

THE CORPORATION OF THE CITY OF ELLIOT LAKE

BY-LAW NO. 22-XX

Being a By-Law to regulate personal usage, cultivation and other matters related to
cannabis

WHEREAS Section 10 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may pass by-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and wellbeing of persons, and the protection of persons and property; and

WHEREAS, Section 128(1) of the *Municipal Act*, 2001, R.S.O. 2001, c. 25 (herein the Act") provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances.

WHEREAS Section 425 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under that Act is guilty of an offence; and

WHEREAS Section 429 of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, provides that a municipality may establish a system of fines for offences under a by-law of the municipality passed under that Act; and

WHEREAS the legislation and regulations permitting the production, sale and consumption of Medical Cannabis and Non- Medical Cannabis do not regulate certain matters of public interest in relation to health, safety, morality, comfort or convenience; and

WHEREAS the legislation and regulations permitting the production, sale and consumption of Medical Cannabis and Non- Medical Cannabis do not regulate certain matters of public interest in relation to health, safety, morality, comfort or convenience.

NOW THEREFORE the Council of the Corporation of the City of Elliot Lake **ENACTS AS FOLLOWS:**

In this By-Law:

"**Cannabis**" has the same meaning as in Subsection 2 (1) of the *Cannabis Act*, S.C. 2018, c. 16, as amended;

"**Cannabis Concentrate**" means a substance that has a concentration of greater than 3% w/w of THC, taking into account the potential to convert THCA into THC;

"**Cannabis Drug License**" means, a license for a drug containing cannabis.

"**Cannabis product**" means cannabis of only one of the classes set out in Schedule 4 to the Act — or a cannabis accessory that contains such cannabis — after it has been packaged and labelled for sale to a consumer at the retail level. It does not include

- a. cannabis that is intended for an animal;
- b. a cannabis accessory that contains cannabis that is intended for an animal; or
- c. a drug containing cannabis. (*produit du cannabis*)

"**Cannabis Related Activity**" means, growing, processing, extracting, packaging or otherwise making ready for sale, testing, destroying, storing, shipping, permitting consumption or sale of Cannabis or Cannabis Products;

"**Cannabis-related use - outdoor**" means, those activities authorized in accordance with the Federal Cannabis Regulation SOR-2018-144 as amended that only involve the growing and harvesting of cannabis outdoors;

"**Cannabis Retailer**" means, a premises from which Cannabis or cannabis Products are sold to the general public on a retail basis and is authorized by law, but does not include a Cannabis retail outlet operated by the Province of Ontario.

"**Cannabis Topical**" means a substance or mixture of substances that contains or has on it anything referred to in item 1 or 3 of Schedule 1 to the Act and that is intended for use, directly or indirectly, exclusively on external body surfaces, including hair and nails. (*cannabis pour usage topique*);

"**CBD**" means, cannabidiol;

"**CBDA**" means, cannabidiolic acid;

"**City**" means, The Corporation of the City of Elliot Lake, (hereafter referred to the "Municipality");

"**Client**" means, in respect of a holder of a license for sale for medical purposes, an individual who is registered with that holder of the license under subsection 282(1);

"**Combination product**" means a product, consisting of a device and a prescription drug, for which a drug identification number has been assigned under subsection C.01.014.2 (1) of the *Food and Drug Regulations*;

“Contaminated” means, in respect of cannabis, a cannabis accessory or an ingredient, containing or having on it anything — including a micro-organism but excluding anything referred to in item 1 or 3 of Schedule 1 to the Act — that may render the cannabis, cannabis accessory or ingredient injurious to human health or unsuitable for human use;

“Controlled Substance” offence means:

- a. an offence under Part I of the *Controlled Drugs and Substances Act*, except subsection 4(1) of that Act; or
- b. A conspiracy or an attempt to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence device has the same meaning as in section 2 of the *Food and Drugs Act*. (instrument) drug has the same meaning as in section 2 of the *Food and Drugs Act*, but excludes cannabis that is
 - i. A natural health product to which the *Natural Health Products Regulations* apply; or
 - ii. Manufactured or sold — within the meaning of section 2 of the *Food and Drugs Act* — and is not represented, for use in
 - The diagnosis, treatment, mitigation or prevention of a disease, disorder or abnormal physical state, or its symptoms, in human beings, or
 - Restoring, correcting or modifying organic functions in human beings.

It includes cannabis that is an active pharmaceutical ingredient as defined in subsection C.01A.001(1) of the *Food and Drug Regulations* or that is manufactured or sold for use in a clinical trial as defined in section C.05.001 of those Regulations.

"Council" means, the Council of the City of Elliot Lake;

“Durable Life” means, the period commencing on the day a cannabis product is packaged for sale to a consumer at the retail level. During which the product, when it is stored under conditions appropriate to that product, will retain, without any appreciable deterioration, normal palatability and any other qualities claimed for it by the holder of a licence for processing that manufactured the product;

“Durable Life Date” means, the date on which the durable life of a cannabis product ends.

“Edible cannabis” means, a substance or mixture of substances that contains or has on it anything referred to in item 1 or 3 of Schedule 1 to the Act and that is intended to be consumed in the same manner as food. It does not include dried cannabis, fresh cannabis, cannabis plants or cannabis plant seeds.

“Food” has the same meaning as in section 2 of the *Food and Drugs Act*.

“Fresh Cannabis” means freshly harvested cannabis buds and leaves, but does not include plant material that can be used to propagate cannabis.

“Grow Area” means, in respect of a site set out in a licence, an area of the site where cannabis plants are cultivated, harvested or propagated.

"Highway" means, any highway as defined under the *Municipal Act*, 2001, S.O. 2002, C.25 within the geographic limits of the City of Elliot Lake and which includes the sidewalks and all other lands within the lateral boundaries of the highway;

"Immediate Container" means, a container that is in direct contact with cannabis or a cannabis accessory that is a cannabis product or, if a wrapper is in direct contact with the cannabis or the cannabis accessory, with the wrapper.

"Ingestion" includes absorption in the mouth;

"Ingredient means"

- a. *in the case of a cannabis extract or a cannabis topical, a substance, other than anything referred to in item 1 or 3 of Schedule 1 to the Act, that is used to produce the cannabis extract or cannabis topical, including any substance used in the manufacture of that substance, and that is present in the final form of the cannabis extract or cannabis topical; and*
- b. in the case of edible cannabis,
 - i. a substance, other than anything referred to in item 1 or 3 of Schedule 1 to the Act,
 - that is used to produce the edible cannabis if the use of the substance results, or may reasonably be expected to result, in the substance or its by-products becoming a part of, or affecting the characteristics of, the edible cannabis, or
 - that is part of a mixture of substances referred to in item 2 of that Schedule that is used to produce the edible cannabis if the use of the mixture results, or may reasonably be expected to result, in the substance or its by-products becoming a part of, or affecting the characteristics of, the edible cannabis, or
 - ii. a mixture of substances, other than anything referred to in item 1 or 3 of Schedule 1 to the Act,
 - that is used to produce the edible cannabis if the use of the mixture results, or may reasonably be expected to result, in the mixture or its by-products becoming a part of, or affecting the characteristics of, the edible cannabis, or
 - that is part of a mixture of substances referred to in item 2 of that Schedule that is used to produce the edible cannabis if the use of the latter mixture results, or may reasonably be expected to result, in the former mixture or its by-products becoming a part of, or affecting the characteristics of, the edible cannabis.

"Inspector" means, any person appointed by the Municipality to enforce this by-law, any person appointed by Council as a municipal by-law enforcement officer, or any police officer;

"Licence" means, a licence issued under subsection 62(1) of the Act in relation to cannabis.

"Lighted Cannabis" means, a lighted cigar, cigarette, water pipe, pipe, or any other lighted smoking equipment;

"Municipality" means, The Corporation of the City of Elliot Lake.

“Non- Medical Cannabis” means, Cannabis or Cannabis Products for which a prescription has not been issued by a medical practitioner in accordance with the Health Canada regulations for Medical Cannabis;

“Non-solids containing cannabis” means substances that are in non-solid form at a temperature of $22 \pm 2^{\circ}\text{C}$ and that have a concentration of 3% w/w or less of THC, taking into account the potential to convert THCA into THC.

“Operations Area” means, in respect of a site set out in a licence, an area of the site — other than a storage area — where cannabis is present as a result of any activities conducted under a licence. It includes a grow area

"Park" means any land, owned or leased or controlled by the City, designed or used for public recreation, including but not limited to: parklands, parkettes, trails, gardens, playgrounds, sports fields, playing fields and beach areas including any adjacent bodies of water;

"Person" means, a corporation as well as an individual;

“Pest control product” has the same meaning as in subsection 2(1) of the *Pest Control Products Act*.

“Pharmacist” means, an individual who is entitled under the laws of a province to practise pharmacy and who is practising pharmacy in that province.

“Potential to convert CBDA into CBD” means the maximum amount of CBD that would be obtained if CBDA was converted into CBD with no further degradation of CBD.

‘Potential to convert THCA into THC’ means the maximum amount of THC that would be obtained if THCA was converted into THC with no further degradation of THC.

“Prescription” has the same meaning as in subsection C.01.001 (1) of the *Food and Drug Regulations*

Prescription Drug means, a drug.

- b. that contains cannabis;
- c. that is a prescription drug, as defined in section A.01.010 of the *Food and Drug Regulations*; and
- d. For which a drug identification number has been assigned under subsection C.01.014.2 (1) of the *Food and Drug Regulations*.

"Private Residence" means private property owned by an individual or corporation for which the primary purpose is use as a dwelling;

"Recreational Path" means, the whole or part of any asphalt multi-use pathway owned or leased by the City of Elliot Lake, which is used by the public for the purpose of participating in recreational activities, such as walking, jogging, cycling, in-line skating, etc. For clarity, Recreational Paths do not include any areas located on a Highway;

“Security Clearance” means, a security clearance granted by the Minister under section 67 of the Act and includes, a security clearance granted under section 112 of the former *Access to Cannabis for Medical Purposes Regulations*;

“Sensitive land use” means, school, day care, playground, sporting venue, park, recreational area, residence, place of worship, community center;

“Site” means, in respect of a holder of a licence, an area that is used exclusively by the holder and that consists of at least one building or one part of a building.

Solids Containing Cannabis means substances that are in solid form at a temperature of $22 \pm 2^{\circ}\text{C}$ and that have a concentration of 3% w/w or less of THC, taking into account the potential to convert THCA into THC.

“Storage Area” means, in respect of a site set out in a licence, an area of the site where cannabis is stored

“Test kit” means, a kit:

- a. That contains
 - i. cannabis, and
 - ii. a reagent system or buffering agent, or both;
- b. That is designed to be used during the course of a chemical or analytical procedure to test for the presence or quantity of cannabis for a medical, laboratory, industrial, educational, law administration or enforcement, or research purpose; and
- c. The contents of which are not intended or likely to be consumed or administered.

THC means, delta-9-tetrahydrocannabinol.

THCA means, delta-9-tetrahydrocannabinolic acid.

“Zone” means an area delineated on a zoning map schedule and established and designated by the Comprehensive Zoning By-law 890- 09 for a specific use or group of uses.

1. Buying from a legal source

- a. Buy your seeds or immature flowering plants from legal sources, such as an authorized retailer in your province or territory. It is illegal to use seeds or grow plants that you know came from illegal sources.
- b. Adults of legal age can share up to 30 grams of personally grown cannabis (dried or equivalent) with other adults of legal age;
 - i. an individual shall not share cannabis with anyone under the legal age
 - ii. while you can share your cannabis with adults of legal age, any individual shall not sell any cannabis unless obtained a licensed by Health Canada to do so.

2. Growth

- a. You may grow up to four cannabis plants **per residence** (not per person) if:
 - i. you are 19 years of age and older;
 - ii. it is only for your personal use
 - iii. the starting material was purchased from the Ontario Cannabis Store or an authorized retail store
 - iv. it is not forbidden by your lease agreement or condo rules
- b. You must follow all relevant provincial, territorial and municipal laws, including local bylaws, about:
 - i. Zoning (**subject to site plan control**);
 - ii. fire safety
 - iii. electrical safety
 - iv. inspection requirements
 - v. remediation requirements
 - vi. Each individual must abide by the municipal Building code;
- c. All residents of the municipality shall take the following crime & harm reduction security measures:
 - i. install an camera
 - ii. install a secure fence or boarder method so that cannabis is not visible.
 - iii. limit cannabis smells coming from your grow area
 - iv. make sure people can't see your plants from outside your yard or house
- d. No person within the municipality shall be permitted to cannabis production at a scale (hundreds of plants) for a typical residential dwelling.
- e. **Municipal Enforcement Officers are able to coordinate inspections of known or suspected unlawful cannabis production operations with police and provincial health inspectors. (While police cannot participate in inspections for enforcement of federal law without a warrant, they can accompany other inspectors for the purposes of ensuring their safety). In some cases, a warrant may also be advisable. This is an example of the interplay between local police and municipal bylaw services that will need to drive successful enforcement approaches.**

3. Growing indoors

- a. Personal use under *The Cannabis Act* permits people over 18 to grow up to four cannabis plants within a “dwelling-house.”
- b. Each individual shall ensure that the indoor grow area is ventilated enough to remove extra moisture and humidity. This will help prevent mold on your plants and in your home.

4. Personal Cultivation

- a. All cannabis plants shall be contained to back yard of residential properties;
- b. Total lot coverage of all Cannabis Plants is a maximum of 5%;
- c. All Cannabis Plants must maintain a minimum setback of two (2) feet from the side or rear lot lines, **and not exceed a maximum height of or X feet;**
- d. All Cannabis plants shall be secured by a X foot fenced or boarder exterior with a secured gate;
- e. Cannabis grown outdoors cannot be visible from public spaces. Cannabis plants must be in an enclosure at least 5 feet in high and kept secured;
- f. **All cannabis must be X amount of meters away from any publics parks, schools, or anywhere children under the age of 18 gather.**
- g. It is the responsibility of the owner to identify the presence of all cannabis plants.

Note: A corner lot is considered to have two front yards; therefore, all corner lots shall abide by the provisions in section 4 of this By-Law.

5. Land use Management

- a. The Cannabis Act prohibits the use of residential premises for the production of cannabis for non-medical use at a larger scale;
- b. The Municipality will allow minimum-scale plant cultivation (four plants) in residential premises with a local regulatory response.
- c. The use of residential premises for the growing of a cannabis plant is permitted only if the plant is located within the specified property owner measurements listed under section 4 of this By-Law, except in the case of premises in respect of which a registration has been issued by Health Canada under Part 2 of the Access to Cannabis for Medical Purposes Regulation under the Controlled Drugs and Substances Act (Canada).

6. Storage / Disposal

- a. No storage area shall be permitted within 6 feet of a street or the lot line of an adjacent lot with a residential use.

The municipality’s priority is to keep children and pets safe. Individuals shall not dispose of your unwanted cannabis by burning it. Individuals need to take steps to protect pets, children, youth and others from consuming it. when disposing of cannabis, i.e., blend your cannabis with water, mix it with compostable materials, such as discarded food, and put it in your regular household garbage or compost

Schedule A – Fines/Fees

Item	Short Form Wording	Provision Creating or Defining	Set Fine
1.	Failure to buy/ provide proof of purchase of seeds from a legal source	Section 1.a.	
2.	Adults of a legal age sharing 31+ grams of personally grown cannabis (dried or equivalent)	Section 1.b.	
3.	Selling cannabis without a Health Canada issued License	Section 1.b.ii.	
4.	Growth of 5+ cannabis plants per residence (not per person)	Section 2.a.	
5.	In violation of any other city By-law due to the growth of your cannabis plants including but not limited to: zoning, fire, building, etc.	Section 2.b.	
8.	Failure to abide by residentially owned lot/yard stipulations for cannabis related use	Section 4.	