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ᲕᲁᲒᲐᲙ BUSINESS LICENCING LAW, 2021



?AQ'AM

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WHEREAS

A. ʔaǰamnik (members of ʔaǰam) have 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 that:

- describes the land that must be subject to a land code,
- provides for the transfer from Canada to the First Nation of the power to control and administer that land,
- provides a description of the interests or rights and licences that have been issued by Canada in relation to that land, and sets out the date and other terms regarding Canada's transfer of those interests or rights and licences to the First Nation, and
- sets 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. ʔaǰam 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. ʔaǰamnik (members of ʔaǰam) 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. ʔaǰamnik (members of ʔaǰam) voted in favour of amendments to the *St. Mary's Indian Band Land Code* at a Meeting of Members vote held in accordance with sections 48.1 and 13.1 to 13.9 of the *St. Mary's Indian Band Land Code* on February 25, 2016, which has become the *ʔaǰam Amended Land Code, 2016*;

G. Pursuant to sections 6.1 to 6.3 of the *ʔaǰam Amended Land Code, 2016*, the ʔitwaǰnaʔis ʔaǰam (Council) of ʔaǰam may develop laws in relation to:

- zoning and land use planning,
- the regulation, control, authorization and prohibition of the occupation and development of ʔa·kuktiǰmukuʔis(ʔaǰam Lands),
- the creation, disposition, regulation and prohibition of interests and licences, and
- the enforcement of laws;

H. On February 25, 2016, members of ʔaǰam voted in favour of an ʔaǰam yaqaḥ hankatititki ʔamaks (Land Use Plan), which sets forth a vision for how ʔa·kukḥimukuʔis (ʔaǰam Lands) will be used;

I. The ʔitwatnaʔis ʔaǰam (Council) of ʔaǰam deems it to be in the best interests of ʔaǰamnik (members of ʔaǰam) to make a ʔa·knumuḥtitʔis ʔaǰam khamatmut kituǰtitqat (business licencing law); and

J. The ʔitwatnaʔis ʔaǰam (Council) of ʔaǰam has held a community land code meeting regarding this *ʔa·knumuḥtitʔis ʔaǰam khamatmut kituǰtitqat ʔaǰam Business Licencing Law, 2021* in accordance with sections 7.6 to 7.9 of the *ʔaǰam Amended Land Code, 2016*, and has considered comments of ʔaǰam members, as well as the needs of the community in their development of this *ʔa·knumuḥtitʔis ʔaǰam khamatmut kituǰtitqat ʔaǰam Business Licencing Law, 2021*,

NOW THEREFORE, the ʔitwatnaʔis ʔaǰam (Council) of ʔaǰam duly enacts as follows:

PART I QAKI·KAXUʔMIK C SAQNA CITATION AND PURPOSE

Qaki·kaxuʔmik (Citation)

1. This ʔa·knumuḥtitit (Law) may be cited as the *ʔa·knumuḥtitʔis ʔaǰam khamatmut kituǰtitqat, ʔaǰam Business Licencing Law, 2021*.

Saqna (Purpose)

2. In recognition that ʔa·kukḥimukuʔis (ʔaǰam Lands) have always been a place of business, and that ʔaǰamnik (members of ʔaǰam) and ʔitwatnaʔis ʔaǰam (Council) are willing to promote business and business partnerships on ʔa·kukḥimukuʔis (ʔaǰam Lands), the purposes of this ʔa·knumuḥtitit (Law) are to:

(a) contribute to ʔaǰam achieving the following goals set out in Ka Kniḥwitiyaḥa - Our Thinking:

- (i) Effective governance of itself as a self-determining community within the Ktunaxa Nation, which includes establishing long term and functional relationships with neighbouring communities, organizations and corporations, and creating financial strength and independence;
- (ii) High quality public buildings and other infrastructure essential for healthy community and ecosystem, which includes building and maintaining an environmentally friendly community centre and school,

- (iii) Lead in production and conservation of renewable and non-renewable energy, which includes building economic opportunities in energy conservation and green energy production,
 - (iv) Safety and security for all community members, which includes creating safe community environments, protecting people and buildings from fires, preparing for emergencies and natural disasters, and creating and enforcing community laws related to safety,
 - (v) A profitable, sustainable and self-sufficient community economy that optimizes our diverse skills, which includes creating local, responsible enterprises;
- (b) establish a business licensing system, which will ensure all business conducted on ʔaḡam ʔamak (ʔaḡ am Lands) is in accordance with every ʔaḡam ʔa·knumuḡtiḡiḡ (Law) and the ʔaḡam Community Land Use Plan, 2016; and
- (c) ensure owners maintain their business operations in compliance with health and safety standards similar to those required elsewhere in British Columbia.

PART II

ʔAKḲIKYAXWUM, KUḶINḲILAT Ḷ KḶMAKNIḲWIYTIYAM DEFINITIONS, INTERPRETATION AND APPLICATION

ʔakḲikyaxwum (Definitions)

3. All ʔakḲikyaxwum (definitions) set out in the “ʔakḲikyaxwum (definitions)” section of the ʔaḡam yaḡaḡ hankatiḡiḡki ʔamaks (Land Use Plan) apply in this ʔa·knumuḡtiḡiḡ (Law).

4. Unless the context indicates to the contrary, in this ʔa·knumuḡtiḡiḡ (Law):

“applicant” means a person who makes an kḶmakniḲwiytiyam (application) to obtain, renew, transfer or amend a Khamatmuḡ kituḡḡiḡḡaḡ (business licence);

“ʔaḡam” means dense forest, and in this ʔa·knumuḡtiḡiḡ (Law) refers to the ʔaḡam within the meaning of the *Indian Act*, formerly known as the St. Mary’s Indian Band, for whose use and benefit in common ʔa·kukḡiḡmukuḡis (ʔaḡam Lands) have been set apart by Canada;

ʔa·kukḡiḡmukuḡis (ʔaḡam Lands)” includes:

(a) ʔaḡam - Kootenay Indian Reserve No. 1 (07422);

(b) kankak - Isidore's Ranch No. 4 (07423);

(c) qalsan mayuk - Cassimayooks No. 5 (07424);

(d) k'atqakakma?nam - Bummer's Flat No. 6 (07425); and

(e) ?amak "lands" set apart by Canada in the future as ?aqam ?amak (lands) reserved for the use and benefit of the ?aqam within the meaning of subsection 91(24) of the *Constitution Act 1867* and section 2(1) of the *Indian Act*;

"?aqam yaqa? hankatitiki ?amaks (Land Use Plan)" means the *?aqam Community Land Use Plan, 2016*, which ?aqam deems to be ?a·knumu?titit (Law);

"business" means an organization or entity engaged in commercial, industrial or professional activities of any kind or nature for the saqna (purpose) of gain or profit;

"Khamatmu? kitu?titqa? (business licence)" means a written document signed by a designated licensing officer confirming the holder of that document is licensed to carry on a stipulated business for the period specified in that document and at the premises stated in that document;

"chief administrative officer" means any person who is appointed and employed by ?itwatna?is ?aqam (Council) in the capacity of chief administrative officer of ?aqam;

"?itwatna?is ?aqam (Council)" means the council of ?aqam, elected in accordance with the *?aqam St. Mary's Indian Band Custom Election Regulations, Revised 2016*;

"designated licensing officer" means an individual designated by the ?aqam chief administrative officer to administer this ?a·knumu?titit (Law);

"yaqawxa? ?itu?titqa kanuhus ?aq?smaknik ?amak?is (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 ?aqam and Canada in accordance with clause 6.1 of the *Framework Agreement* and subsection 6(3) of the *First Nations Land Management Act*;

“kyapṭawxakiniṭ kqati·kniyam ṭamak (Lands Department)” means the office established by ṭiṭwaṭnaṭis ṭaqam (Council) to assist in the management and administration of ṭa·kukṭiṭmukuṭis (ṭaqam Lands) pursuant to Part 6 of the *ṭaqam Amended Land Code*;

“ṭaqamnik (member of ṭaqam)” means people of the dense forest, and in this ṭa·knumuṭṭiṭ (Law) means a person whose name appears or whose name is entitled to appear on the ṭaqam membership list;

"owner" means any person who alone or with others owns or has a controlling interest or power of direction over the operation of a business;

“ṭuntkaxuṭmik ṭamak (parcel of land)” means a parcel of ṭaqam Land;

"person" includes an individual, partnership, corporation, trust, unincorporated association, society, or other entity or agency, whether acting by themselves or by a servant, agent or employee, and the successors, assigns, heirs, executors and personal or other legal representatives of such person to whom the context can apply according to law; and

"premises" includes a store, office, shop, building, ṭaṭaqatṭim ṭa·kitṭaṭnam (residential home), warehouse, factory, structure, enclosure, temporary or permanent fruit or vegetable stand, yard or other definite area occupied or capable of being occupied by a person for the saqna (purpose) of a business and includes any area situated within any of the foregoing where a separate class or type of business is carried on, by a separate operator;

“ṭaṭaqatṭim ṭa·kitṭaṭnam (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;

ṭa·kukṭiṭmukuṭis Kuṭinṭiṭat (Interpretation)

5. This ṭa·knumuṭṭiṭ (Law) must be interpreted in a fair, large and liberal manner.

6. In this ṭa·knumuṭṭiṭ (Law):

(a) the use of the word “must” denotes an obligation that, unless this ṭa·knumuṭṭiṭ (Law) provides to the contrary, must be carried out as soon as practicable after this ṭa·knumuṭṭiṭ (Law) comes into effect or an event gives rise to the obligation under this ṭa·knumuṭṭiṭ (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 ᐃᓐᓕᓂᓄᓐᓂᓐᓂᓐ (Law) and in no way define, limit, alter or enlarge the scope or meaning of any provision of this ᐃᓐᓕᓂᓄᓐᓂᓐᓂᓐ (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) a reference to a government office includes every successor government office and a reference to a government official includes every successor government official;

(f) 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;

(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.

ᓂᓐᓕᓂᓄᓐᓂᓐᓂᓐ ᐃᓐᓕᓂᓄᓐᓂᓐᓂᓐ (Application of Law)

7. This ᐃᓐᓕᓂᓄᓐᓂᓐᓂᓐ (Law) applies to all ᐃᓐᓕᓂᓄᓐᓂᓐᓂᓐᓂᓐ (ᐃᓐᓕᓂᓄᓐᓂᓐᓂᓐ Lands).

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

9. If any provision of this ᐃᓐᓕᓂᓄᓐᓂᓐᓂᓐᓂᓐ (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 ᐃᓐᓕᓂᓄᓐᓂᓐᓂᓐᓂᓐ (Law).

PART III KHAMATMUE KITUQILQAL BUSINESS LICENCES

Licence Required to Carry on a Business

10. A person must not carry on business on ᐃᓐᓕᓂᓄᓐᓂᓐᓂᓐᓂᓐ (ᐃᓐᓕᓂᓄᓐᓂᓐᓂᓐ Lands) unless they:

- (a) hold a valid and subsisting khamatmuḥ kituḡḡitḡaḥ (business licence) issued under this ḡa·knumuḡḡitḡ (Law) for that business and conduct that business only on the premises to which the khamatmuḥ kituḡḡitḡaḥ (business licence) applies and only under the name in which the business is licenced; or
- (b) they are exempted from holding a business licence, as prescribed by ḡitwat'naḡis ḡaḡ am (Council) under section 11.

ḡitwat'naḡis ḡaḡam (Council) Authority to Prescribe Exemptions

- 11. ḡitwat'naḡis ḡaḡam (Council) may, by Resolution, prescribe that a class of persons or a class of businesses as exempt from holding a business licence before they can carry on business on ḡa·kukḡitḡmukuḡis (aḡam Lands).

Requirement to Post or Carry Licence

- 12. The owner of a business on ḡa·kukḡitḡmukuḡis (ḡaḡam Lands) must:
 - (a) if they operate their business from a premises on ḡa·kukḡitḡmukuḡis (ḡaḡam Lands), ensure their khamatmuḥ kituḡḡitḡaḥ (business licence) is posted in a conspicuous place on the premises for which it is issued at all times during which that business is in operation; and
 - (b) if they do not operate their business on a premises on ḡa·kukḡitḡmukuḡis (ḡaḡam Lands) but they access ḡa·kukḡitḡmukuḡis (ḡaḡam Lands) to carry on their business, carry their Khamatmuḥ kituḡḡitḡaḥ (business licence) on their person at all times while carrying on business on ḡa·kukḡitḡmukuḡis (ḡaḡam Lands).

Business Licence Non-Transferable

- 13. A khamatmuḥ kituḡḡitḡaḥ (business licence) is a personal, non-transferrable interest held by the owner of a business.

Ḳikmatḡinkiniḥ (Amending Terms and Conditions of a Business Licence)

- 14. A licensee must obtain an amendment to their khamatmuḥ kituḡḡitḡaḥ (business licence) before:
 - (a) the nature or character of their business changes in a material way from what is allowed for in the terms and conditions of their khamatmuḥ kituḡḡitḡaḥ (business licence); or
 - (b) they change the location of their business.

PART IV
?A·QAPNAM KITUQLILQAL
APPLICATION PROCEDURES

Kɛmakniɓiwyitiyam (Application) to Obtain, Renew or Amend a Khamatmuɓ kɪtuqɪlqal (Business Licence)

15. (1) An owner who wishes to carry on their business on ᑭᓐᓕᓂᔨᓄᓂᑦ(ᑭᓐᓂᓐᓇᓄᓐᓇ Lands), or who wishes to renew or amend their khamatmuᓪ kituᓴᓂᓐᓇᓐᓇ (business licence), must apply to the kyapᓐᓇᓂᓐᓇᓂᓐᓇᓐᓇᓐᓇᓐᓇ ᓂᓐᓇᓐᓇᓐᓇᓐᓇᓐᓇᓐᓇᓐᓇ (Lands Department) for a new khamatmuᓪ kituᓴᓂᓐᓇᓐᓇ (business licence).

(2) A *kemakniwiytiyam* (application) under subsection (1) must include:

(a) the name, address, and phone number of the business owner;

(b) the physical address and a legal description of the premises or parcel of land, if any, from which they propose to operate that business, along with a copy of the land instrument granting them lawful authority to use that premises or parcel of land for the saqna (purpose) of operating that business;

(c) if the owner is a corporation, or partnership, proof of incorporation or partnership;

(d) a description of the proposed business, including details regarding how that proposed business is classified under the ʔaqam yaqaʔ hankatitʔki ʔamaks (Land Use Plan);

(e) if the proposed business offers professional services regulated by the Province of British Columbia or Canada, copies of the professional certificates authorizing the owner to offer such services;

(f) a clearance letter from WorkSafeBC that shows the business to which the kəmākīwīyiyam (application) relates is registered with WorkSafeBC and in good standing with WorkSafeBC;

(g) a non-refundable application fee, as prescribed by Pitwatna'is Na'am (Council) under section 34; and

(h) any additional information prescribed by ʔitwatnaʔis ʔaqam (Council) under section 33 or 35.

Business Licence Approvals

16. (1) If the designated licensing officer is satisfied that the following conditions exist, they may issue a khamatmuł kituqłitqał (business licence) for a term of no longer than 12 months, with or without conditions:

- (a) the proposed business is not otherwise restricted by an order of Council made under this ʔa·knumuɕtitił (Law) or by any other ʔaqaṃ Law,
- (b) the proposed business is consistent with the ʔaqaṃ yaqał hankatitiłki ʔamaks (Land Use Plan);
- (c) the owner of the proposed business is named in a land instrument registered in the First Nations Lands Register that grants the owner lawful authority to use that premises or parcel of land for the saqna (purpose) of operating that business;
- (d) if the owner is a corporation or partnership, that corporation or partnership is registered in the corporate registry maintained by British Columbia and is in good standing with regard to that registry;
- (e) if the proposed business offers professional services regulated by the Province of British Columbia or Canada, the owner is in good standing with regard to their certification to provide such services; and
- (f) the owner and business are registered with WorkSafeBC and in good standing with WorkSafeBC.

Qaqnaxał (Refusal to Issue Business Licence)

17. Where the designated licensing officer refuses to issue a khamatmuł kituqłitqał (business licence), they must:

- (a) return the kɕmakniłwiytiyam (application) to the applicant; and
- (b) provide the applicant with written reasons setting out why their kɕmakniłwiytiyam (application) has been refused.

Application Reviews by ʔiłwatnaʔis ʔaqaṃ (Council)

18. (1) A person may apply for a review of the designated licensing officer's decision regarding an kɕmakniłwiytiyam (application) for a khamatmuł kituqłitqał (business licence) by making a written request to ʔiłwatnaʔis ʔaqaṃ (Council) that includes:

- (a) a copy of the kɕmakniłwiytiyam (application) for a khamatmuł kituqłitqał (business licence);

(b) the reasons provided to the applicant by the designated licensing officer for refusing to issue the applicant a khamatmuł kituqłitqat (business licence); and

(c) the reasons why the applicant believes the designated licensing officer should have issued them a khamatmuł kituqłitqat (business licence).

(2) A request for a review under subsection (1) must be made within fourteen (14) days of the designated licensing officer providing the applicant written reasons setting out why their kɛmakniłwiytiyam (application) is refused.

19. Within twenty-eight (28) days of receiving a request under section 18, ʔitwatnaʔis ʔaqam (Council) must review the designated licensing officer's decision and do one of the following:

(a) issue the applicant a khamatmuł kituqłitqat (business licence); or

(b) uphold the decision of the designated licensing officer, return the kɛmakniłwiytiyam (application) to the applicant and provide the applicant with written reasons setting out why the designated licensing officer's decision has been upheld.

20. The decision of ʔitwatnaʔis ʔaqam (Council) in a review of the designated licensing officer's decision is a final decision to refuse to grant an interest in ʔa-kukłitmukuʔis (ʔaqam Lands).

PART V

QAKASKINČITIŁ Č WAKNIŁIŁ (SUSPENSIONS AND REVOCATIONS), SA-NAQNA Č ʔIŁQANAKINIŁ (OFFENCES AND PENALTIES)

Access for Inspection and Enforcement

21. During business hours, the designated licensing officer has a right to access any premises or ʔa-kukłitmukuʔis (ʔaqam Lands) to which a khamatmuł kituqłitqat (business licence) applies for the saqna (purpose) of monitoring compliance with and enforcing this ʔa-knumučtitił (Law).

Qakaskinčitił (Suspension) or Wakniłił (Revocation) of a Khamatmuł kituqłitqat (Business Licence)

22. (1) The designated licensing officer may make a written recommendation to ʔitwatnaʔis ʔaqam (Council) that a khamatmuł kituqłitqat (business licence) be suspended or revoked if they reasonably believe the licensee:

(a) fails to comply with a term or condition of the khamatmuł kituqłitqat (business licence);

- 23.**Where the designated licensing officer makes a recommendation to ʔiḥwaṇaʔis ʔaqam (Council) under section 22, they must deliver to the licensee a written notice that states:

- 24.** (1) On the date set out in written notice to the licensee under paragraph 23(c), Ȟiwaṭnaʔis Ȟaḡam (Council) must:

(a) decide whether to suspend or revoke the licensee's khamatmuł kituqłitqał (business licence); and

(b) provide a written report to the designated licensing officer and the licensee setting out the:

(i) evidence and the arguments presented by the parties to the hearing;

(ii) findings of fact;

(iii) ȚitwatnaȚis Țaqam (Council) decision based on the facts presented; and

(iv) reasons for the ȚitwatnaȚis Țaqam (Council) decision.

(2) Where the licensee does not provide written submissions to the designated licensing officer on or before the date set out in written notice to the licensee under paragraph 23(c), ȚitwatnaȚis Țaqam (Council) may make a final decision on qakaskinçitił (suspension) or wakniłitił (revocation) of the licensee's khamatmuł kituqłitqał (business licence) in the absence of the licensee.

25. A decision by ȚitwatnaȚis Țaqam (Council) at a qakaskinçitił (suspension) or wakniłitił (revocation) hearing is final and is not subject to judicial review under the *Federal Courts Act* (R.S.C., 1985, c. F-7).

Cease and Desist Injunction Orders

26. (1) Where a person contravenes section 10, 12 or 14 of this Ța·knumuçitiłitił (Law), ȚitwatnaȚis Țaqam (Council) may grant a cease and desist injunction order requiring:

(a) that person to cease carrying out business and any related activity or use of Ța·kukłitiłmukuȚis (Țaqam Lands); and

(b) the owner of a premises, or a portion of a premises, to close, shut down, seal off, or otherwise make that premises unavailable for business use.

(2) In the process of granting an order under subsection (1), ȚitwatnaȚis Țaqam (Council) must provide the owner of the business with:

(a) reasonable notice of when ȚitwatnaȚis Țaqam (Council) will consider the grant of a cease and desist injunction order, and details regarding the criteria ȚitwatnaȚis Țaqam (Council) will use in determining whether to grant that order;

(b) an opportunity to be heard with regard to the proposed cease and desist injunction order, so they can present their case; and

(c) where ʔiḥwaṭnaʔis ʔaḳam (Council) grants a cease and desist injunction order, reasons for ʔiḥwaṭnaʔis ʔaḳam (Council) decision to grant that order.

(3) The designated licensing officer must, either by personal delivery or registered mail, deliver a copy of any cease and desist injunction order made by Council under subsection (1) to the licensee who is affected by that order.

Sa·naqna (Offences)

27. (1) Any person who:

- (a) contravenes section 10, 12 or 14 of this ʔa·knumuḳtiḥiḥ (Law) and fails to comply with a cease and desist order under section 26;
- (b) operates a business in contradiction of an Emergency and Health Order made by ʔiḥwaṭnaʔis ʔaḳam (Council) under section 37; or
- (c) refuses a designated licensing officer access to premises on which a business is located as set out in section 21; or
- (d) makes a false declaration or conceals material facts in a khamatmuḥ kituḳḥiḥḳat (business licence) kḳmakniḥwiḳtiyam (application), commits a sa·naqna (offence).

(2) Each day that a sa·naqna (offence) is committed under this this ʔa·knumuḳtiḥiḥ (Law) constitutes a separate sa·naqna (offence).

Hakḫa·kxu (General Penalty)

28. A person who is guilty of a sa·naqna (offence) under this ʔa·knumuḳtiḥiḥ (Law) is liable to a fine of no less than \$100.00 and no more than \$50,000.00.

Issuance of Violation Ticket

29. (1) Where the designated licencing officer reasonably believes an sa·naqna (offence) has been or is being committed under this ʔa·knumuḳtiḥiḥ (Law), they must personally deliver a violation ticket to the person they believe committed or is committing that sa·naqna (offence), which violation ticket must include:

- (a) the name and address of the person to whom the violation ticket is being delivered;
- (b) details regarding the alleged sa·naqna (offence) and why the designated licencing officer believes the alleged sa·naqna (offence) was or is being committed by that person;
- (c) the amount of the fine due and payable to ʔaḳam in relation to the alleged sa·naqna (offence); and

(d) a statement that if the allegation or fine is not disputed in the manner and within the time provided in this ?a·knumu?tili? (Law):

- (i) the violation ticket will be treated as not disputed,
- (ii) the person on whom the violation ticket is delivered will be deemed to have pleaded guilty to the alleged sa·naqna (offence), and
- (iii) the fine indicated on the violation ticket will be immediately payable by that person to ?aqam.

(2) The designated licencing officer must deliver a copy of any violation ticket delivered under subsection (1) to the kyaptawxakini? kqati·kniyam ?amak (Lands Department), along with an affidavit confirming the manner in which that violation ticket was delivered on the person alleged to have contravened this ?a·knumu?tili? (Law).

(3) The person on whom a violation ticket is served may:

- (a) dispute an allegation or the amount of the fine indicated on that violation ticket in accordance with section 29; or
- (b) pay the fine indicated on the violation ticket in accordance with the instruction set out in that violation ticket.

(4) Where a person pays a fine or a portion of a fine in accordance with subsection (3)(b), the person shall be deemed to have pleaded guilty to the alleged contravention.

Disputing a Violation Ticket

30. (1) A person on whom a violation ticket has been served may, within thirty (30) days of being served, dispute the allegation or the amount of the fine contained in the violation ticket by delivering or causing to be delivered to the address set out in the ticket a written notice of dispute.

(2) A notice of dispute under subsection (1) must contain an address for the person disputing the allegation or fine and sufficient information to identify the violation ticket and the alleged contravention or the fine being disputed.

(3) When a notice of dispute containing the information referred to in subsection (2) is delivered to the kyapt'awxakini? kqati·kniyam ?amak (Lands Department), the kyapt'awxakini? kqati·kniyam ?amak (Lands Department) may:

- (a) with the approval of ?itwat'na?is ?aq am (Council), enter into a settlement agreement with the person filing the notice of dispute; or

(b) apply to the Provincial Court of British Columbia for a hearing to be held with regard to the violation ticket.

(4) Notice of the hearing under subsection (3)(b) shall be sent to the person disputing the allegation or penalty at the address set out in their notice of dispute.

(5) A copy of a violation ticket referred to the Provincial Court of British Columbia under subsection (4) may be:

(a) a microfilm or other photographic reproduction of the violation ticket that is certified in writing by designated licencing officer as being a true reproduction of the ticket; or

(b) a printed reproduction of electronically stored information that is certified in writing by designated licencing officer as being a true reproduction of all the information on the violation ticket; and

(c) the reproduction shall be deemed to be a copy of the violation ticket.

(6) When the Provincial Court of British Columbia receives a copy of a violation ticket, a judge of the Provincial Court of British Columbia has jurisdiction to try, determine and adjudge proceedings relating to the violation ticket.

31. Where:

(a) a person is served with a violation ticket under section 29;

(b) they do not pay the fine or portion of the fine or dispute the allegation or fine in accordance with section 30; and

(c) at least 30 days have elapsed after the ticket was served on the person,

the person shall be deemed to have pleaded guilty to the alleged sa·naqna (offence) and the fine indicated in the ticket is immediately payable to ʔaḡam.

Interest on Unpaid Fines

32. If all or any portion of a fine indicated in a violation ticket remains unpaid thirty (30) days after the date on which the violation ticket is issued, the unpaid portion accrues interests at fifteen percent (15%) per year.

ʔaḡam Property Taxation Law Enforcement Measures Apply to Unpaid Fines

33. (1) In accordance with section 20(3.1) of the *First Nations Land Management Act*, S.C. 1999, c.24 those enforcement measures set out in Parts XII, XIII, XIV and XV of the *ʔaḡam Property Taxation Law, 2017* with regard to unpaid taxes, as that term is defined in that law, also

apply to and will be used by ʔaᑭam for the enforcement of unpaid fines due under this ʔa·knumuᑭtitit (Law), as if those unpaid fines are in fact unpaid taxes.

(2) For greater certainty, in executing enforcement measures under subsection (1), all references in the *ʔaᑭam Property Taxation Law, 2017* to:

(a) “debtor” must be interpreted as meaning a “person who owes a penalty under this ʔa·knumuᑭtitit (Law)”;

(b) “tax” must be interpreted as meaning “penalty”;

(c) “taxes” must be interpreted as meaning “penalties”;

(d) “unpaid taxes” must be interpreted as meaning “unpaid penalties”;

(e) “tax notice” must be interpreted as meaning “violation ticket” or order of the Provincial Court of BC, as applicable;

(f) “taxable property” must be interpreted as meaning the premises or parcel of land on which the offence took place; and

(g) “tax administrator” must be interpreted as meaning “designated licencing officer”.

(3) For even greater certainty, the exemptions from taxation of ʔaᑭamnik in Part V of the ʔaᑭam Property Taxation Law, 2017 do not create a protection for ʔaᑭamnik against the use of the enforcement measures in that ʔa·knumuᑭtitit (Law) to enforce the payment of unpaid penalties under this ʔa·knumuᑭtitit (Law).

PART VI ʔIŁWAᑭNAᑭIS ʔAᑭAM (COUNCIL) RESOLUTIONS

Prescribe Required Provincial and Federal Approvals / Health and Safety Requirements as Pre-Requisites to the Grant of a Khamatmuł kituᑭᑭitᑭat (Business Licence)

34. (1) ʔiŁwatnaᑭis ʔaᑭam (Council) may, by Resolution, prescribe a schedule of federal and provincial approvals, and health and safety inspection requirements, that must be provided by a category of applicants before that category of applicants may be granted a khamatmuł kituᑭᑭitᑭat (business licence).

(2) A copy of any schedule prescribed under subsection (1) must be available for viewing and distribution free of charge at the ʔaᑭam administration office during normal business hours.

Prescribe Fee and Fine Schedules

35. (1) Ḥilwatnaḥis Ṭaqam (Council) must, by Resolution, prescribe:

(a) a schedule of fees payable pursuant to this ʔa·knumuḗtiṭit̚ (Law) in respect of khamatmuṭ kituḡḥit̚ḡaṭ (business licence) kḡmaknitwiytiyām (applications) and the issuance of khamatmuṭ kituḡḥit̚ḡaṭ (business licences) for each classified business type, as well as any circumstances where such fees may be waived; and

(b) a schedule of minimum fines payable pursuant to this ~~2a·knmuḩtiḩ~~ (Law) in respect of an sa·naqna (offence) violation.

(2) The schedule of fees prescribed by Council under subparagraph (1)(a) may set out different annual fees for different classifications of businesses, with or without additional fees applicable to business transactions on a per diem basis.

(3) A copy of the current schedule of fees prescribed under subsection (1) must be available for viewing and distribution free of charge at the ʔaqam administration office during normal business hours.

Prohibition of Business Operations and Restricting the Location of Businesses

36. Ȥiŋwaŋaŋis Ȥaŋam (Council) may in the best interests of Ȥaŋamnik, by Resolution, absolutely prohibit the following types of businesses from operating on Ȥa·kukŋimukuȤis(Ȥaŋam Lands) or prescribe restrictions regarding the locations at which the following types of businesses may operate on Ȥa·kukŋimukuȤis(Ȥaŋam Lands), and if such order or prescribed restrictions are in effect, a person who does not comply with that order or restriction commits an sa·naqna (offence) under this Ȥa·knumuŋtitiŋ (Law):

(a) a shooting range, meaning a place that is designed or intended for the safe discharge, on a regular and structured basis, of firearms for the saqna (purpose) of target practice or target shooting competitions;

(b) an adult entertainment business, meaning a portion of or the entire premises where:

(i) the business of selling, or offering for sale, sex, sexual favors, sex paraphernalia or graphic sexual material is carried on,

(ii) one or more pornographic film viewers are made available for use by the public,
or

(iii) where Adult Films as defined by the *Motion Picture Act* RSBC 1996, c. 314 and its Regulations are made available to any person for sale or rent;

(c) an adult movie theatre, meaning a motion picture theatre where adult or restricted designated motion pictures, as defined by the *Motion Picture Act* RSBC 1996, c. 314 and its

(d) erotic telephone call services, or any synonymous word or phrase, where the nature of the business is to offer or provide a discussion of sex in an erotic matter via the telephone, internet or other electronic device for a fee;

(f) any other business similar in nature to those described in paragraphs (a) to (c).

37. (1) Ȧıwaına'is Ȧaqam (Council) may in the best interests of Ȧaqamnik', by Resolution, absolutely prohibit the operation of a business, or add conditions to a khamatmuł kituqtitqał (business licence), in circumstances where such prohibition or condition is necessary for Ȧaqam to prepare for, respond to, or recover from:

(b) an emergency, meaning a present or imminent event or circumstance caused by accident, fire, explosion, technical failure of the forces of nature that requires prompt coordination of persons or property to protect the health, safety or welfare of ?a?amnik (member), or damage to ?a·kukti?muku?is (?a?am Lands); or

(2) Where Pitwatna'is Na'am (Council) passes a Resolution under subsection (1) that Resolution must state:

(b) what must be done or not done, and any conditions, including if applicable the date by which something must be done;

(d) information regarding how a person affected by the prohibition or condition may have the Ȟitwatna?is Ȟaqam (Council) Resolution reconsidered.

Ҷағам Business Licencing Law, 2021

Resolution approved by ʔitwatnaʔis ʔaqam (Council) under subsection (1) automatically expires fourteen (14) days after the day on which ʔitwatnaʔis ʔaqam (Council) makes that Resolution.

Notice of ʔitwatnaʔis ʔaqam (Council) Resolution to Affected Persons

38. Where ʔitwatnaʔis ʔaqam (Council) approves a Resolution under this Part, a copy of that Resolution must immediately be delivered to every licensee and to each current applicant awaiting approval of their khamatmuʔ kituqʔitʔaqat (business licence), along with instructions on how they may request a reconsideration under section 39.

Reconsideration of ʔitwatnaʔis ʔaqam (Council) Resolutions

39. (1) A person affected by a ʔitwatnaʔis ʔaqam (Council) Resolution under this Part, excluding any Resolution under section 35, may request ʔitwatnaʔis ʔaqam (Council) to reconsider the ʔitwatnaʔis ʔaqam (Council) Resolution if the person

(a) has additional relevant information that was not reasonably available to ʔitwatnaʔis ʔaqam (Council) when the Resolution was approved;

(b) has a proposal that was not presented to ʔitwatnaʔis ʔaqam (Council) when the Resolution was approved and that, if implemented, would meet the objective of ʔitwatnaʔis ʔaqam (Council) Resolution; or

(c) requires more time to comply with the ʔitwatnaʔis ʔaqam (Council) Resolution.

(2) A request for reconsideration must be made in the form required by ʔitwatnaʔis ʔaqam (Council).

(3) After considering a request for reconsideration, ʔitwatnaʔis ʔaqam (Council) may do one or more of the following:

(a) reject the request on the basis that the information submitted in support of the request:

(i) is not relevant, or

(ii) was reasonably available at the time the ʔitwatnaʔis ʔaqam (Council) Resolution was approved;

(b) delay the date the ʔitwatnaʔis ʔaqam (Council) Resolution is to take effect or suspend the ʔitwatnaʔis ʔaqam (Council) Resolution, if satisfied that doing so would not be detrimental to ʔitwatnaʔis ʔaqam (Council)'s objectives in approving the Resolution; or

(c) confirm, rescind or vary the ʔitwatnaʔis ʔaqam (Council) Resolution.

(4) If ʔitwatnaʔis ʔaqam (Council) decides to reject the request under subsection (3) (a) or to confirm or vary the terms of the Resolution under subsection (3)(c), ʔitwatnaʔis ʔaqam

(Council) must provide written reasons for their decision to the person requesting the reconsideration.

(5) Following a decision made under subsection (3) (a) or (c), the person making the request for reconsideration cannot make another request regarding that Resolution.

(6) A Resolution made under this Part is not suspended during the period of reconsideration unless ʔitwatnaʔis ʔaqam (Council) agrees, in writing, to suspend it.

(7) For the purposes of this section,

(a) if a ʔitwatnaʔis ʔaqam (Council) Resolution is made that affects a class of persons, a request for reconsideration may be made by one person on behalf of the class, and

(b) if multiple Resolutions, or parts of a Resolution, affect a class of persons, or address related matters or issues, ʔitwatnaʔis ʔaqam (Council) may reconsider the Resolutions separately or together.

PART VII CIN QAPI QAPSIN GENERAL

ʔupxaʕiʔtil (Notice)

40. A ʔupxaʕiʔtil (notice) or request required to be delivered or provided under this ʔa·knumuʕtitiʔ (Law) to a licensee is sufficiently delivered or provided, if delivered personally or sent by registered mail, addressed to licensee at the licensee's address of business.

41. A ʔupxaʕiʔtil (notice) or request required to be delivered or provided under this ʔa·knumuʕtitiʔ (Law) to the designated licensing officer or to ʔitwatnaʔis ʔaqam (Council) is sufficiently delivered or provided, if delivered personally or sent by registered mail, addressed to the kyapʔawxakiniʔ kqati·kniyam ʔamak (Lands Department) at the following address:

7470 Mission Road
Cranbrook, BC
V1C 7E5

42. When service is made by registered mail, the service must be deemed to be effected on the fifth (5th) day after the date of mailing.

Limitation of Liability

43. Ȧqam is not liable in any action based on negligence, occupier's liability, nuisance, the rule in the *Rylands v. Fletcher* case, or any other action based in tort law if the damages arise, directly or indirectly, out of an act or omission of a licensee in relation to a premises to which their khamatmuŋ kituŋtiŋqaŋ (business licence) relates.

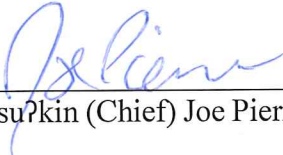
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**PART VIII
YISUSAE ĆINAKNIŁKI
COMING INTO FORCE**

Date Law Comes Into Force

44. This Ȧ-knumuċtihil (Law) must come into force and effect ninety (90) days after the date on which it is passed by ȦitwatnaȦis ȦaȦam (Council), by resolution.

This Ȧa-knumuċtihil (Law) is hereby passed at a duly convened meeting of the ȦitwatnaȦis ȦaȦam (Council) this 16th day of November, 2021.




NasuȦkin (Chief) Joe Pierre Jr

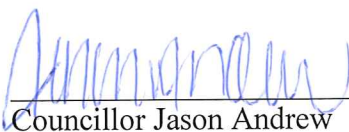


Councillor Julie Birdstone

Councillor Sancira Williams-Jimmy



Councillor Vickie Thomas



Councillor Jason Andrew

Being the majority of those members of the ȦitwatnaȦis ȦaȦam (Council) present at the aforesaid meeting of the ȦitwatnaȦis ȦaȦam (Council).

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

Number of members of the ȦitwatnaȦis ȦaȦam (Council) present at the meeting: 4