

The Tyendinaga Mohawk *Cannabis Control Law*



Date: October 22, 2019 VERSION 8.0

Finally reviewed by the Tyendinaga Mohawk Council and passed by Resolution MCR#_____ and ratified through Referendum held on October_____, 2019

PREAMBLE

WHEREAS, the Mohawks or Kanyen'kehà:ka of the Bay of Quinte, residing on the ancestral lands of the Peacemaker, known as the Tyendinaga Mohawk Territory, have the existing and inherent right of self-determination, which includes inherent jurisdiction over their lands, people and territory;

AND WHEREAS this is a Community Law ratified by the members of the Mohawks of the Bay of Quinte, or the Mohawk People of Tyendinaga, hereinafter "Tyendinagaro:non", respecting the cultivation, processing, extraction, production, distribution, and sale of cannabis within and from the lands and Territory governed by the Tyendinagaro:non;

AND WHEREAS the Territory, also known as Tyendinaga Mohawk Territory, has been set aside for the use and benefit of the Tyendinagaro:non living therein;

AND WHEREAS the Tyendinaga Mohawk Council, a government selected in free and fair elections held regularly to represent the Tyendinagaro:non, has deemed it expedient and necessary for the peace, safety and good governance of its members to provide for the observance of law and order on the Tyendinaga Mohawk Territory and for the licencing and regulation of the cannabis industry;

AND WHEREAS because the coming into force of the *Cannabis Act*, S.C. 2018, c.16 on October 17, 2018, cannabis will no longer be listed in Schedule 2 of the *Controlled Drugs and Substances Act*, S.C. 1996, c.19, as amended, and will be regulated by a federally delegated provincial regulatory regime that ignores and disrespects the Tyendinagaro:non's jurisdiction, interests, rights and previously shared concerns of the Tyendinaga Mohawk Council;

AND WHEREAS the safety of the people that is inclusive of the seven generations in the Tyendinaga Mohawk Territory is of paramount importance and there may arise circumstances in which precautions to protect the safety of the people may justify the limitation of the rights of individual members in law;

AND WHEREAS the Tyendinaga Mohawk Council is also empowered to create by-laws for the benefit of the Tyendinagaro:non pursuant to section 81(1)(a), (b), (c), (g), (p), (p.1), (q) and (r); Section 85.1 of the *Indian Act*, R.S.C., 1985, c.I-5;

AND WHEREAS section 81 of the *Indian Act*, R.S.C., 1985, c.I-5 makes violation of a by-law punishable by a fine or imprisonment, or both;

AND WHEREAS in exercising their inherent jurisdiction the community has determined that larger fines are required than are allowed under the *Indian Act* in order to ensure effective cannabis control in their territory;

AND WHEREAS the Tyendinagaro:non and the Tyendinaga Mohawk Council wish to respond to its security and public order concerns using the Traditional Knowledge of its people;

AND WHEREAS several forums have taken place before and after the Interim Cannabis Control Regulation was put in place, including specific stakeholder and general meetings of the Tyendinagaro:non and the Tyendinaga Mohawk Council has revisited and revised this *Cannabis Control Law* in response to concerns, comments, and legal advice that balance the interests, rights and safety concerns of the community;

NOW THEREFORE, this *Cannabis Control Law* is hereby enacted pursuant to the Mohawks of the Bay of Quinte's inherent jurisdiction and for greater certainty, section 81(1) of the *Indian Act*, R.S.C., 1985, c.I-5.

SECTION I	4
1.0. SHORT TITLE	4
SECTION II	4
2.0 JURISDICTION	4
3.0 APPLICATION	5
4.0 PROHIBITION	5
5.0 GOVERNANCE	5
6.0 COOPERATION	6
7.0 PURPOSES	6
8.0 DEFINITIONS	7
SECTION III	9
9.0 PERMITTED ACTIVITIES	9
SECTION IV	10
10.0 TYENDINAGA MOHAWK CANNABIS CONTROL BOARD	10
11.0 GENERAL MANDATE	11
12.0 DUTIES AND RESPONSIBILITIES	11
13.0 STRUCTURE OF THE BOARD	11
SECTION V	14
16.0 LICENCES	14
17.0 RETAIL LICENCES	17
SECTION VI	18
18.0 STANDARDS AND TESTING	18
19.0 PACKAGING AND LABELING	18
20.0 PRICE CONTROLS	19
21.0 Licencing Fees	19
SECTION VII	20
22.0 BOARD REGULATIONS	20
SECTION VIII	22
23.0 REVIEW	22
24.0 ENFORCEMENT	23
SECTION IX	23
26.0 Severability	23
27.0 Coming into Force	23
28.0 Amendment	23

SECTION I

1.0. SHORT TITLE

- 1.1 This Law may be cited as the “Tyendinaga Mohawk Cannabis Control Law”.

SECTION II

2.0 JURISDICTION

- 2.1 The “Tyendinagaro:non”, as members of the Kanyen'kehà:ka (Mohawk) Nation, enact this Law respecting the principles contained within the Constitution of the Nation, principles of our social and legal order, and with the authority as sovereign peoples.
- 2.2 The Tyendinagaro:non have consistently and historically exercised ultimate and exclusive jurisdiction over the lands they continue to govern since time immemorial.
- 2.3 The Tyendinagaro:non have existing, inherent, treaty and inalienable rights which include the right of self-determination; the right to promote and control economic development; and the right to preserve peace, order, and good government within the lands they continue to govern.
- 2.4 In addition, the Tyendinagaro:non hold section 35 rights, recognized and affirmed in the *Constitution Act, 1982*, s 35, being Schedule B to the Canada Act 1982 (UK), 1982, c 11 of Canada.
- 2.5 The collective jurisdiction of the Tyendinagaro:non has been recognized and affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples* and other international covenants and declarations, including the *International Covenant on Economic, Social and Cultural Rights*, and the *International Covenant on Civil and Political Rights*.
- 2.6 As cultivation, processing, extraction, production, distribution, sale, possession, and use of cannabis has a significant impact on socio-economic development, health, safety and peace, friendship, and welfare governed within the lands administered by the Tyendinaga Mohawk Council, the Tyendinagaro:non have the ultimate and rightful jurisdiction to regulate and control cannabis within the Tyendinaga Mohawk Territory.
- 2.7 The Tyendinaga Mohawk Council, as a governing body, over lands under their care and control, has the responsibility and authority to enact this Law on behalf of the Tyendinagaro:non.
- 2.8 Given the foregoing, the Tyendinaga Mohawk Council created this Law and the accompanying regulations to preserve the well-being of the community and the seven

generations. The Tyendinaga Mohawk Council hereby delegate the administrative aspects of this Law to control cannabis to the Tyendinaga Mohawk Cannabis Control Board, hereinafter referred to as the Board, empowered by the Tyendinaga Mohawk Council to act in the best interest of the community, free from political and administrative interference.

3.0 APPLICATION

3.1 This Law and the accompanying regulations apply to:

- (a) businesses engaged in the activities of cultivation, processing, extraction, production, and distribution, as well as medical cannabis dispensaries or storefronts engaged in the sale of cannabis, that are situated or found within the Tyendinaga Mohawk Territory;
- (b) all activities related to the transportation and delivery of cannabis for a commercial purpose within, into and from the Tyendinaga Mohawk Territory; and
- (c) all persons and business entities with an interest in commercial cannabis activity situated or found within the Tyendinaga Mohawk Territory.

3.2 This Law and the accompanying regulations may apply to specific lands which may in the future be acquired by the Tyendinaga Mohawk Council to the extent that it is authorized in whole or in part by Resolution of the Tyendinaga Mohawk Council.

3.3 Federal laws regarding cannabis control and related criminal activity will continue to apply to the extent that they are consistent with this Law and the regulatory framework.

4.0 PROHIBITION

4.1 Unless authorized by this regulatory framework, the cultivation, processing, extraction, production, distribution and sale of cannabis; or, any other related activity for a commercial purpose, within and from the Tyendinaga Mohawk Territory is prohibited. For greater certainty, a licence issued by a provincial or other regulatory authority outside the lands of the Tyendinaga Mohawk Territory has no validity within the Tyendinaga Mohawk Territory unless the licence holder has also been granted a licence of authorization under this Law.

5.0 GOVERNANCE

5.1 The Tyendinaga Mohawk Cannabis Control Board will be established as an independent legal entity, empowered by and separate from the Tyendinaga Mohawk Council and the administration under the Tyendinaga Mohawk Council, and free from undue political and administrative influence.

- 5.2 To ensure the purposes of this Law are fully realized, the Board will liaise regularly and cooperate with the community and any appropriate agency or body within or outside the Tyendinaga Mohawk Territory. For greater certainty, is the responsibility of the Board to have a fair and transparent process to manage community complaints without recourse to the Tyendinaga Mohawk Council.

6.0 COOPERATION

- 6.1 This Law may serve as the basis for the cooperative framework of laws and regulations concerning cannabis in other jurisdictions and for capacity development and mutual assistance between the Tyendinaga Mohawk Cannabis Control Board and other Indigenous governments or other regulatory and law enforcement agencies. However, this legal framework is not dependent on the approval of, or cooperation from, any other governmental body or agency.
- 6.2 For greater certainty, the foregoing section 6.1 is not intended to, and does not in fact, affect, compromise, or diminish the authority of internal agencies, such as the Tyendinaga Mohawk Cannabis Control Board, or any other regulatory or law enforcement agency empowered under the Tyendinaga Mohawk Council's jurisdiction.

7.0 PURPOSES

- 7.1 The purposes of this Law are to:
- (a) protect the health and safety of the Tyendinagaron and other persons residing, visiting, or doing business within the Tyendinaga Mohawk Territory and, in particular to protect the health of young persons under the age of 19, by restricting their access and exposure to cannabis and cannabis by-products;
 - (b) protect the jurisdictional integrity of the Tyendinaga Mohawk Territory by self-determining economic advancement and enforcement of the Tyendinagaron's domestic affairs;
 - (c) facilitate a regulated and controlled cannabis industry that will promote and enhance socio-economic development, fiscal self-sufficiency and overall benefit to the Tyendinagaron and for the Tyendinaga Mohawk Territory;
 - (d) provide for the legal cultivation, processing, extraction, production, distribution, and sale of quality-controlled cannabis, include lab and testing facilities, within and from the Tyendinaga Mohawk Territory;

- (e) deter illicit and illegal activities in relation to cannabis, including but not limited to:
 - (i) preventing cannabis from being diverted to criminal organizations to profit from this industry;
 - (ii) preventing the importation of cannabis by criminal organizations into the Tyendinaga Mohawk Territory to profit from this industry;through appropriate sanctions and enforcement measures;
- (f) balance the interests of those Tyendinagaron who are concerned about legal cannabis in the Tyendinaga Mohawk Territory with the interests of the community members who support the regulated cultivation, processing, extraction, production, distribution, sale, possession, and use of cannabis in the Tyendinaga Mohawk Territory; and to
- (g) provide an overall benefit to the Tyendinaga Mohawk Territory through licencing cultivation, processing, extraction, production, distribution, and sale of cannabis within and from the Tyendinaga Mohawk Territory.

8.0 DEFINITIONS

8.1 For the purposes of this Law and the accompanying regulations:

“accountable” means having a duty to provide complete and accurate information, provided the information is not subject to privilege or confidentiality;

“approved agent” means a person or persons approved by the Board to carry out any of the functions set forth in this legal framework, on behalf of the Board, including for example, inspectors;

“arm’s length” means the necessary independence and legitimate procedural fairness is undertaken to make the decisions and take the actions as provided for in this legal framework;

“Board” means the Tyendinaga Mohawk Cannabis Control Board;

“Board regulation” means any regulation enacted by the Tyendinaga Mohawk Council under this Law;

“cannabis” has the same meaning as in subsection 2 (1) of *the Cannabis Act* (Canada), as amended from time to time;

“consumer” means an individual that purchases cannabis for personal use;

“Council” means the Tyendinaga Mohawk Council, as defined in the *Indian Act*;

“criminal organization” as defined in Section 467.1 (1) of the Criminal Code of Canada;

“cultivate” means to grow, propagate, or harvest any cannabis plant or any other living thing from which cannabis may be extracted;

“cultivator” means the holder of a valid Standard Cultivation Licence or Micro-cultivation Licence from the Tyendinaga Mohawk Cannabis Control Board or Health Canada;

“distribute” or “distribution”, in respect of cannabis, means giving, transferring, transporting, sending delivering, providing or otherwise making available in any manner, whether directly or indirectly, and includes offering to distribute;

“distributor” means the holder of a valid Distribution Licence from the Tyendinaga Mohawk Cannabis Control Board;

“extraction licence” and “production licence” means the type of licence for the creation of cannabis edibles.

“family member” means a spouse, parent, child, or sibling;

“individual” means a single human being;

“licence” means a licence issued by the Board;

“licence holder” means the holder of a valid licence from Canada or the Board or both;

“licenced retailer” means a commercial facility located within the Tyendinaga lands or the Tyendinaga Mohawk Territory that is operated by the holder of a Retail Licence;

“medical cannabis dispensary” is a licenced medical cannabis retail store in the Tyendinaga Mohawk Territory that includes Board-approved information and communication about the medical benefits of cannabis use;

“person” includes an individual, corporation, partnership, limited liability company, and any other business entity recognized under the laws applicable within the Tyendinaga Mohawk Territory;

“possess” in respect of cannabis, means to have cannabis in a person’s personal possession or knowingly have cannabis in the actual possession or custody of another person, or has cannabis in any place, whether or not that place belongs to or is occupied by the person, or the use of the person or of another person;

“prescribed legal age” means an individual nineteen (19) years of age within the Cannabis Control Law and the accompanying regulations;

“process” in respect of cannabis, means the production, packaging, and labelling of cannabis products;

“processor” means the holder of a valid Standard Processing Licence or Micro-processing Licence from Canada or the Board or both;

“regulation” means any regulation enacted by the Tyendinaga Mohawk Council under this Law;

“restricted public area” means a 300 metre radius surrounding any building, address or class of property listed in SCHEDULE 1 ;

“sell” or “sale” means to transfer ownership in exchange for money or something of value and includes offer for sale, expose for sale and have in possession for sale;

“Tyendinaga Mohawk Territory” means:

- (a) the lands presently under the control and jurisdiction of the Tyendinaga Mohawk Council, including the lands referred by Canada as “Tyendinaga Mohawk Territory”;
- (b) any and all lands that may be added to the lands now under the control and jurisdiction of the Tyendinagaro:non through the negotiations and resolution of claims, grievances, or rights;
- (c) any and all lands that may be added to the lands now under the control and jurisdiction of the Tyendinagaro:non as a result of any other means.

“Tyendinagaro:non ” means a Kanyen'kehà:ka, a member of the Mohawks of the Bay of Quinte;

SECTION III

9.0 PERMITTED ACTIVITIES

- 9.1 Subject to section 24(3) an individual who has attained the prescribed legal age is permitted to possess cannabis for their personal use provided that:
- (a) the cannabis has been acquired from a licenced retailer or from a facility that is licenced by this Law or by Health Canada; and
 - (b) the total amount possessed at any given time does not exceed limits found in the *Cannabis Act*, S.C. 2018, c.16 (Canada), as amended from time to time.
- 9.2 Notwithstanding the foregoing, where an individual is a medical patient and holds a valid prescription from a licenced medical practitioner, the terms of the prescription will supersede this Law and its regulations, but solely for the purposes of the individual's medical treatment.
- 9.3 The Tyendinaga Mohawk Council has the jurisdiction to prohibit smoking or vaping through a general law, in public buildings and within the perimeter and entrance ways of public buildings and other buildings and properties administered by the Tyendinaga Mohawk Council.
- 9.4 No individual is permitted to use, or be under the influence of cannabis when operating a facility licenced under this Law and the accompanying regulations.
- 9.5 For greater certainty, no individual is permitted to use, or be under the influence of cannabis when operating a motorized vehicle or vessel and offenders may be charged and prosecuted under the applicable federal law, and may lose a provincial driver's licence or have that licence suspended.
- 9.6 No licence holder will interfere with the reasonable enjoyment of land and buildings of their neighbours or, any resident of the Tyendinaga Mohawk Territory by way of vehicle traffic or outside activity, such that all licence applicants must ensure that their facilities are planned, for the most part, away from residential neighbourhoods.

SECTION IV

10.0 TYENDINAGA MOHAWK CANNABIS CONTROL BOARD

- 10.1 The Council have empowered a regulatory body to be known as the Tyendinaga Mohawk Cannabis Control Board for the purpose of regulating, enforcing and administering this Law and the accompanying regulations. For greater certainty, the Board will not be a law-making body, and will formally request any changes to this Law's general policy direction from the Council.

11.0 GENERAL MANDATE

11.1 The Board will administer this Law and the accompanying regulations in the best interests of the Tyendinagaron and in accordance with the highest principles of health, safety, security, honesty, and integrity.

12.0 DUTIES AND RESPONSIBILITIES

12.1 In addition to any other duties and responsibilities that may be accorded it through this Law, the Board will:

- (a) issue, suspend, and revoke the licences provided in this Law and the accompanying the regulations;
- (b) regulate, monitor, investigate and inspect any premises and the activities of the licence holders; and
- (c) make any decision and take any actions as is necessary to fulfill the purposes of this Law.

12.2 The Board may recommend that Council amend any agreements between the Council or, otherwise authorize such agreements and arrangements made with the Board.

12.3 The Board will comply with principles of procedural fairness and operate any powers under its regulations in a manner consistent with existing law for such regulatory processes of inspection, review and investigations.

13.0 STRUCTURE OF THE BOARD

13.1 The Board will be accountable to the Council at semi-annual meetings, but will operate regularly at an arm's length to the Council;

13.2 The Board will be comprised of up to five (5) members as follows:

(a) two (2) selected and appointed by Council as professional Board members who may become employees of the Tyendinaga Mohawk Council, selected in accordance with the following criteria:

- (i) preference will be given to Tyendinagaron;
- (ii) they must be nineteen years old or older;
- (iii) preference will be for residents within the Tyendinaga Mohawk Territory as the residents will also be knowledgeable about community matters and share in the experience of cannabis legalization and related development;

(iv) they must not have any interest in a private entity that has applied for or has been granted a licence in this Regulatory framework;

(v) they must not have any association or affiliation with criminal organizations as defined in the Criminal Code of Canada;

(vi) they must not have (a) a family member or (b) an individual who resides with the Board member, that has any interest in a private entity that has applied for or has been granted a licence; and

(b) three (3) members and an alternative elected from an Electoral list of eligible Tyendinagaro:non, who meet the following qualifications:

(i) they are not bankrupt or have been discharged from a bankruptcy;

(ii) they are nineteen years of age or older;

(iii) they have no ownership interest in a cannabis licence within Tyendinaga Mohawk Territory;

(iv) they must be an eligible band member capable of attending meetings in Tyendinaga Mohawk Territory without any financial assistance for travel;

(v) they must not have any association or affiliation with criminal organizations as defined in the Criminal Code of Canada.

(c) all five (5) members of the Board shall not possess a criminal record for an indictable offence for which they have not received a pardon, and consent to further background checks as deemed necessary by the Council, as well as provide written personal references that are suitable for the position of a good standing member of the community, with good judgment.

13.3 Subject to early termination in accordance with this Law and the accompanying regulations, a Board member's term will be four (4) years. Wherever possible, Council will stagger Board member's appointments to ensure continuity and consistency.

13.4 Council will ensure that individuals appointed as Board members are mature, reliable, competent, responsible and, wherever possible, have experience with regulatory matters or participating on boards or commissions.

13.5 The Board will employ the support staff and will retain the professional assistance that it requires to fulfill its mandate.

- 13.6 Board members and staff will undertake all necessary training to enable them to fulfill their respective mandates more effectively and efficiently.
- 13.7 The Board will, by majority vote, appoint one of its members as Chairperson. The Chairperson will preside over meetings of this Board and will ensure that the Board follows the principles and procedures provided in this Law and the accompanying regulations.
- 13.8 Council may, for reasonable cause, remove an appointed Board member from office prior to the expiry of their term of office.
- 13.9 Council may remove an elected Board member from the Board on the following grounds:
- (a) they have been charged with or convicted of an indictable offence under the Criminal Code;
 - (b) they engage in drunk, drug related, disorderly, violent or other irresponsible conduct at Board meetings, community meetings, or on other public forums or functions which interferes with the conduct of the Board or brings the reputation of the Board, Council or Tyendinagaro:non into disrepute;
 - (c) they fail to perform their duties as set out in this Law and its Regulations; and
 - (d) they no longer meet the requirements for appointment as set out in section 13.2 of this Law.

Upon satisfactory confirmation of the grounds for removal, the Council, by Resolution which states the grounds for removal, may remove the Board member.

- 13.10 A Board member may resign from office prior to the expiry of their term of office by giving written notice to the Board and to the Council at least sixty (60) days prior to the date on which the resignation is to be effective.
- 13.11 In the event that an appointed Board member is removed, resigns or is unable to continue performing their duties for any reason, Council will appoint a new Board member within thirty (30) days or such other period of time that is necessary to ensure the Board always has two (2) appointed members.
- 13.12 In the event that an elected Board member is removed, resigns or is unable to continue performing their duties for any reason, Council will either select the alternative Board member chosen in the most recent election as outlined in s. 13.2(b), or hold a Board member by-election.

- 13.13 Council will provide the Board an annual budget, the amount of which will be adequate to ensure that the Board can satisfy their duties and responsibilities at an arm's length basis, under this Law.
- 13.14 Members of the Board may be remunerated for the time required to provide the services associated with their offices, and this remuneration shall be set by Council as part of the Board's annual budget.

SECTION V

16.0 LICENCES

- 16.1 No person may conduct any commercial activity within the cannabis sector within the Tyendinaga Mohawk Territory unless licenced under this Regulatory framework.
- 16.2 The Board may issue a restricted number of licences in the following categories, the particulars of which are contained in SCHEDULE 2:
- (a) Standard Cultivation Licence;
 - (b) Micro-cultivation Licence;
 - (c) Standard Processing Licence;
 - (d) Micro-processing Licence;
 - (e) Production licence;
 - (f) Distribution Licence;
 - (g) Retail Licence;
 - (h) Medical Cannabis Dispensary Licence; and
 - (h) such other licence category that the Board may create through Board regulation or the Council may create through amendment to SCHEDULE 2.
- 16.3 A licence holder may hold a licence from more than one category.
- 16.4 (a) Notwithstanding any other provision of this legal framework, a processing or distribution licence will only be issued to an entity created by Tyendinaga Mohawk Council or an entity in which Council has an ownership interest, hereinafter the Cannabis Entity, to ensure a community-wide benefit.

- (b) Purchases made by the Cannabis Entity may be preferentially from cultivators and producers licenced by and located in the Tyendinaga Mohawk Territory.
- 16.5 A valid Standard Cultivation and Micro-cultivation Licence will permit the licence holder to sell cannabis to the holder of a valid Standard Processing Licence or Micro-processing Licence or Production Licence.
- 16.6 A valid Standard Processing and Micro-processing Licence will permit and the holder to sell cannabis to the holder of a valid Production Licence, Distribution Licence, Retail Licence or Medical Cannabis Dispensary Licence, or export cannabis off the Tyendinaga Mohawk Territory to a processor or retailer who holds a valid licence issued by a regulatory authority in the jurisdiction in which the product is being sold.
- 16.7 A valid Production Licence will permit the licence holder to sell cannabis edibles to the holder of a valid Distribution Licence, or Retail Licence.
- 16.8 The holder of a Standard Cultivation Licence, a Micro-cultivation Licence, a Standard Processing Licence, a Micro-processing Licence, a Production Licence, or a Distribution Licence must not sell cannabis directly to a consumer.
- 16.9 A valid Distribution Licence will permit the licence holder to sell cannabis to the holder of a Retail Licence or Medical Cannabis Dispensary Licence, or export cannabis off the Tyendinaga Mohawk Territory to a distributor or retailer who holds a valid licence issued by a regulatory authority in the jurisdiction in which the product is being sold.
- 16.10 To effect distribution of cannabis outside of the Tyendinaga Mohawk Territory, the holder of a Distribution Licence may also be required to obtain a licence from a regulatory authority in the jurisdiction in which the cannabis is being distributed.
- 16.11 The holder of a Distribution Licence must obtain cannabis only from the holder of a Standard Cultivation, or a Micro-cultivation Licence, or a Standard Processing Licence, or a Micro-processing Licence, or a Production Licence.
- 16.12 A valid Retail Licence will permit the licence holder to sell recreational cannabis to an individual who has attained the age of nineteen (19) years or older.
- 16.13 A valid Medical Cannabis Dispensary Licence will permit the licence holder to sell medical cannabis to an individual who has attained the age of nineteen (19) years or older or an individual who is a medical patient and holds a valid prescription from a licenced medical practitioner.
- 16.14 All licence holders must comply with the provisions of this Law and the accompanying regulations, the Board regulations, any conditions to which the licence may be subject and all other laws, regulations, and policies that are applicable within the Tyendinaga Mohawk Territory including but not limited to, any law adopted by Council.

- 16.15 All licences will be for a fixed term and may be revoked, amended, suspended or renewed as the Board in its sole discretion deems appropriate.
- 16.16 A licence is not valid unless and until any licensing fees prescribed by the Board have been paid in full.
- 16.17 Licence holders will, in recruiting, training and hiring employees, give preference to qualified Tyendingarogon in all job categories, particularly management positions.
- 16.18 Each licence holder will fit within one of the following four categories, and will meet the specified eligibility requirements:
- (a) an individual who:
 - (i) is Tyendingarogon;
 - (ii) has attained the full age of nineteen (19) years; and
 - (iii) has no criminal record for an indictable offence, or has been granted a pardon for said indictable offence.
 - (b) a band-empowered entity, corporation or partnership that is wholly owned and operated by one or more individuals who:
 - (i) are Tyendingarogon;
 - (ii) have attained the full age of nineteen (19) years of age; and
 - (iii) have no criminal record for an indictable offence, or has been granted a pardon for said indictable offence.
 - (c) a band-empowered entity, corporation or partnership in which the Council and one or more business entities share a commercial interest.
 - (d) A partnership where 51% or more of the ownership is held by any entity in subparagraphs (b), or (c) above.
- 16.19 Notwithstanding the foregoing section,
- (a) if the Board determines that it is appropriate from a regulatory perspective to do so, it may issue a licence to an entity that is located outside the Tyendingarogon Territory, as long as the Board is satisfied there is a benefit to the Community or the Tyendingarogon for doing so and that the licence will be recognized by other necessary authorities in that location;

- (b) the Board may waive the requirement set out in section 16.18(a)(iv) and (b)(iv) if:
 - (i) the Board is of the view that the indictable offence(s) in question have no impact on the licence holder's ability to operate the business contemplated by the licence or fulfill the obligations contained therein, taking into consideration
 - (1) the circumstances of the offence(s),
 - (2) the character of the licence holder, and
 - (3) the impact on the safety and reputation of the community; and
 - (ii) the indictable offence(s) in question do not relate to organized crime or drug trafficking.

16.20 No person is eligible to apply for or hold a Standard Cultivation Licence, a Micro-cultivation Licence, a Standard Processing, a Micro-processing Licence or a Production Licence unless the facility from which operations are intended to be conducted has been inspected, certified and licenced by the health and safety authorities designated by the Board, which may include Health Canada officials.

16.21 In consultation with the Tyendinaga Mohawk Council, the Board may at any time and in its sole discretion limit the number of licences that are issued in any category.

17.0 RETAIL LICENCES

17.1 The Board will not issue or renew a Retail Licence to a person who intends to sell recreational cannabis from a retail store that is located:

- (a) in a restricted public area and such other buildings or areas as may be defined by the regulations, or
- (b) in an area where it is likely to disturb or endanger the community or the Tyendinagaron, as determined by the Board.

17.2 The holder of a recreational Retail Licence must not sell, barter, give, or exchange cannabis:

- (a) to an individual who has not attained the full age of 19 years or older;
- (b) to an individual who appears to be intoxicated;

- (c) to any individual who is not a consumer, especially if that individual may be a source of illicit supply to organized crime or persons under the age of 19 years old;
- (d) in an amount that exceeds the amount prescribed by the Board regulations; and
- (e) that is not obtained from a company with a Distribution Licence, Processor Licence, or Production Licence.

SECTION VI

18.0 STANDARDS AND TESTING

- 18.1 The Board will enact Board regulations to establish standards and testing procedures to ensure that all cannabis and cannabis products cultivated, processed, distributed, and sold within the Tyendinaga Mohawk Territory are consistently and reliably high-quality and safe for public consumption. For greater certainty, the Board will ensure that the Board regulations are consistent with the standards and testing procedures promulgated by Health Canada.
- 18.2 The Board may engage approved agents, which may include representatives of Health Canada, to assist and advise the Board in relation to:
- (a) the preparation of appropriate standards to be followed by facilities that are intended to be used for the purpose of cultivating or processing cannabis;
 - (b) inspections and certifications of facilities, equipment and materials used by facilities for the purpose of cultivating or processing cannabis;
 - (c) testing of cannabis cultivated or processed by facilities licenced under this Law and the accompanying regulations;
 - (d) the safe storage and handling of cannabis; and
 - (e) the destruction of cannabis that fails to meet the Board regulations.

19.0 PACKAGING AND LABELING

- 19.1 It is prohibited for a licence holder to sell cannabis in a package or with a label that does not conform to the requirements in the Board regulations.
- 19.2 The labeling of cannabis packages sold by a licence holder must include:
- (a) the tetrahydrocannabinol (“THC”) or cannabidiol (“CBD”) content;

- (b) a list of all ingredients, particularly if the cannabis products are edible, in the cannabis product;
- (c) a control or batch number to enable tracking of the processing completion date and location of a cannabis product;
- (d) any restrictions on where the cannabis may be processed, distributed, or sold; and
- (e) such other information as may be provided in the Board regulations.

20.0 PRICE CONTROLS

20.1 To preserve the economic viability of the cannabis market in the Tyendinaga Mohawk Territory, the Board will establish pricing policy for which any cannabis product can be sold:

- (a) by a distributor or licenced processor to a retail store; and
- (b) by a distributor or licenced processor to a medical cannabis dispensary,

if the Distributor or Licenced processor has no competition.

21.0 Licencing Fees

21.1 All licencing fees are established in a Board regulation and will be reviewed annually by the Board.

21.2 A licence is not valid unless licencing fees have been paid in full.

21.3 The Board will be accountable through an audit for the licencing fees received and the licencing expenses related to the cannabis control system at the Annual General meeting.

21.4 The Board will ensure that there is a public audit available at the Annual Meetings so that their members are held accountable for the use of revenues such as licencing and regulatory fees.

21.5 Annual Meetings shall be held on a date mutually agreed upon by the Board and the Chief and Council.

SECTION VII

22.0 BOARD REGULATIONS

22.1 The Board may enact such Board regulations it considers necessary to implement the provisions of this Law, including Board regulations respecting:

- (a) the creation of new categories for licences and development of the existing categories that may be issued under the Board regulations, which will include but not be limited to permitted activities, prohibitions and application requirements and procedures;
- (b) the forms to be used and processes to be followed to apply for a licence;
- (c) background and security investigations and credential verifications of personnel, staff and companies contracted to conduct business with or on behalf of a licence holder;
- (d) the amount of application, annual and other licence fees to be charged for licences;
- (e) the days and hours during which a retail store may operate;
- (f) the type of cannabis products that a retail store may sell;
- (g) the requirements to which the holder of a Micro-cultivation Licence will be subject, including but not limited to quality assurance standards, plant count, size of growing area, total production and gross revenue;
- (h) the total number of licences that will be issued;
- (i) in consultation with Council, modifying the prescribed legal age that will apply for all purposes of this Law and the accompanying regulations;
- (j) the maximum amount of cannabis that a retail store can sell to a consumer within a specified period of time;
- (k) the composition, strength, concentration, potency, purity or quality or any other property of cannabis or any class or type of cannabis;
- (l) standards and testing procedures to ensure that all cannabis cultivated, processed, distributed and sold within the Tyendinaga Mohawk Territory are consistently and reliably high-quality;
- (m) eligibility requirements to apply for or hold a licence for the purpose of ensuring, among other things, that the facility to be used by the licence

holder has been inspected, certified and licenced by the appropriate regulatory, health and safety, food safety, and Health Canada authorities;

- (n) procedures for addressing accusations that a licence holder has breached the provisions of this Regulatory framework and, if a finding of culpability is made, sanctions that may include suspending or revoking the licence and the impositions of fines up to One Hundred Thousand (\$100,000.00) Dollars per breach;
- (o) the maintenance of public order, security and safety of individuals working in, and for customers of, retail stores;
- (p) processes and systems that cultivators, processors, distributors and retailers must use to ensure that:
 - (i) cannabis is safely handled and stored;
 - (ii) cannabis is not sold to anyone who has not attained the full age of nineteen (19) years of age or older;
 - (iii) no individual can purchase an amount of cannabis that exceeds the amount prescribed by the Board regulations from a retail store or a combination of all retail stores in the Tyendinaga Mohawk Territory;
 - (iv) the Board can accurately track all cannabis sold by a cultivator, processor, distributor, and retail store or a combination of all retail stores at which the cannabis is sold;
 - (v) facilities are adequately monitored and secured;
- (q) advertising and marketing that the licence holders may or may not conduct;
- (r) packaging and labeling requirements; and
- (s) any other Board regulation necessarily required to achieve the purposes of this Law.

22.2. The Board will contract or hire compliance officers who will have certain Legal powers necessary for the enforcement of this Law and of the accompanying regulations including the power to investigate and enter licenced operations in Tyendinaga Mohawk Territory, and the power to fine non-compliant individuals.

- (a) The compliance officers will be properly trained and will be delegated the appropriate responsibilities and processes within the Board regulations.
- (b) The compliance officers will coordinate with the Board and Chief and Council when appropriate. However, the compliance officers are to take no specific direction from Chief and Council, only the Board.
- (c) A compliance officer may, for a purpose related to verifying compliance or preventing non-compliance with the provisions of this Law or of the accompanying regulations, enter any place, including a conveyance, where they believe on reasonable grounds activities are being carried out which are regulated by or prohibited by this Act.
- (d) The inspection will allow the compliance officer to make a conclusion and report on the following matters in this cannabis control regime:
 - (i) an activity that may be regulated under this Law is being conducted;
 - (ii) an activity could be conducted under a licence, permit, authorization or exemption that is under consideration by the Board; or
 - (iii) an activity was being conducted under a licence, permit, authorization or exemption before the expiry or revocation of the licence, permit, authorization or exemption, in which case the compliance officer may enter the place only within 45 days after the day on which it expired or was revoked.
- (e) The compliance officer may in the place entered under subsection (d), order a person that, at that place, conducts an activity to which the provisions of this Law or of the accompanying regulations apply to stop or start the activity.

SECTION VIII

23.0 REVIEW

- 23.1 A decision by the Board may be reviewed by Council if an applicant formally requests, in writing, the review within 30 days after they receive notice of the decision. A Review Committee will be established by the Council in the future once revenues are created through the operation of this Law. The Review Committee will be established through the Chief and Council's authority. Once established, the Review Committee will be solely responsible for reviewing the decisions of the Board.

24.0 ENFORCEMENT

- 24.1 A breach of this legal framework, if the breach is regulatory in nature, will be addressed by the Board 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 this Law and the accompanying regulations, which sanctions may include, but are not limited to, the imposition of a fine and the suspension, amendment or revocation of a licence.
- 24.2 A breach of this legal framework, if the breach is criminal in nature, will be investigated by a police force of competent jurisdiction, and, where appropriate, criminal proceedings will be initiated and adjudicated in a court of competent jurisdiction.
- 24.3 Notwithstanding subsection 9.1 of this Law, any individual under the prescribed legal age who is found to be in possession of small quantities of cannabis or using cannabis within the Tyendinaga Mohawk Territory may, if they elect, to not be subjected to criminal proceedings under the federal Cannabis Act, as amended from time to time, or any other applicable law, but will be provided the opportunity to attend a class or program established by the Tyendinaga Justice Circle, for the purpose of educating young persons about the risk associated with cannabis use.

SECTION IX

26.0 Severability

- 26.1 Should a court determine that a provision of this Law is invalid for any reason, the provision shall be severed from the Law and the validity of the rest of the Law shall not be affected. The Tyendinaga Mohawk Council shall replace the severed provision with another provision, if necessary, in order to maintain the intent of this Law.

27.0 Coming into Force

- 27.1 This Law comes into force on July 2, 2020.

28.0 Amendment

- 28.1 This Law may be amended through a further community ratification vote at any time.
- 28.2 The Schedules to this Law and any regulations under this Law may be amended by Chief and Council.

SCHEDULE 1 – RESTRICTED PUBLIC AREAS

1. Quinte Mohawk School
2. Eksa Okon'a Childcare Centre
3. Tahatikonhsotontie Head Start
4. Ohahase
5. First Nations Technical Institute
6. Airport
7. Landing Site
8. Cairn Site
9. Churches:
 - (a) All Saints Church
 - (b) Mohawk Pentecostal Church
 - (c) Christ Church Her Majesty's Chapel Royal
10. Parks, including but not limited to:
 - (a) Tsi Tkerhitoton Park
 - (b) Karonhiakta'kie Memorial Sports Complex
 - (c) Shannonville Park
11. Mohawk Administration Office
12. Community Well-being Building
13. Tyendinaga Police Building
14. Red Cedars Shelter
15. Tyendinaga Mohawk Business Centre
16. Mohawk Community Centre
17. Mohawk Fire Department
18. Kanhiote Library

19. Roads Department
20. Home Support Activity Centre
21. Huron-Brant Subdivision
22. Sadie's Lane Subdivision
23. Elder's Lodge

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SCHEDULE 2 – LICENCE CATEGORIES

1.0 CULTIVATION LICENCES

A valid Standard Cultivation Licence will permit the licence holder to conduct cultivation of cannabis plants and to produce cannabis seeds, cannabis plants, fresh cannabis and dried cannabis for the purposes of sale.

A valid Micro-cultivation Licence will permit the licence holder to conduct small-scale cultivation of cannabis plants and to produce cannabis seeds, cannabis plants, fresh cannabis and dried cannabis for the purposes of sale.

The amount of cannabis permitted to be cultivated under a valid Micro-cultivation Licence shall be determined by the Board and set out in a Board regulation.

2.0 PROCESSING LICENCES

A valid Standard Processing Licence will permit the licence holder to produce cannabis, other than by cultivating, propagating or harvesting it and excluding cannabis edibles, for the purposes of sale.

A valid Micro-processing Licence will permit the licence holder to produce cannabis, other than by cultivating, propagating or harvesting it and excluding cannabis edibles, on a small scale for the purposes of sale.

The amount of cannabis permitted to be cultivated under a valid Micro-processing Licence shall be determined by the Board and set out in a Board regulation.

3.0 PRODUCTION LICENCE

A valid Production Licence will permit the licence holder to produce cannabis edibles, other than by cultivating, propagating or harvesting cannabis, for the purposes of sale.

4.0 DISTRIBUTION LICENCE

A valid Distribution Licence will permit the licence holder to distribute cannabis within the Tyendinaga Mohawk Territory for the purpose of sale.

5.0 RETAIL LICENCE

A valid Retail Licence will permit the licence holder to sell cannabis within the Tyendinaga Mohawk Territory to individuals other than for medicinal purposes.

6.0 MEDICAL CANNABIS DISPENSARY LICENCE

A valid Medical Cannabis Dispensary Licence will permit the licence holder to run a medical cannabis dispensary, from which the holder may sell cannabis within the Tyendinaga Mohawk Territory to individuals for medicinal purposes.

SCHEDULE 3 – OFFENCES AND FINES

Offence

1.1 A person is guilty of a federal *Cannabis Act* offence if the person contravenes or fails to comply with,

- (a) section 4.1, or section 16.1 of the Law; and,
- (b) the person does not hold a valid cannabis licence from Health Canada.

Same, directors or officers

(2) A director or officer of a corporation who causes, authorizes, permits or participates in an offence under this Act by the corporation is guilty of an offence.

Limitation

(3) No proceeding under this section shall be commenced more than two years after the day the offence was, or is alleged to have been, committed.

Penalty

2.1 On conviction for an offence under this Act,

- (a) a corporation is liable to a fine of not more than \$100,000; and
- (b) an individual is liable to a fine of not more than \$20,000;

3.1 The Commission shall revise this schedule prior to each annual general meeting to create more specific penalties so that licence holder and the Tyendinagaro:non have notice of the potential penalties and offences found in this Law.