

## **Bylaw No. 2019-XX of the Okanagan Indian Band**

### **A Bylaw for the Regulation of the Conduct of Activities (Cannabis Dealing and Sales)**

WHEREAS the Okanagan Indian Band exercises jurisdiction over its Reserve lands pursuant to its inherent rights and the *Indian Act*, RSC 1985, c I-5;

WHEREAS the Council of the Okanagan Indian Band may make bylaws concerning its Reserve land pursuant to s 81(1) of the *Indian Act*;

AND WHEREAS the Okanagan Indian Band wishes to regulate the conduct of those who enter its Reserves to Sell or otherwise Deal in Cannabis;

NOW THEREFORE, the Council of the Okanagan Indian Band, in open meeting assembled, enacts as follows:

#### **Short title**

1. This bylaw may be cited for all purposes as the Conduct of Cannabis Dealing and Sales Bylaw.

#### **Interpretation**

2. For the purpose of this bylaw,

“Cannabis” means Cannabis as defined by the *Cannabis Act* (Canada), and also anything in Schedule 2 of the *Cannabis Act* (Canada);

“*Cannabis Act* (Canada)” means *Cannabis Act*, SC 2018, c 16;

“*Cannabis Regulations* (Canada)” means *Cannabis Regulations*, SOR/2018-144;

“Council” means the Council of the Okanagan Indian Band;

“Deal” means to Supply or Produce Cannabis;

“Officer” means any police officer, police constable or other Person charged with the duty to preserve and maintain public peace, and any Person appointed by the Council for the purpose of maintaining law and order on the Reserve;

“Reserve” means the lands held as reserves, within the meaning of the *Indian Act*, for the use and benefit of the Okanagan Indian Band;

“Person” means any individual, unincorporated association or society, partnership, or corporation whether non-profit or otherwise;

“Produce” means to obtain Cannabis by manufacturing it, synthesizing it, altering its chemical or physical properties by any means, or growing it or any living thing from which it may be extracted or otherwise obtained, but does not include:

- (a) the production of four or fewer Cannabis plants in a residence that is not used as a day care and where the production cannot be viewed from a public place;
- (b) the production of Cannabis, other than Cannabis plants or dried Cannabis, for consumption or topical application;

“Sell” means any of the following:

- (a) offer for sale, expose for sale and have in possession for sale;
- (b) exchange;
- (c) give for any consideration, including for the purchase or transfer of something;

“Supply” means any of the following:

- (a) administer, give, transfer, transport, send, deliver, provide, distribute or otherwise make available in any manner, whether directly or indirectly, other than Selling;
- (b) offer to do any of the things referred to in paragraph (i), other than Selling;
- (c) have in possession to do any of the things referred to in paragraph (i), other than Selling.

### **Application**

3. For greater certainty, this bylaw does not apply to any Person who Supplies Cannabis in either of the following four circumstances:
  - (a) as authorized under Part 14 of the federal *Cannabis Regulations* (Canada);
  - (b) common carriers who are transporting Cannabis as authorized under the *Cannabis Act* (Canada), their employees when acting in the course of their employment and their agents when acting in their role as agent;

(c) an adult individual who shares up to 30 grams of Cannabis directly and not by mail with other adult individuals, as long as the sharing does not involve any Selling; or

(d) an adult individual transporting up to 30 grams of Cannabis for his or her own personal use in accordance with the *Cannabis Act* (Canada).

### **Conduct of Selling or Dealing in Cannabis**

4. No Person shall Sell or otherwise Deal in Cannabis while on Reserve without the express written consent of Council.
5. Every Person who contravenes this bylaw, or who does, suffers to be done, or permits any act or thing which contravenes or violates this bylaw, or who neglects to do or refrains from doing anything required to be done by this bylaw commits an offence.

### **Offences**

6. Every Person who commits an offence under this bylaw is liable on summary conviction to a fine or penalty of not more than \$1,000.00 or to imprisonment for a term not exceeding thirty days, or both.
7. Every day that an offence is permitted to continue constitutes a new offence.
8. An Officer may order any Person who is committing an offence to cease Selling or otherwise Dealing in Cannabis immediately.
9. Where a Person fails or refuses to comply with an order made under section 8, an Officer may take such reasonable measures as are necessary to remove the Cannabis from the Person.
10. A Person who fails or refuses to comply with an order made under section 8, or who resists or interferes with an Officer acting under section 9, commits an offence.
11. Without limiting the generality of sections 8 to 10, the Okanagan Indian Band may take such measures as the Council, in its sole discretion, decides are reasonable and necessary to remedy the offence, all at the sole cost of the Person committing the offence.

THIS BYLAW IS HEREBY made at a duly convened meeting of the Council this \_\_\_\_ day of \_\_\_\_\_, 2019.

Voting in favour of the bylaw are the following members of the Council:

\_\_\_\_\_  
(Member of the Council)

\_\_\_\_\_  
(Member of the Council)

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(Member of the Council)

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(Member of the Council)

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(Member of the Council)

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(Member of the Council)

\_\_\_\_\_  
(Member of the Council)

being the majority of those members of the Council present at the aforesaid meeting of the Council.

The quorum of the Council is 5 members.

The number of members of the Council present at the meeting is \_\_\_\_.

DRAFT