

# Whitecap Dakota First Nation Cannabis Law



April 7<sup>th</sup>, 2022

**WHITECAP DAKOTA FIRST NATION  
CANNABIS LAW**

**BEING A LAW OF THE WHITECAP DAKOTA FIRST NATION WITH A PURPOSE OF GOVERNING THE SENDING, DELIVERY, TRANSPORTATION, SALE, POSSESSION, OR DISPOSAL OF CANNABIS WITHIN AND ON THE RESERVE LANDS OF THE WHITECAP DAKOTA FIRST NATION**

- A. WHEREAS** the Whitecap Dakota First Nation is a Dakota First Nation, and Whitecap Dakota First Nation asserts that it is descended from the Oceti Sakowin (Seven Council Fires) and that the Oceti Sakowin was comprised of several Dakota, Nakota and Lakota Nations;
- B. AND WHEREAS** the Whitecap Dakota First Nation asserts the Dakota language, values, knowledge, traditions and way of life have been passed down between generations since time immemorial by Whitecap Dakota First Nation and its members;
- C. AND WHEREAS** the Whitecap Dakota First Nation has and continues to exercise an inherent right to govern its members and lands that is recognized and affirmed by, *inter alia*, Articles 4, 20, 23 24, 31, 34, 35 and 36 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;
- D. AND WHEREAS** the Chief and Council of the Whitecap Dakota First Nation deem it expedient and in the best interests of the First Nation, as an expression and in furtherance of the First Nation's inherent right to self-determination, to make a cannabis law for the purposes of, *inter alia*:
1. preserving and promoting the health and safety of its Members;
  2. controlling, protecting and developing the spiritual, cultural and economic practices of its members and those who inhabit or share in the use of its traditional territories;
  3. maintaining, controlling, protecting and developing the heritage, traditional knowledge and cultural expressions of its members; and
  4. establish and maintain tolerance, understanding and good relations among the First Nations and the federal and provincial Crowns;
- E. AND WHEREAS** the Chief and Council of the Whitecap Dakota First Nation wish to enact this Law pursuant to:
1. the First Nation's inherent right to self-determination; and
  2. Sections 18.1, 18.2(a), and 18.2(b) of the *Framework Agreement on First Nation Land Management* and Sections 18(1), 18(3), 20(1), 20(2), and 20(3) of the *First Nations Land Management Act*, (S.C. 1999, c. 24) to the extent the same is not inconsistent with the First Nation's inherent aboriginal rights to self-determination.

- F. **AND WHEREAS** it is intended that this cannabis law will serve as a foundational and living document to be adapted to fit the capacity and aspirations of the Whitecap Dakota First Nation as they evolve over time and to eventually address the governance of all aspects of cannabis production, distribution, sale, possession and use within and on the Whitecap Dakota First Nation Lands.

**NOW THEREFORE, THE CHIEF AND COUNCIL OF THE WHITECAP DAKOTA FIRST NATION, DULY ASSEMBLED, ENACTS THIS CANNABIS LAW AS FOLLOWS:**

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

**1.0 Short Title**

- 1.1 This Law may be known as the "*Whitecap Dakota First Nation Cannabis Law*" or the "Law".

**2.0 Interpretation**

**Definitions**

- 2.1 The following definitions apply in this Law:

- (a) "**Appeal Committee**" means the three (3) member committee appointed by Council under Section 11.4 of this Law;
- (b) "**Board**" means the five (5) member board appointed by Council under Section 12 of this Law;
- (c) "**Canada**" means *Her Majesty the Queen in Right of Canada*, as may be represented by an agent thereof;
- (d) "**Cannabis**" has the meaning given to it in the *Cannabis Act*, S.C. 2018, c. 16, as amended, modified or replaced from time to time;
- (e) "**Cannabis Plant**" means a plant that belongs to the genus *Cannabis*;
- (f) "**Cannabis Store**" means any business that is licensed pursuant to this Law or a Recognized Law to sell and offer for sale Cannabis;
- (g) "**Council**" means the Council of Whitecap Dakota First Nation, collectively comprised of the Chief and Councillors, duly elected from time to time in accordance with the *Whitecap Dakota First Nation #94 Custom Elections Act, 2012* as may be amended or replaced from time to time;
- (h) "**Court**" means a court of competent jurisdiction in the Province of Saskatchewan;
- (i) "**Dried Cannabis**" means Cannabis that has been subjected to any drying process, but does not include seeds
- (j) "**Illicit Cannabis**" means Cannabis that is or was cultivated, produced, sold or distributed by a Person who is not authorized to do so under this Law, Regulations,

*Cannabis Act, S.C. 2018, c. 16, The Cannabis Control (Saskatchewan) Act or any other Recognized Law;*

- (k) **"First Nation"** means the Whitecap Dakota First Nation;
- (l) **"Land Code"** means the *Whitecap Dakota First Nation Land Code, 2015*, as amended or replaced from time to time;
- (m) **"Licence"** means a licence issued by the Board under Section 7;
- (n) **"Licensee"** means a person who is issued a Licence, and includes an employee or agent of a Licensee, if applicable;
- (o) **"Member"** means an individual as defined within the *Whitecap Dakota First Nation Membership Code*, as may be amended from time to time;
- (p) **"Minor"** means an individual who has not attained the age of 19 years of age or older;
- (q) **"First Nation's Lands"** means those lands described within the *Whitecap Dakota First Nation Land Code, 2015*, and such other lands that are or become lands of the First Nation from time to time;
- (r) **"Offence"** means an offence under this Law;
- (s) **"Offence-related Property"** means, with the exception of Illicit Cannabis, any property
  - i. by means of or in respect of which an Offence is committed;
  - ii. that is used in any manner in connection with the commission of an Offence; or
  - iii. that is intended for use for the purpose of committing an Offence;
- (t) **"Organization"** has the same meaning as within the *Criminal Code*;
- (u) **"Peace Officer"** means a peace officer, police officer, or any Person appointed by Council by way of a resolution in writing for the purpose of enforcing and carrying out the provisions of this Law and Regulations;
- (v) **"Person"** means and includes any individual, body corporate, joint venture, firm, partnership, limited partnership, association, corporation, trust, trustee, executor, administrator, or other legal representative;
- (w) **"Private Property"** means, with respect to the First Nation's Lands:
  - i. the following places that are genuinely and actually occupied and used as a private residence:
    - 1. a house or building or any part of a house or building;

2. a trailer, camper, mobile home, tent, or any combination of them; or
  3. a cottage or cabin or similar construction designed for use on a seasonal basis.
- ii. subject to Subsection, in the case of any place mentioned in Subsections 1 to 3 above, the appurtenant land; or
  - iii. any other prescribed place.
  - iv. For greater certainty, Private Property will only apply to the owner, tenant, or lawful occupant, of the place described in that clause, or to the family, employee, or bona fide guest of that owner, tenant, or lawful occupant.
  - v. Other than lawfully within a hotel room, no part of any First Nation hotel, resort, or other such accommodation will be considered on Private Property.
- (x) **"Public Place"** means, with respect to the First Nation's Lands:
- i. all or any part of a place, building, structure, or other enclosed area to which the public has or is permitted to have access;
  - ii. a park, playground, sports field, or other place of public resort or amusement;
  - iii. a highway, road, street, lane, or thoroughfare;
  - iv. any unoccupied land or building;
  - v. in relation to a Person who enters land or an occupied building without the consent of the occupant, the land or building so entered;
  - vi. a vehicle while it is at, in, or on any place, building, thoroughfare or land that by virtue of this definition is a public place; or
  - vii. any other place prescribed by the Regulations.
- (y) **"Recognized Law"** means any law, act, regulation or custom of a governmental authority, including a First Nation, that is recognized by the First Nation pursuant to the Regulations;
- (z) **"Regulations"** means any regulation made by Council pursuant to Section 10;
- (aa) **"SLGA"** means the Saskatchewan Liquor and Gaming authority or any of its successors designated the 'Cannabis Authority' by Order in Council pursuant to The Cannabis Control (Saskatchewan) Act; and

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- (bb) **“vehicle”** means any vehicle that is designed to be, or is capable of being, driven or drawn on roads by any means other than muscular power exclusively, but does not include any vehicle that is designed to run exclusively on rails.

2.2 For the purposes of this Law, Dried Cannabis is a class of Cannabis.

2.3 For the purposes of this Law, a quantity referred to in Column 2 of Appendix “A” in the Regulations with respect to any class of cannabis referred to in Column 1 of that Schedule is deemed to be equivalent to 1 gram of dried cannabis.

### Paramountcy

2.4 If there is an inconsistency or conflict between this Law and any other enactment of the First Nation, this Law will prevail to the extent of the inconsistency or conflict, unless such conflict is inconsistent with the Land Code, then the Land Code will prevail. Should the First Nation enter into an agreement with Canada for the exclusive or ancillary jurisdiction over cannabis activity which directly conflict with this Law, then such agreement will prevail, and those portion of this Law shall be deemed null and void.

2.5 If there is an inconsistency or conflict between this Law and any agreement between the First Nation and SLGA concerning the importation, sending, delivery, transportation, sale, possession, consumption or disposal of Cannabis, such agreement shall prevail to the extent of the inconsistency or conflict.

### Interpretation

2.6 In this Law:

- (a) the use of the word "shall" denotes an obligation that, unless this Law provides to the contrary, must be carried out as soon as practicable after this Law comes into effect or the event that gives rise to the obligation;
- (b) 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";
- (c) headings and subheadings are for convenience only, do not form a part of this Law and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Law;
- (d) a reference to a statute includes every amendment to it, every regulation made under it and any Law enacted in substitution for it or in replacement of it;
- (e) unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular; and
- (f) unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine.

### Non-abrogation

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- 2.7 This Law is not intended to abrogate or derogate from any aboriginal, traditional, inherent or other rights or freedoms which exist now or in the future to the First Nation or its Members.
- 2.8 This Law is not intended to affect the eligibility of the First Nation or any Member to receive services or participate in such public or Indigenous-based programs as may be established from time to time to the extent that the First Nation has not assumed responsibility for such services or programs hereunder.

### Fiduciary Relationship

- 2.9 This Law is not intended to abrogate the fiduciary relationships between Canada, the First Nation or its Members.

## PART II AUTHORITY AND PURPOSE

### 3.0 Authority, Purpose and Application

#### Source of Authority

- 3.1 The authority of the First Nation to govern activities within, on and in respect of its land and resources flows from its inherent right of self-determination, the Land Code, and the *Framework Agreement for First Nation Land Management*, as between the First Nation and Canada.

#### Purpose

- 3.2 The purpose of this Law is to set out the principles and legislative and administrative structures that apply to the First Nation's Lands and through which the First Nation will exercise authority over Cannabis-related activities over those lands.

## PART III PROHIBITION

### 4.0 General Prohibition

#### General Prohibition

- 4.1 No Person shall import, export, send, deliver, transport, sell, possess, consume or dispose of Cannabis, within or on the First Nation's Lands unless authorized under this Law.

#### No Application for medical purposes

- 4.2 Unless otherwise prescribed, this Law does not apply to the consumption, possession, distribution, purchase or sale of Cannabis for medical purposes that occurs in accordance with the requirements of the applicable laws.

## PART IV POSSESSION AND CONSUMPTION OF CANNABIS

## **5.0 Possession**

### ***Possession by Minors and non-Minors***

- 5.1 An individual that is not a Minor may possess Cannabis on or within the First Nation's Lands in accordance with this Section.
- 5.2 Unless authorized by this Act or the Regulations, no Minor shall:
- (a) purchase or attempt to purchase Cannabis, directly or indirectly;
  - (b) possess Cannabis;
  - (c) consume Cannabis;
  - (d) sell Cannabis to any other person or Organization;
  - (e) distribute cannabis to any other person or Organization;
  - (f) except as authorized by the License issued respecting a premises, be in or remain in a premises for which the Licence has been issued;
  - (g) present false identification when attempting to purchase Cannabis from a person lawfully authorized to sell Cannabis; or
  - (h) present false identification when attempting to gain access to or to remain in a premises for which a licence has been issued.
- 5.3 No person shall sell, give, or distribute Cannabis to a Minor and nothing in this Law is to be construed as authorizing the sale, giving, or distribution of Cannabis to a Minor.
- 5.4 A person may be convicted of contravening 5.3 notwithstanding that the Minor does not appear to be a Minor.
- 5.5 Any Minor found in possession of Cannabis may have the Cannabis seized and destroyed without any further sanction to the Minor.

### ***Restrictions on Quantity***

- 5.6 An individual may possess not more than four (4) Cannabis Plants at one time on or within the First Nation's Lands, provided that an individual shall not possess a Cannabis Plant that is budding or flowering in a Public Place.
- 5.7 An individual shall not possess Cannabis in a Public Place or in a vehicle in a Public Place within or on the First Nation's Lands in an amount exceeding the equivalent of thirty (30) grams of Dried Cannabis at one time.
- 5.8 Subject to section 5.9 and the Regulations, a common carrier, federal cannabis licensee, SLGA Cannabis permittee, a Licensee or its employee or agent, that is transporting or distributing Cannabis in the ordinary course of business to and from a Cannabis Store or Cannabis Facility is authorized to possess Cannabis in unlimited quantities.



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- 5.9 No common carrier or other person authorized to transport or distribute Cannabis pursuant to this Law or the Regulations shall:
- (a) open or break or allow to be opened or broken, a container or package containing Cannabis that the common carrier or other person is transporting or distributing; or
  - (b) consume or permit any Cannabis to be consumed while the Cannabis is being transported or distributed by said common carrier.
- 5.10 Unless authorized by this Law, the Regulations, or an Act of the Parliament of Canada, no Organization shall possess Cannabis.

### *Illicit Cannabis*

- 5.11 Subject to sections 13.1 and 13.3, nothing in this Law authorizes the possession, consumption, sale, transportation or distribution of or any other form of dealing with Illicit Cannabis.
- 5.12 No individual who is older than a Minor shall purchase Cannabis from a person not authorized to sell Cannabis pursuant to this Law, the Regulations, *The Cannabis Control (Saskatchewan) Act* or an Act of the Parliament of Canada.
- 5.13 No person shall request or solicit a person to sell Cannabis to them in contravention of this Law or the Regulations.

## **6.0 Consumption**

### *Consumption Generally*

- 6.1 An individual that is not a Minor may consume Cannabis within or on the First Nation's Lands in accordance with this Section.

### *Restrictions on Consumption*

- 6.2 An individual shall not consume Cannabis in any Public Place.
- 6.3 An individual shall not consume Cannabis in a vehicle within or on the First Nation's Lands, unless the vehicle is genuinely and actually occupied and used as a private residence at the time of consumption.

## **PART V SALE OF CANNABIS**

## **7.0 Issuance, Renewal, Amendment and Content of Licences**

### *Authority to Administer Licences*

- 7.1 The Board may, on application, issue, renew or amend Licences that authorize Cannabis Stores on the First Nation's Lands.

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- 7.2 A holder of a Licence that authorizes the possession of Cannabis must only possess Cannabis that was obtained in accordance with this Law and Regulations.
- 7.3 The Board shall establish and maintain a centralized register for recording and monitoring Licences issued under this Law.

### *Content of a Licence*

- 7.4 A Licence must set out the following information:
- (a) the name of the holder of the Licence;
    - i. this includes the operating name of the holder of the Licence;
  - (b) the licence number;
  - (c) the civic address or legal land description of the site where the activity is authorized and, if applicable, each building within the site;
  - (d) the authorized activity at the site and, if applicable, the authorized activity that may be conducted at each building within the site;
  - (e) any conditions that the Board considers appropriate;
  - (f) the effective date of the Licence; and
  - (g) the date of expiry of the Licence.
- 7.5 Subject to section 7.6, every Licence expires on the expiration date indicated on the Licence.
- 7.6 If the applicable annual Licence fee mentioned in section 8.5 is not paid on or before the day it is due, the Licence expires the following day.

### *Activities Authorized under a Licence*

- 7.7 Subject to the Regulations, the holder of a Licence for Cannabis sale is authorized to conduct the following activities that are authorized by the Licence:
- (a) to possess Cannabis;
  - (b) to obtain Cannabis from authorized sources;
  - (c) to sell Cannabis to any individual who is authorized by this Law to possess Cannabis on the First Nation's Lands;
  - (d) to sell or transfer Cannabis to a Licensee;

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- (e) to sell or transfer Cannabis to the holder of a Cannabis retail store permit issued by SLGA; and
- (f) to sell or transfer Cannabis to the holder of a Cannabis retail store permit issued pursuant a recognized law passed by another First Nation if that First Nation has an agreement with SLGA to regulate on-reserve sales of Cannabis.

7.8 Subject to the Regulations, every Licensee shall:

- (a) possess, sell, transport, or distribute only Cannabis that has been:
  - i. produced by a person that is authorized pursuant to the *Cannabis Act (Canada)* to produce Cannabis for commercial purposes; and
  - ii. supplied by a person that meets the requirements set out in the Regulations
- (b) not sell or distribute Cannabis to a Minor;
- (c) keep appropriate records respecting the Licensee's activities in relation to Cannabis that the Licensee possesses for commercial purposes, in accordance with any requirements established by this Law, the Regulations, the Board and any Act of the Parliament of Canada;
- (d) take adequate measures to reduce the risk that any Cannabis that the permittee possesses for commercial purposes may be diverted to an illicit market or activity; and
- (e) comply with any reporting requirements established by this Law, the Regulations or the Board.

7.9 Unless authorized by this Law or the Regulations, a Licensee that is authorized to possess, sell, transport or distribute Cannabis shall not possess, sell, transport or distribute any class of Cannabis that is not mentioned in Appendix "A" of the Regulations, as it may be amended from time to time.

7.10 No person to whom a licence is issued pursuant to this Law shall possess, sell, transport, or deliver Cannabis except in accordance with this Law and the Regulations.

### ***Application for a Licence***

7.11 An application for a Licence, or for its renewal or amendment, must be filed with the Board in the form and manner prescribed by the Board and set out the information required by the Board, including any financial or background information that the Board, in its sole discretion, deems necessary to review and evaluate the application.

7.12 The applicant shall satisfy the Board that the applicant:

- (a) Is not a Minor, either directly or indirectly;

- (b) meets any other prescribed criteria; and
- (c) is otherwise suitable to obtain a Licence.

7.13 The Board may refuse to consider an application if any information required under Section 7.11 is not provided.

***Decisions of the Board in respect of Applications***

7.14 Upon receipt of an application for a Licence, the Board may:

- (a) issue a Licence pursuant to Section 7.1;
- (b) require submission of further information; or
- (c) refuse the application.

7.15 The Board may refuse to issue, renew or amend a Licence if:

- (a) the issuance, the renewal or the amendment is likely to create a risk to public health or public safety, including the risk of Cannabis being diverted to an illicit market or activity;
- (b) there are reasonable grounds to believe that false or misleading information or false or falsified documents were submitted in, or in support of, the application;
- (c) the Board has evidence that it considers credible and reliable that the applicant is not of good character;
- (d) the Board is of the opinion that it is in the public interest to do so; or
- (e) any other grounds exist pursuant to the Regulations.

7.16 In determining whether an applicant is or is not of good character, the Board may consider the following:

- (a) any evidence the Board considers relevant respecting the applicant's reputation, past conduct, integrity, financial history, or competence;
- (b) any evidence the Board considers relevant respecting the character of the applicant's employees and associates;
- (c) if the applicant is a corporation, partnership, limited partnership, or joint venture any evidence that the Board considers relevant respecting the character of any Person who is a shareholder, joint venture, partner, limited partner, member, officer, or director of the applicant;
- (d) the applicant's criminal record; or
- (e) any other evidence that the Board considers relevant in its absolute discretion to determine the character of the applicant.

- 7.17 The Board shall refuse to issue, renew or amend a Licence if the Board learns of any direct, indirect, past or present affiliation or association with any criminal organization of any kind, the sufficiency of evidence of such affiliation or association to be determined at the Board's sole discretion.
- 7.18 It shall be a condition of every Licence that the Licence holder shall have no direct, indirect, past or present affiliation or association with any criminal organization of any kind, the sufficiency of evidence of such affiliation or association to be determined at the Board's sole discretion.
- 7.19 No applicant or Licensee is entitled to obtain or keep a Licence unless:
- (a) the applicant or the Licensee, as the case may be, ensures that the premises to which the application or Licence relates conform to applicable building, fire, health and safety standards; and
  - (b) in the Board's opinion, the premises mentioned in clause (a) are being and will be managed in accordance with this Law, the Regulations, and the terms and conditions of the Licence.
- 7.20 Notwithstanding any other provision of this Law or any other law, the Board has no duty to inspect or to require the inspection of premises for which a Licence has been issued to ensure compliance with this Law or any other law.
- 7.21 No person shall:
- (a) use a fictitious name in applying for a Licence pursuant to this Law; or
  - (b) apply for a Licence on behalf of a corporation if the person is not at the time of making the application, an officer or member of the corporation.

## **8.0 Suspension and Revocation of a Licence**

### *Rules and procedures for the Suspension and Revocation of Licences*

- 8.1 The Board may suspend or revoke a Licence if it determines that a Licence holder or the Licence holder's business has contravened any provision of this Law or a Recognized Law, any applicable First Nation by-laws, federal laws, provincial laws, or applicable permits, guidelines, orders, consents or other directions, or if in the Board's opinion there are just and reasonable grounds to suspend or revoke the Licence.
- 8.2 The Board may suspend a Licence for up to ten (10) calendar days, after which it must make a decision to:
- (a) withdraw the suspension and restore the Licence;
  - (b) restore the Licence with different terms or conditions; or
  - (c) revoke the Licence if in the Board's opinion there are just and reasonable grounds to do so.

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- 8.3 Except as expressly provided in this Law, the Regulations or an Act of the Parliament of Canada, no person shall personally or by employee or agent:
- (a) display Cannabis for sale or distribution;
  - (b) keep Cannabis for sale or distribution; or
  - (c) directly or indirectly sell or offer to sell or distribute Cannabis.
- 8.4 No person shall canvas for, reserve, take or solicit orders for the purchase or sale of Cannabis or act as an agent or intermediary for the sale or purchase of Cannabis or hold himself or herself out as an agent or intermediary unless permitted by this Law, the Regulations, or an Act of the Parliament of Canada.
- 8.5 Subject to the Regulations, any person who applies to the Board for a Licence shall pay any prescribed fee.

### **PART VI REGULATIONS**

#### **9.0 Regulations**

The Board may make any regulations for carrying out the purposes and provisions of this Law that the Board, in its sole discretion, deems necessary.

### **PART VII DECISION AND APPEAL PROCEDURE**

#### **10.0 Board Decisions**

##### *Written Notice Required*

- 10.1 If the Board refuses an application, or suspends or revokes a Licence, it must send written notice of the refusal to the applicant or the Licence holder, as the case may be, with reasons for such refusal, suspension or revocation, as applicable.
- 10.2 A refusal or revocation of a Licence does not preclude submission of a new application for a Licence by the Person subject to the refusal or revocation.

##### *Appeal of Board Decisions*

- 10.3 Within thirty (30) calendar days of receipt of the Board's decision under Section 8.1 or 10.1, the Person that submitted the application or who holds the suspended or revoked Licence may file a written notice of appeal of the Board's decision to Council setting out the reasons for the appeal.
- 10.4 Upon receipt of a written notice of appeal pursuant to Subsection 10.3, Council shall:
- (a) establish the Appeal Committee within thirty (30) calendar days. No member of the Board or any other such decision making authority may sit as a member of the Appeal Committee; and

- (b) forward a copy of the notice of appeal to the Appeal Committee immediately thereafter.

***Conduct of Appeal***

- 10.5 The Appeal Committee shall hold a hearing within fifteen (15) calendar days of establishment of Appeal Committee in accordance with Subsection 10.4(a).
- 10.6 After reviewing the appeal and hearing evidence at the appeal hearing from the appellant, the Board, and anyone else having relevant information, the Appeal Committee may confirm, vary, substitute or cancel the Board's decision.
- 10.7 The Appeal Committee shall issue its decision in writing, firstly, to the appellant and Board within fifteen (15) calendar days of the hearing being closed, and secondly, to Council within twenty-four (24) hours following the delivery of notice to the appellant and Board.

**PART VIII  
ADMINISTRATION**

**11.0 Cannabis Board**

***Establishment and Composition of the Board***

- 11.1 The Board is hereby established.
- 11.2 The Board shall consist of five (5) Members, to be appointed by Council. Members of Council may be appointed to sit as a Member of the Board.

***Functions and Authority of the Board***

- 11.3 The Board or its designate is responsible for the administration of this Law.
- 11.4 Without restricting any other power, duty or function granted by this Law, the Board may:
  - (a) carry out or direct whatever inspections are reasonably required to determine compliance with this Law;
  - (b) with the approval of Council, delegate any of its powers and authorities under this Law to any of the First Nation's employees, contractors, or any organization as it deems appropriate, provided that the Board shall at all times remain accountable to ensure that the power and authorities under this Law are carried out properly; and
  - (c) establish forms for the purposes of this Law.
- 11.5 When a matter arises before the Board which may directly or indirectly personally effect any member of Board, or employee of the Board, or his or her immediately family, that person shall declare to the Board the existence of the conflict and the nature of the conflict as soon as such conflict becomes known, and such person shall refrain from any Board business, communications or otherwise in relation to the conflict. Such conflict will also be recorded within the minutes of any meeting of the Board.

- 11.6 The Board may waive any of the provisions of section 11.5 respecting an employee if it appears to the Board that the interest of the employee will not affect his or her ability to carry out his or her duties.

## **PART IX ENFORCEMENT**

### **12.0 Penalties – General**

- 12.1 A Person who contravenes any provision of this Law by doing any act or thing which the Person is prohibited from doing, or by failing to do any act or thing the Person is required to do is guilty of an Offence and liable on summary conviction to a fine of not more than one-thousand (\$1,000.00) dollars or to imprisonment for a term of not more than thirty (30) days, or both.
- 12.2 A Person who contravenes any provision in Part V of this Law by doing any act or thing which the Person is prohibited from doing, or by failing to do any act or thing the Person is required to do is guilty of an Offence and liable on summary conviction to a fine of not more than five-thousand (\$5,000.00) dollars or to imprisonment for a term of not more than thirty (30) days, or both.
- 12.3 Where this Law has been contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this Law, the court or judge in which the conviction has been entered, and any court of competent jurisdiction or judge thereafter, may make an order prohibiting the continuation or repetition of the Offence by the Person convicted.
- 12.4 Where this Law has been contravened, in addition to any other remedy and to any penalty sought or imposed by this Law, such contravention may be restrained by court action at the instance of the Council.
- 12.5 In the event that Council enters into an agreement with the Province of Saskatchewan, Canada, or any other 3<sup>rd</sup> party for the effective prosecution of the First Nation's laws, Council may incorporate by reference, through Council resolution, any penalties, administrative and/or enforcement provisions of *The Cannabis Control (Saskatchewan) Act*, as may be amended from time to time, or the *Cannabis Act*, as may be amended from time to time.
- 12.6 For greater certainty, should Council pass a resolution incorporating a law by reference in accordance with section 12.5 of this Law (an "Incorporated Law"), those provisions currently existing within this Law which are in conflict to the Incorporated Law shall no longer be applicable and enforceable until such time as Council passes a resolution deeming the Incorporated Law to no longer have application to this Law.
- 12.7 Notwithstanding any of the aforementioned provisions above, the First Nation may enact a restorative justice policy which may be available as a remedy under this Law.

### **13.0 Powers of Peace Officers to Enter, Inspect and Seize – Private Property and Motor Vehicles**

- 13.1 If a Peace Officer believes on reasonable grounds that:



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- (a) a Person in or on Private Property or a motor vehicle has committed, is committing, or is about to commit, an offence under this Law;
- (b) an offence has been, is being, or is about to be, committed in or on Private Property or a motor vehicle; or
- (c) Illicit Cannabis, or anything that the Peace Officer believes on reasonable grounds is Offence-related Property, or anything that the Officer believes on reasonable grounds has been used in, or obtained by, the commission of an Offence, or anything that the Peace Officer believes on reasonable grounds will afford evidence in respect of an Offence, is present in or on Private Property or a motor vehicle and that entry into the Private Property or the motor vehicle is necessary to prevent the imminent loss or imminent destruction of Illicit Cannabis, the Offence-related Property, or such other thing;

then the Peace Officer may enter and reasonably inspect the Private Property or the motor vehicle, without having given notice to the person who reside in or on the Private Property or the owner or driver of the motor vehicle, for any or all of the following purposes:

- (d) to determine whether an Offence has been, is being, or is about to be, committed in the Private Property or the motor vehicle; or
  - (e) to determine whether Illicit Cannabis, the Offence-related Property or such other thing is present in or on the Private Property or the motor vehicle and to prevent the imminent loss or imminent destruction of Illicit Cannabis, the Offence-related Property or such other thing.
- 13.2 Council may impose any terms and conditions on an inspection pursuant to section 13.1 that Council deems necessary or advisable to ensure that the entry into the Private Property and the inspection is reasonable in the circumstances.
- 13.3 A Peace Officer may be accompanied by any other Person that Council or the Peace Officer considers necessary or advisable to assist in the carrying out of an inspection of Private Property or a motor vehicle pursuant to section 14.1 or the performance of the Peace Officer's other duties or functions.

### ***Powers of Officers to Search Persons***

- 13.4 If a Peace Officer believes on reasonable grounds that a Person has in their possession:
- (a) Illicit Cannabis;
  - (b) any thing that the Peace Officer believes on reasonable grounds is Offence-related Property;
  - (c) any thing that the Peace Officer believes on reasonable grounds has been used in, or obtained by, the commission of an Offence; or
  - (d) any thing that the Peace Officer believes on reasonable grounds will afford evidence in respect of an Offence;

then the Peace Officer may reasonably search the Person for Illicit Cannabis, the Offence-related Property or such other thing.

***Seizure of Goods and Chattels***

- 13.5 If a Peace Officer believes on reasonable grounds that an Offence has been committed, he or she may seize all Cannabis, and associated goods and chattels by means of or in relation to which he or she believes on reasonable grounds this Law was contravened or the Offence was committed.
- 13.6 All goods and chattels seized pursuant to section 13.5 may be detained for a period of one (1) year following the day of seizure, unless during that period proceedings are undertaken in respect of the Offence, in which case the goods and chattels may be further detained until the proceedings are finally concluded. For clarity, the Board may extend any period of detention on reasonable reason to do so.
- 13.7 Where a Person is convicted of an Offence, the convicting court or judge may order that the goods and chattels by means of or in relation to which the Offence was committed, in addition to any penalty imposed, are forfeited to the First Nation and may be disposed of as Council directs.

***Reporting Obligations***

- 13.8 As soon as practicable after a Peace Officer conducts an inspection or a search under this Law, he or she shall submit to Council a written report setting out:
- (a) whether Illicit Cannabis, the Offence-related Property or any of the other things referenced in section 13.5 which were seized;
  - (b) the address or other description sufficient to identify the location of the Private Property inspected;
  - (c) the licence plate number, the vehicle registration number and a description of the motor vehicle inspected, if applicable;
  - (d) the name of the Person(s) searched and any other relevant Person(s), if applicable;
  - (e) the basis for such inspection or search;
  - (f) whether:
    - (i) Illicit Cannabis;
    - (ii) any thing that the Peace Officer believes on reasonable grounds is Offence-related Property;
    - (iii) any thing that the Peace Officer believes on reasonable grounds has been used in, or obtained by, the commission of an Offence; or

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(iv) any thing that the Peace Officer believes on reasonable grounds will afford evidence in respect of an Offence;

was found in or on the Private Property or the motor vehicle, or on a Person;

(g) if an Offence has been committed, any other particulars of the Offence; and

(h) any other matter that the Peace Officer considers necessary or advisable.

### *Power to Restrict or Deny Rights*

13.9 If a Person has been convicted of an Offence under this Law or a Recognized Law in respect of Illicit Cannabis and Council considers it in the best interests of the First Nation, the Members, and the residents of the First Nation's Lands or otherwise in the public interest to do so, Council may:

(a) restrict or deny the right of the Person to reside on the First Nation's Lands in or on Private Property owned by the First Nation;

(b) otherwise restrict or deny the right of the Person to reside on the First Nation's Lands; or

(c) restrict or deny the right of the Person to enter onto, and to be on, the First Nation's Lands.

### *Determination Notice*

13.10 In the event that Council makes a determination pursuant to section 13.9 (the "**Determination**"), it shall serve the Person with notice of such restriction or denial (the "**Determination Notice**") by personal service or by posting such written notice on the front door of the Person's Private Property or place of business.

13.11 The Determination Notice must:

(a) be in writing;

(b) state the grounds for the restriction or the denial;

(c) the date on which the restriction or the denial becomes effective; and

(d) information relating to the Person's right to appeal the Determination.

### *Effective Date*

13.12 The restriction or the denial takes effect on the date set out in the Determination.

## **14.0 Ticket Payment Option**

### *Power to Issue Tickets in Lieu of Immediate Prosecution*

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- 14.1 The Peace Officer is hereby authorized and empowered to issue a Cannabis payment ticket to any Person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Law or the Regulations.
- 14.2 A Cannabis payment ticket may be issued to such Person:
- (a) either personally; or
  - (b) by mailing a copy to such Person at their last known postal address; or
  - (c) if applicable, at the location at which the Licencee operates a Cannabis Store.

### *Contents of Ticket*

- 14.3 The cannabis payment ticket shall be in a form approved by the Board and shall state:
- (a) the information prescribed in the Regulations;
  - (b) the appropriate fine for the offence as specified by the Regulations from time to time;
  - (c) that the fine shall be paid within ninety (90) days of the issuance of the Cannabis payment ticket; and
  - (d) any other information as may be required by the Board.

### *Frequency of Ticket Issuance*

- 14.4 Where a contravention of this Law is of a continuing nature, further Cannabis payment tickets may be issued by the Peace Officer provided that no more than one (1) Cannabis payment ticket shall be issued for each calendar day that the contravention continues.

### *Effect of Fine Payment*

- 14.5 Where a Cannabis payment ticket is issued pursuant to this Law, the Person to whom the Cannabis payment ticket is issued may, in lieu of being prosecuted for the offence, pay to the First Nation the fine specified on the cannabis payment ticket within ninety (90) days of receipt of the cannabis payment ticket.

## **PART X GENERAL**

### **15.0 Miscellaneous**

- 15.1 Nothing in this Law relieves a Person from complying with any applicable law, regulation, by-law, or any requirements of any lawful permit, guideline, order, consent or other direction.
- 15.2 Where this Law refers to another law, act, regulation, or agency, it includes reference to any act, regulation, or agency that may be substituted therefore.

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- 15.3 Every provision of this Law is severable from all other provisions, if any provision of this Law is declared invalid for any reason by a Court, all other provisions of this Law shall remain valid and enforceable.
- 15.4 It is the intention of Council that all offences created by this Law be interpreted to be strict liability offences.
- 15.5 Words and phrases in this Law importing the singular number only shall include the plural and vice versa, and words importing the masculine gender shall include the feminine gender and neuter.
- 15.6 In the event of any conflict or inconsistency between this Law and any of the First Nation's by-laws, federal laws, provincial laws, or permits, guidelines, orders, consents or other directions, this Law shall prevail to the extent of such conflict or inconsistency.

**16.0 Proof of Licence**


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

**17.0 Effective Date**

- 17.1 This Law comes into force on the date of publication in accordance with Section 86 of the *Indian Act*, the Land Code, and the customs and traditions of the First Nation.

This Law is hereby passed at a duly convened meeting of the Council of the Whitecap Dakota First Nation this 7th day of the month of April, in the year 2022.

Number of Council Members present (2 Council Members constitute a quorum)

  
\_\_\_\_\_  
Chief Darcy Bear

  
\_\_\_\_\_  
Councillor Dwayne Eagle

  
\_\_\_\_\_  
Councillor Frank Royal