

ᑭAQAM ALLOTMENT LAW, 2016



ᑭAQAM

7470 Mission Road, Cranbrook, BC V1C 7E5 { www.AQAM.net } T: 250.426.5717 F: 250.426.8935

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WHEREAS

A. ʔaqam has an inherent right to self-government which emanates from our people, culture and land and which is recognized and affirmed by section 35(1) of the *Constitution Act, 1982*;

B. Pursuant to the subsection 6(3) of the *First Nations Land Management Act* and clause 6.1 of the *Framework Agreement*, a First Nation may enter into an Individual Transfer Agreement with the Minister describing the land that must be subject to a land code, providing for the transfer and administration of that land and a description of the interests or rights and licences that have been granted by Canada to the First Nation in relation to that land, and the date and other terms of the transfer to the First Nation of Canada's rights and obligations as grantor of those interests or rights and licences, and setting out the environmental assessment process that must apply to projects on that land until the enactment of a First Nations law in relation to that subject;

C. ʔaqam signed an *Individual Agreement* with Canada on June 18, 2014

D. Pursuant to section 6 of the *First Nations Land Management Act* a First Nation that wishes to establish a land management regime in accordance with the Framework Agreement and the *First Nations Land Management Act* must adopt a land code applicable to all land in a reserve of the First Nation;

E. The members of ʔaqam voted in favour of the *St. Mary's Indian Band Land Code* at a ratification vote held on April 14-16, 2014 and the *St. Mary's Indian Band Land Code* came into effect on July 1, 2014;

F. The members of ʔaqam voted in favour of amendments to the *St. Mary's Indian Band Land Code* at a Meeting of Members vote held in accordance with section 48.1 and 13.1 to 13.9 of the *St. Mary's Indian Band Land Code* on January 7, 2016, which has become the *ʔaqam Amended Land Code*;

G. Pursuant to section 33.1 of the *ʔaqam Amended Land Code* the Council of ʔaqam may enact laws providing for an interest in ʔaqam Lands that entitles a member holding that interest to:

- permanent possession of that land,
- benefit from the resources in and of that land,
- grant subsidiary interests, licenses and permits in that land,
- transfer, devise or otherwise dispose of that land to another member, and
- any other rights consistent with the *ʔaqam Amended Land Code* that are attached to Certificates of Possession under the *Indian Act*;

H. The Council of ᑭᓄᓂ deems it to be in the best interests of ᑭᓄᓂ to make a law for such purposes; and

I. The Council of ᑭᓄᓂ has held a community land code meeting regarding this Law in accordance with sections 7.6 to 7.9 of the *ᑭᓄᓂ Amended Land Code*, and has considered any objections raised by ᑭᓄᓂ members;

NOW THEREFORE the Council of ᑭᓄᓂ duly enacts as follows:

PART I CITATION

1. This Law may be cited as the *ᑭᓄᓂ Allotment Law, 2016*.

PART II DEFINITIONS, INTERPRETATION AND APPLICATION

Definitions

2. Unless the context indicates the contrary, in this Law:

“allot” means the act of Council granting to a member the lawful possession of ᑭᓄᓂ Lands;

“allotment” means those ᑭᓄᓂ Lands that have been lawfully granted to a member and in which that member has lawful possession;

“allotment holder” means a person who has been granted an allotment pursuant to:

- (a) section 20(1) of the *Indian Act*;
- (b) section 32.1(a) of the *ᑭᓄᓂ Amended Land Code*; or
- (c) this Law,

and who is entitled to a certificate of possession under this Law;

“applicant” means a person who makes an application for an allotment under section 14 of this Law;

“application” means an application made under section 14 of this Law;

“appraised value” means the market value of a property as appraised by an Appraisal Institute of Canada Designated Appraiser;

“ʔaᑭam” means the ʔaᑭam within the meaning of the *Indian Act*, formerly known as the St. Mary’s Indian Band, for whose use and benefit in common ʔaᑭam Lands have been set apart by Canada;

“ʔaᑭam Amended Land Code” means the *ʔaᑭam Amended Land Code, 2016*;

“ʔaᑭam Community Lands” means any ʔaᑭam Lands in which all members have a common interest;

“ʔaᑭam Lands” means:

- (a) Kootenay Indian Reserve No. 1 (07422);
- (b) Isidore’s Ranch No. 4 (07423);
- (c) Cassimayooks No. 5 (07424);
- (d) Bummer’s Flat No. 6 (07425); and
- (e) lands set apart by Canada in the future as ʔaᑭam Lands reserved for the use and benefit of ʔaᑭam within the meaning of subsection 91(24) of the *Constitution Act, 1867* and section 2(1) of the *Indian Act*;

“ʔaᑭam Matrimonial Real Property Law” means the *ʔaᑭam Matrimonial Real Property Law, 2015*;

“arrears” means a sum of money that is owed by a member to ʔaᑭam and consists of one (1) or more of the following types of payments:

- (a) unpaid rent payments;
- (b) unpaid mortgage payments; or
- (c) unpaid payments for services in relation to an ʔaᑭam-owned rental property;

“bad debt” means any sum of money that is owed by a member to ʔaᑭam through either lending or revenue receivable by ʔaᑭam and is one (1) or more days overdue to be paid to ʔaᑭam;

“*Canada Lands Surveys Act*” means the *Canada Lands Surveys Act, R.S.C., 1985, c. L-6*;

“*Canadian Environmental Assessment Act*” means the *Canadian Environmental Assessment Act, S.C. 2012, c. 19, s.52*;

“certificate of possession” means a certificate of possession issued by:

(a) the Minister, pursuant to subsection 20(2) of the *Indian Act*, to a member who is lawfully in possession of ʔaąam Lands as evidence of that member's right to possession of the land described in the certificate of possession; or

(b) Council, pursuant to section 12 of this Law, to a member who is lawfully in possession of ʔaąam Lands as evidence of that member's right to possession of the lands described in the certificate of possession;

“*Constitution Act*” means the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK), 1982, c 11*;

“Council” means the Chief and Council of ʔaąam;

“environmental assessment” means:

(a) if ʔaąam has enacted its own environmental assessment law, an environmental assessment conducted in accordance with that environmental assessment law; or

(b) if ʔaąam has not enacted its own environmental assessment law, an environmental assessment conducted either:

(i) by Canada, or

(ii) by ʔaąam in accordance with an environmental review policy that is approved by Council;

“First Nation Land Register” means the register maintained by the Department of Indigenous and Northern Affairs Canada pursuant to section 25 of the *First Nations Land Management Act*;

“*First Nations Land Management Act*” means the *First Nations Land Management Act, S.C. 1999, c. 24*;

“*Framework Agreement*” means the Framework Agreement on First Nations Land Management entered into between the Minister of Indigenous and Northern Affairs Canada and the Chiefs of fourteen First Nations, on February 12, 1996, as amended;

“*Indian Act*” means the *Indian Act, R.S.C., 1985, c. I-5*;

“*Individual Agreement*” means the Individual Transfer Agreement entered into between ʔaąam and Canada in accordance with clause 6.1 of the *Framework Agreement* and subsection 6(3) of the *First Nations Land Management Act*;

“in good standing” means does not owe any arrears or bad debt to ʔaąam;

“interest holder” means a person who is the owner of an interest in ᐱᐱᐱᐱ Lands that is defined in a land instrument and registered in the First Nation Land Register, but does not include an allotment holder in relation to their allotment;

“Lands Committee” means the Lands Committee established under Part 6 of the *ᐱᐱᐱᐱ Amended Land Code*;

“Lands Department” means the office established by Council to assist in the management and administration of ᐱᐱᐱᐱ Lands pursuant to Part 6 of the *ᐱᐱᐱᐱ Amended Land Code*;

“legal description” means a land description that consists exclusively of a reference to one (1) or more complete parcels on a registration plan or official plan;

“member” means a person whose name appears or whose name is entitled to appear on the ᐱᐱᐱᐱ membership list;

“non-substantive amendment” means an amendment to this Law that does nothing more than:

(a) correct typographical or other editorial errors that were not caught during the initial drafting process; or

(b) bring this Law into compliance with changes in the laws of ᐱᐱᐱᐱ, Canada or the Province;

“Office of the Adjudicator” means the Office of the Adjudicator established under section 39 of the *ᐱᐱᐱᐱ Amended Land Code*;

“official plan” means a graphical description of boundaries of land prepared from field notes of a survey confirmed under section 29 of the *Canada Land Surveys Act*;

“parcel of land” means a parcel of ᐱᐱᐱᐱ Land;

“registered” means validly registered in the First Nation Land Register;

“registration plan” means a graphical description of the boundaries of land shown on a plan made by the Surveyor General under section 31 of the *Canada Land Surveys Act*;

“residential home” means a structure or building that is intended to be used for, and is suitable to be used as, living accommodations, including a house, mobile home, cottage or cabin;

“sketch” means a scaled drawing that shows:

(a) a proposed allotment lot, including the distance of the lot in width, length and area;

- (b) the location of any existing and proposed residential homes on the proposed allotment lot, including the distance between residential homes and the distance of each residential home from lot lines;
- (c) proposed and existing landscaping and fencing;
- (d) the location of any watercourses and the distance between watercourses and any existing or proposed residential home; and
- (e) existing and proposed parking areas, loading spaces and driveways; and

“survey” means a survey conducted by a Canada Lands Surveyor under the *Canada Lands Surveys Act*.

Interpretation

3. This Law must be interpreted in a fair, large and liberal manner.

4. In this Law:

- (a) the use of the word “must” 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 an event gives rise to the obligation under this Law;
- (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;
- (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;
- (g) where a time is expressed to begin or end at, on or with a specified day, or to continue to or until a specified day, the time includes that day;
- (h) where a time is expressed to begin after or to be from a specified day, the time does not include that day; and
- (i) where anything is to be done within a time after, from, of or before a specified day, the time does not include that day.

Application of Law

5. This Law applies to all ʔaąam Lands.

6. Where any law or regulation of Canada or the Province or any other ᐃᓄᓄᓄ law applies to any matter covered by this Law, compliance with this Law does not relieve the person from also complying with the provisions of the other applicable laws or regulations.

7. If any provision of this Law is held invalid by a court of competent jurisdiction, the invalid provision must be severed from and must not affect the remaining provisions of this Law.

PART III ALLOTMENTS

Creation of Allotments

8. An allotment:

- (a) must be created, granted, disposed of, assigned or transferred by a land instrument and in accordance with this Law;
- (b) may only be granted, disposed of, assigned or transferred to ᐃᓄᓄᓄ or to one or more members; and
- (c) may be subject to any condition deemed necessary or advisable by Council.

Entitlements of Allotment Holder

9. (1) Subject to section 33, ᐃᓄᓄᓄ laws, by-laws and policies, an allotment holder is entitled to:

- (a) permanent possession of their allotment;
- (b) benefit from the resources in and of their allotment;
- (c) grant subsidiary interests, licences and permits in their allotment;
- (d) transfer, devise or otherwise dispose of their allotment to another member; and
- (e) any other rights consistent with the *ᐃᓄᓄᓄ Amended Land Code* that are attached to certificates of possession under the *Indian Act*.

Reserve Land Status Remains

10. ᐃᓄᓄᓄ Lands in which a member holds an allotment continue to be lands reserved for the Indians within the meaning of subsection 91(24) of the *Constitution Act*.

Responsibilities of Allotment Holder

11. An allotment holder is responsible for:

- (a) insurance and maintenance of their allotment;
- (b) insurance, maintenance and repairs for structures and residential homes on their allotment;

(C) was obtained within the three (3) month period preceding the date of the application;
and

(D) is accompanied by a written authorization granting the entity that provided the applicant's mortgage pre-approval permission to confirm the authenticity of that mortgage pre-approval with ḥaqam; and

(f) a statement setting out:

(i) whether the applicant is the owner of an existing allotment, and

(ii) if the applicant owns an existing allotment, details of whether there is an occupied residential home constructed on that allotment.

Preliminary Application Review

15. Within thirty (30) days of receiving an application, the Lands Department must:

(a) verify the applicant's identity and whether the applicant is a member and if the applicant is not a member advise the applicant that they are not eligible to apply for an allotment;

(b) determine whether the applicant is in good standing and if the applicant is not in good standing advise the applicant that they are not eligible to apply for an allotment until they are in good standing; and

(c) if the applicant is a member and is in good standing:

(i) determine whether the requested allotment is ḥaqam Community Lands,

(ii) determine whether the requested allotment is already surveyed and if it is surveyed order a copy of the survey,

(iii) complete a parcel abstract report to determine whether there are any known encumbrances and obtain copies of all encumbrances on the requested allotment,

(iv) determine whether the requested allotment has within it a cultural heritage site identified in a land use plan,

(v) enquire into whether the requested allotment may impact on any development plans that have been approved by Council,

(vi) confirm the authenticity of the applicant's mortgage pre-approval, or the applicant's capacity to otherwise fund the construction of the proposed structures and residential homes,

(vii) if the applicant is already the owner of an allotment, confirm that their existing allotment has an occupied residential home on it,

(viii) identify the ḥaqam laws, by-laws and policies that apply to the application, including any zoning laws, land use plans, environmental management plans and environmental assessment requirements, and

(ix) conduct a site visit to the requested allotment to assess the status of those lands.

Lands Committee Review and Recommendation

16. Within thirty (30) days of receiving an application from an eligible applicant, the Lands Department must:

- (a) provide the Lands Committee with:
 - (i) all information obtained under section 15, and
 - (ii) the application; and
- (b) obtain from the Lands Committee a recommendation on whether Council should grant the requested allotment.

Report to Council

17. Within forty-five (45) days of receiving an application from an applicant who is a member in good standing, the Lands Department must report to Council with the following information:

- (a) a copy of the application;
- (b) details of any relevant Ṛaḡam laws or policies that apply to the application, including zoning laws, land use plans, environmental management plans, or environmental assessment requirements;
- (c) details of whether the requested allotment is within Ṛaḡam Community Lands;
- (d) a copy of a survey or sketch of the requested allotment;
- (e) a copy of any known encumbrances on the requested allotment;
- (f) details of any known environmental concerns with regard to granting the requested allotment;
- (g) details of whether the requested allotment has within it a cultural heritage site identified in a land use plan;
- (h) any development plans that may be impacted by the granting of the requested allotment;
- (i) the Lands Department's site visit observations;
- (j) details of whether any existing allotments owned by the applicant have occupied residential buildings on them; and
- (k) the Lands Committee recommendation on whether to grant the requested allotment.

Restrictions on Decision to Preliminarily Grant an Allotment

18. (1) Council must ensure the following conditions are met before making a decision to preliminarily grant a requested allotment:

- (a) the applicant must be a member;
- (b) the requested allotment must be consistent with the best interests of Ṛaḡam;
- (c) the requested allotment must be within Ṛaḡam Community Lands;

- (d) there must be a survey or sketch of the requested allotment;
- (e) the applicant must have either:
 - (i) provided evidence in a form approved by Council that shows the applicant has sufficient funds to construct the proposed structures and residential homes, or
 - (ii) provided evidence of a privately obtained construction mortgage pre-approval, checked for authentication by the Lands Department, that:
 - (A) covers the estimated costs of construction for the proposed structures and residential homes,
 - (B) is in the applicant's name, and
 - (C) was obtained within the three (3) month period preceding the date of the application;
- (f) there must be legal access to the requested allotment, unless exceptional circumstances exist and Council grants an exception to this requirement;
- (g) the requested allotment must not overlap or be inconsistent with known encumbrances, unless the interest holder for the known encumbrance has provided a written letter setting out that they agree to the allotment;
- (h) the requested allotment must not adversely impact on development plans which have already been approved by Council;
- (i) if the applicant is the owner of an existing allotment, there must be an occupied residential home on that allotment;
- (j) the requested allotment must be in compliance with ᐃᓴᓄᓄ laws and policies that apply to the application, including any zoning laws, land use plans, environmental management plans and environmental assessment requirements; and
- (k) if ᐃᓴᓄᓄ has provided a guarantee for a mortgage relating to a residential home on the requested allotment, the final approval must be conditional on that mortgage being discharged.

(2) A band council resolution that is used by Council to preliminarily allot a parcel of land must include the following information:

- (a) the full legal name and membership number of the applicant;
- (b) the section of this Law under which the allotment will be made if the applicant meets the conditions set out in the band council resolution;
- (c) a description, and attached sketch, of the ᐃᓴᓄᓄ Community Lands that Council will allot to the applicant if the applicant meets the conditions set out in the band council resolution;
- (d) a statement setting out that a preliminary decision has been made to allot the requested allotment to the applicant, conditional on the applicant at their own expense and within one (1) year from the date of the band council resolution:
 - (i) providing Council with a legal description of the requested allotment that refers to a registered plan or official plan and that shows there are no overlapping or inconsistent encumbrances on the requested allotment,

- (ii) providing Council with plans for the construction of a residential home on the requested allotment,
 - (iii) providing Council with the name and contact information of the person who will be responsible for constructing the residential home,
 - (iv) obtaining all relevant building and other permits for the construction of the residential home on the requested allotment,
 - (v) obtaining approval from Council of the plans for construction of the residential home on the requested allotment,
 - (vi) complying with any environmental assessment policy or law developed by Council,
 - (vii) constructing the residential home on the requested allotment, unless a longer timeframe for completing this has been approved by Council; and
 - (viii) being in good standing;
- (e) a statement setting out that if ᐃᓄᓄᓄ has provided a guarantee for a mortgage relating to a residential home on the requested allotment, the final approval is conditional on that mortgage being discharged;
- (f) a statement setting out that until such time as one or more of the timeframes relating to conditions set out in the band council resolution expire, ᐃᓄᓄᓄ will not grant any interest or licence in or to the ᐃᓄᓄᓄ Community Lands to which the application relates to another person without the written consent of the applicant;
- (g) a statement setting out that if any one (1) or more of the conditions set out in the band council resolution are not met within the required timeframes, or if the applicant is not in good standing at the expiry of the timeframes for the conditions set out in the band council resolution:
- (i) the preliminary decision of Council to grant the allotment to that member will expire,
 - (ii) the applicant will be required to make a new application to pursue an allotment,
 - (iii) ᐃᓄᓄᓄ will not be responsible to the applicant or any third party for losses, damages, liabilities or costs in relation to the applicant's failure to comply with the conditions in the band council resolution, and
 - (iv) ᐃᓄᓄᓄ will be free to grant interests or licences in or to the ᐃᓄᓄᓄ Community Lands to which the application relates without the consent of, and without providing notice to, the applicant.

Decision by Council

19. (1) At the next duly convened meeting of Council following its receipt of a report from the Lands Department under section 17, Council must:

- (a) pass a band council resolution that sets out Council's decision to preliminarily approve the allotment and the conditions required under subsection 18(2) that must be complied with before Council will grant a final allotment, or

(b) pass a band council resolution that sets out Council's decision to deny the application and Council's reasons for such denial,
and advise the Lands Department of such preliminary decision.

(2) As soon as practicable after Council makes a decision under subsection (1), the Lands Department must provide to the applicant a copy of the band council resolution.

Exchange of Allotted Lands

20. (1) ?aqam may, by written agreement with an allotment holder, exchange a parcel of ?aqam Community Lands for an allotment provided that:

- (a) the lands being exchanged are of approximate equal appraised value; or
- (b) Council has determined that although the lands being exchanged are not of approximate equal appraised value, the land exchange is in the best interests of ?aqam and serves a community purpose.

(2) Where Council and an allotment holder agree under subsection (1) to exchange a parcel of ?aqam Community Lands for an allotment:

- (a) the allotment must be cancelled and all rights and interests in the allotment must revert to ?aqam; and
- (b) the processes under sections 22 to 25 of this Law must be followed to allot the parcel of ?aqam Community Lands to the member.

Allotment Pursuant to an Agreement

21. (1) ?aqam may, in order to comply with an agreement between ?aqam and a member that is in existence at the time this Law comes into effect and is recognized by Council, allot that member a parcel of land.

(2) Where Council allots a member a parcel of land under subsection (1), the processes under sections 22 to 25 of this Law must be followed to give effect to the allotment.

PART V ALLOTMENT PROCEDURE

Final Allotment Decision

22. Where Council:

- (a) preliminarily approves the granting of an allotment under section 19 and is satisfied that the applicant has complied with all conditions for the final granting of that allotment;
- (b) agrees to an allotment pursuant to an exchange of land under section 20; or
- (c) agrees to an allotment pursuant to an agreement under section 21,

Council must:

- (d) pass a band council resolution that approves the allotment and sets out:
 - (i) the section of this Law under which the allotment is being made,
 - (ii) the full legal name and membership number of the new allotment holder,
 - (iii) a legal description of the allotment that refers to a registered plan or official plan,
 - (iv) a list of all encumbrances on the allotment,
 - (v) the number forming a quorum of Council,
 - (vi) signature lines for the Chief and all councillors in favor of the band council resolution, and
 - (vii) the date of the Council meeting;
- (e) prepare, or cause to be prepared, a land instrument granting the allotment to the applicant;
- (f) prepare, or cause to be prepared, a certificate of possession for the applicant; and
- (g) prepare, or cause to be prepared, and send, a confirmation letter to the applicant that:
 - (i) sets out Council has approved the allotment, and
 - (ii) invites the applicant to contact ᑭᓄᓐ to execute the land instrument.

23. Where Council preliminarily approves the granting of an allotment under section 19, and determines that the applicant has not complied with all conditions for the final granting of that allotment, Council must prepare, or cause to be prepared, and send a letter to the applicant denying the granting of the allotment and setting out the reasons for such denial.

Execution

24. A land instrument that grants an allotment is not valid unless it is signed by the applicant and by a person who is authorized by a quorum of Council to sign the land instrument on behalf of ᑭᓄᓐ.

Registration

25. Where Council approves an allotment, Council must ensure the following documents are registered in the First Nation Land Register:

- (a) the band council resolution approving the allotment; and
- (b) the land instrument granting the allotment.

When Allotment Takes Effect

26. An allotment takes effect at the time the land instrument granting the allotment is registered in the First Nation Land Register.

Effect of an Allotment

27. An allotment, as long as it remains in force and not cancelled, is conclusive evidence against ʔaǰam and all other persons that the person named in the land instrument is indefeasibly entitled, subject to section 33, ʔaǰam laws and policies, to:

- (a) permanent possession of the land;
- (b) benefit from the resources in and of the land;
- (c) grant subsidiary interests, licences and permits in the land;
- (d) transfer, devise or otherwise dispose of the land to another member; and
- (e) any other rights, consistent with the *ʔaǰam Amended Land Code* or that are attached to Certificates of Possession under the Indian Act.

PART VI CANCELLATION OF ALLOTMENT

Power to Cancel an Allotment

28. Council may cancel an allotment:

- (a) if Council granted the allotment in error, by mistake, or by fraud; or
- (b) by agreement with the allotment holder.

Regulations and Policies

29. Council may make a regulation or policy that:

- (a) sets out the procedures that apply to the implementation of this Law;
- (b) sets out the procedures that apply to the cancellation of an allotment; and
- (c) prescribes forms for use in the cancellation of an allotment.

When Cancellation Takes Effect

30. An allotment is deemed cancelled at the time the cancellation is registered in the First Nation Land Register.

Effect of Cancellation

31. At the time of cancellation, the lawful possession of an allotment reverts to ʔaǰam and all the rights and obligations related to interests and licences in or to that allotment are transferred to ʔaǰam.

**PART VII
TRANSFERS OF ALLOTMENTS
AND GRANTING INTERESTS AND LICENCES IN ALLOTMENTS**

Transfer of Allotment on Death

32. The transfer of an allotment on death of the allotment holder must be:

- (a) in accordance with the *Indian Act*; and
- (b) registered in the First Nation Land Register.

Reversion to ᑭᐱᑦ

33. On the death of an allotment holder, whose allotment has no improvements on it that are part of a residential home, that allotment reverts to ᑭᐱᑦ and all the rights and obligations related to interests and licences in or to that allotment are transferred to ᑭᐱᑦ.

Transfer of Allotments and Granting of Interests in Allotments

34. Every transfer of an allotment and every grant of an interest or licence in or to an allotment must:

- (a) comply with ᑭᐱᑦ laws and policies, including any zoning laws, land use plans, environmental management plans and environmental assessment requirements; and
- (b) be registered in the First Nation Land Register.

Consent of Council Requirements

35. Council consent is not required for the transfer of an allotment.

36. Council consent must be obtained by an allotment holder for the original grant of an interest or licence in or to their allotment.

No Liability for Transfers of, or Grants of Interests in or to, an Allotment

37. ᑭᐱᑦ must not be responsible or liable for ensuring a land instrument that transfers an allotment or grants an interest or licence in or to an allotment:

- (a) is validly made;
- (b) is enforceable; or
- (c) will be accepted by the First Nation Land Register.

PART VIII GENERAL

Filing Procedure Deemed Followed

38. In all cases, when a land instrument that grants an allotment is registered in the First Nation Land Register, it is deemed to have been registered under the authority of Council.

Authenticity of Certificate of Possession

39. Unless otherwise directed by a court or the Office of the Adjudicator, where a certificate of possession is allegedly signed by an authorized Council member it must be presumed to have been signed by Council without further proof.

Forms and Land Instruments

40. (1) Council must approve the following forms and lands instruments:

- (a) application for allotment form;
- (b) land instrument granting an allotment;
- (c) certificate of possession;
- (d) transfer of allotment form; and
- (e) exchange of allotment form.

(2) ᑭᐱᓂᓄᓐ will not assume any liability for any claims, losses, or damages arising out of the use of forms prescribed under subsection (1).

Conflict of Interest

41. In the event of a real, perceived or potential conflict of interest arising in relation to the management and administration of this Law, the *St. Mary's Indian Band Financial Administration Law 2013, Schedule - Avoiding and Mitigating Conflicts Of Interest* must apply.

Disclosure of Conflict of Interest

42. The procedure for the disclosure of any real, perceived or potential conflict of interest that arises in relation to the management and administration of this Law, must be the procedure set out in the *St. Mary's Indian Band Financial Administration Law 2013, Schedule - Avoiding and Mitigating Conflicts Of Interest*.

Dispute Resolution

43. (1) The following disputes must be addressed following the dispute resolution process set out in Part 8 of the *ᑭᐱᓂᓄᓐ Amended Land Code*:

- (a) disputes regarding the boundaries of an allotment;

(b) disputes between two persons, or between a person and ᐃᓇᓂᓄᓐ, in relation to the possession, use or occupation of an allotment, unless such dispute relates to the transfer of an allotment following the death of an allotment holder;

(c) disputes regarding the existence of an allotment; and

(d) disputes regarding the cancellation of an allotment.

(2) For greater certainty, a person cannot dispute a decision by Council in relation to the granting of an allotment.

PART IX AMENDMENTS

Power to Make Amendments

44. Council may, in accordance with this Part, make amendments to this Law.

Non-Substantive Amendments

45. Non-substantive amendments to this Law may be made by band council resolution.

Other Amendments

46. Amendments other than non-substantive amendments may be made by an approval by Council, by band council resolution, pursuant to section 7 of the *ᐃᓇᓂᓄᓐ Amended Land Code*.

**PART X
EFFECTIVE DATE**

47. This Law comes into force on the date it is approved by Council, by band council resolution, pursuant to section 7.14 of the *ᑭᐱᓃᓄᓐ Amended Land Code*.

THIS LAW IS HEREBY DULY ENACTED by Council on the _____ day of _____, 20____, at Cranbrook, in the Province of British Columbia.

Chief Jim Whitehead

Councillor Corrie Walkley

Councillor Vickie Thomas

Councillor Marty Williams

Councillor Codie Morigeau

Being the majority of those members of the Council of the ᑭᐱᓃᓄᓐ present at the aforesaid meeting of Council.

The quorum of the Council is three (3) members.

Number of members of the Council present at the meeting: _____