREN.
38. A licensee may only display and sell cannabis in a permanent structure that has, at a minimum, four (4) walls, a roof that encloses the entire structure, and electricity. The structure must be separate and apart from any residential structure.
39. The sale of cannabis, including the products for sale and its inventory, shall not be within the view of a minor.
40. No consumption or use of cannabis is permitted in the structure referred to in section 37 or within 150 metres of a location where cannabis is offered for sale.
41. Unless authorized by Council by way of a band council resolution, no person shall offer cannabis for sale within:
- a) 300 metres of any other person offering cannabis for sale;
 - b) 300 metres of a school, schoolyard, or day care;
 - c) 10 metres of a residence; or
 - d) 150 metres of a playground, arena, or sports field.
42. The Council may make regulations concerning the labelling and sale of cannabis and cannabis accessories on Reserve lands.
43. The licensee or person in charge or control of the premises where the business is conducted must at all times keep the license or licenses prominently displayed in an area of the premises to which the public has access or in an area designated by the Board.

44. A licensee is only permitted to sell cannabis from their business structure and all cannabis business structures must be located on Micmac Road, in Eel Ground, New Brunswick.
45. The licensee shall maintain security measures necessary to ensure the security of the business and its inventory, including but not limited to:
- a) locks on all doors; and
 - b) a security system with continuous monitoring.
46. The licensee must notify the Board of any change in the mailing or business address, the type of business, the area of the premises, the maximum quantity of cannabis produced or held in inventory, and any substantial physical alteration to the premises in which the business is conducted, and upon the closing of the business, the licensee will surrender the license to the Board.

PART IX: CANNABIS BOARD

Establishment

47. The Cannabis Board is hereby established.

Board Members and Terms

48. Council, by band council resolution:
- a) Will appoint three Cannabis Board Members, and such other officers as may be necessary, who will receive applications, appeals, issue licences and carry out the cannabis licensing administrative functions under this by-law, including enforcement;
 - b) Will provide for reasonable remuneration to be paid to the Board and other appointed officers;
 - c) Will appoint the Board for a fixed term of not less than three (3) years after which reappointment shall be discussed by both parties; and
 - d) May dismiss the Board or a Board Member from the appointed position for:
 - i. failing to carry out duties as described in this by-law;
 - ii. having been convicted of an employment related offence under the *Criminal Code* (Canada); or
 - iii. contravening the First Nation's conflict of interest guidelines.

Board Powers

49. The Board shall:

- a. receive and process all applications, appeals, renewals, transfers and assignments of licenses to be issued under this by-law;
- b. maintain a record of all applications and fees for licences and retain on file a copy of all licences issued, together with their particulars;
- c. ascertain, as far as reasonably practicable, that all information furnished by the applicant in connection with an application for a licence is accurate;
- d. in response to receipt of a written complaint, or at least once a year, with the consent of the licensee (such consent not to be unreasonably withheld) make inquiries and inspect premises to determine whether every holder of a licence issued under this by-law complies with the licence issued and the by-law, and no licensee shall obstruct or hinder the making or completing of the inspection;
- e. report monthly in writing to the Band Administrator, or Band Manager, or the person appointed by Council from time to time to administer the affairs of the Band, stating the number of licences issued, the type of business conducted under each licence, and the fees received since the previous report along with a summary stating the total number of licences issued and the total amount of money received to date for the current year;
- f. following a determination made by Council under section d where Council directs, impose any penalties against a licensee, in accordance with this by-law.

Inspections

- 50. The Board may make all investigations required to ensure compliance with this by-law including:
 - a. make unannounced site visits to the holders of a licence under this by-law;
 - b. enter the building or premises of a business or person known to hold a licence; or
 - c. inspect all products, buildings, and equipment associated with the production, distribution, or sale of cannabis.
- 51. The Board shall prepare and deliver to Council a report following each inspection that details the licensee's compliance or violations under this by-law, or any other determination where appropriate.
- 52. Where the Board determines that a licensee has violated this by-law, the licensee will be notified in writing and informed of the penalty.

PART X: ENFORCEMENT OF BY-LAW

- 53. This By-Law shall be enforced by a person (s) designated by the Chief and Council under written authorization; including an Eel Ground By-Law Enforcement Officer (s), and/or a Peace Officer.

54. Every individual person shall comply with this by-law, and with resolutions and regulations enacted pursuant to this by-law.
55. A person who fails or refuses to comply with any provision of this by-law, or who fails or refuses to comply with an order made under this by-law, or who resists or interferes with an Officer acting under this by-law is deemed to have committed an offense under this by law.
56. Where, after an investigation has been completed by the By-Law Enforcement officer or a Peace Officer, and there is reasonable evidence to show that a licensee:
- a) has failed to comply with this by-law;
 - b) is carrying on a business that fails to comply with this by-law; or
 - c) has conducted the business in a manner that is detrimental to the health, welfare, safety and environment of inhabitants in Eel Ground.

the Board will provide written notice to the licensee that their license will be revoked or suspended until such time as the licensee complies with their obligations under this by-law.

57. Where a cannabis license is suspended, the Board will post the notice of suspension by the Council on the premises of the licensee's cannabis business.
58. Where, after an investigation has been completed by the By-law Enforcement Officer or a Peace Officer, and there is reasonable evidence to show that a person is carrying on a business without a license, as required under this by-law, the Board will provide written notice to the person to immediately cease operating their business.
59. Where a licensee has been provided written notice of revocation or suspension of their license from the Board, the licensee will be provided with 30 days to comply with their obligations under this by-law. The 30 days will begin on the day the written notice is received personally by the licensee or delivered by registered mail to the business.
60. Where a licensee receives written notice from the Board, in accordance with Section 52 of this by-law, they shall immediately close their business and cease all cannabis retail sales.
60. Where a licensee fails to close their business while their license has been suspended or revoked under this by-law, the Council, upon report of such from the Board, will cease providing water and septic services to the business.
61. Where a person fails to close their cannabis business that has been operating unlawfully and without the authority of a license, the Council, upon report of such from the Board, will cease providing water and septic services to the business.

PART XI: HEARING

62. Where a licensee's license has been revoked or suspended for non-compliance with this by-law, the licensee may make a request to Council for a hearing to consider the issue of the

licensee's non-compliance with this by-law.

63. A request for a hearing must be made to the Council in writing and within seven (7) days of the licensee's receipt of written notice to revocation of their license.
64. Where the Council has received a request for a hearing, in accordance with section 63, the licensee will be provided with written notice of the hearing, either personally or by registered mail, at the address shown in the licensee's application, at least seven (7) days prior to the scheduled date of the hearing. The hearing notice will provide the date, time of the hearing and will clearly state the non-compliance issue being considered by the Council.
65. At the hearing, the licensee will be provided an opportunity to address the Council and provide evidence, both written and oral, regarding the licensee's non-compliance issue.
66. Following the hearing, the Council will meet in-camera and render a decision on the alleged non-compliance of the licensee. Such a decision will be made in writing and provided to the licensee by the Council, either through registered mail or personal delivery, within 1 day of the decision being made by Council.
67. Where a licensee, who by reasonable efforts of the Council and Board cannot be found and has not come forward then the notice will be considered to be duly served and an *ex parte* decision will be issued against the licensee.
68. Where, at a hearing, the Council decides to permanently revoke a license from a licensee, the licensee will not be eligible to re-apply for a license for a period of 12 months.

PART XI: PENALTY

69. Subject to section 9, every person who contravenes this by-law is guilty of an offence and is liable to a fine not exceeding one thousand dollars (\$1,000.00.) or to imprisonment for a term of thirty (30) days.
70. Any person charged under this by-law shall have the right to appear before a justice or provincial court judge for adjudication.

PART XIII: INDEMNIFICATION

71. No liability attaches to the Council or Board, including its members, or any agent or employee thereof, and no action or proceedings may be brought against the Council or Board, including its members, or any agent or employee thereof, as a result of anything done or omitted to be done under this by-law.

PART XIII: AMENDMENT

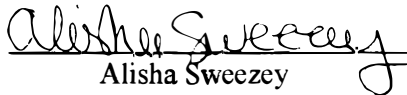
72. This By-Law may be amended from time to time by the Eel Ground Chief and Council, as it deems necessary, in accordance with the provisions of Sections 81 and 82 of the *Indian Act*.

THIS BY-LAW IS HEREBY ENACTED at a duly convened meeting of the Eel Ground Chief and Council this 13 day of April, 2021.

Signed by the following members of the Eel Ground Chief and Council:

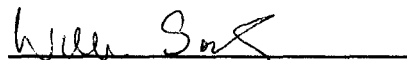


Chief George Ginnish

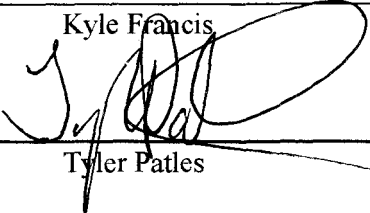


Alisha Sweezey

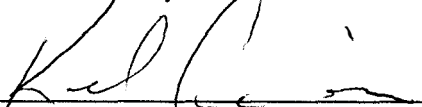
Brian Simon



Willie Sark

Kyle Francis



Tyler Patles

Anthony Francis


Kelvin Simonson



Merrill Martin

Cody Narvey


Mike Simon