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WHEREAS

A. ᑭᐱᐱᐱᐱᐱᐱ (members of ᑭᐱᐱ) 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. ᑭᐱᐱ 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. ᑭᐱᐱᐱᐱᐱᐱ (members of ᑭᐱᐱ) 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. ᑭᐱᐱᐱᐱᐱᐱ (members of ᑭᐱᐱ) 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 *ᑭᐱᐱ Amended Land Code, 2016*;

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

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

H. On February 25, 2016, members of ʔaᑭam voted in favour of an ʔaᑭam yaᑭaᑭ hankatiliᑭki ʔamak (Land Use Plan), which sets forth a vision for how ʔaᑭam ʔamak (ʔaᑭam Lands) will be used;

I. The ʔitwatnaʔis ʔaᑭam (Council) of ʔaᑭam deems it to be in the best interests of ʔaᑭamnik (members of ʔaᑭam) to make a business licencing law; and

J. The ʔitwatnaʔis ʔaᑭam (Council) of ʔaᑭam has held a community land code meeting regarding this *ʔaᑭam Business Licencing Law, 2020* in accordance with sections 7.6 to 7.9 of the *ʔaᑭam Amended Land Code, 2016*, and has considered comments of ʔaᑭam members, as well as the needs of the community in their development of this *ʔaᑭam Business Licencing Law, 2020*,

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

**PART I
QAKI·KAXUʔMIK
CITATION AND PURPOSE**

Citation

1. This ʔa·knumuᑭtitiᑭ (Law) may be cited as the *ʔaᑭam Business Licencing Law, 2020*.

Purpose

2. The purposes of this ʔa·knumuᑭtitiᑭ (Law) are to:

(a) establish a business licensing system, which will ensure all business conducted on ʔaᑭam ʔamak (ʔaᑭam Lands) is in accordance with every ʔaᑭam ʔa·knumuᑭtitiᑭ (Law) and the *ʔaᑭam Community Land Use Plan, 2016*; and

(b) ensure owners maintain their business operations in compliance with health and safety standards similar to those required elsewhere in British Columbia.

**PART II
ʔAKLIKYAXWUM , KUᑭINEᑭLAT ᑕ KᑕMAᑭNIᑭWIYTIYAM
DEFINITIONS, INTERPRETATION AND APPLICATION**

ʔaklikyaxwum (Definitions)

All definitions set out in the “definitions” section of the ʔaᑭam yaᑭaᑭ hankatiliᑭki ʔamak (Land Use Plan) apply in in this ʔa·knumuᑭtitiᑭ (Law).

5. In this ?a·knumu?titit? (Law):

(a) the use of the word “must” denotes an obligation that, unless this ?a·knumu?titit? (Law) provides to the contrary, must be carried out as soon as practicable after this ?a·knumu?titit? (Law) comes into effect or an event gives rise to the obligation under this ?a·knumu?titit? (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 ?a·knumu?titit? (Law) and in no way define, limit, alter or enlarge the scope or meaning of any provision of this ?a·knumu?titit? (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.

Ñitnumu?titit? ?a·knumu?titit? (Application of Law)

6. This ?a·knumu?titit? (Law) applies to all ?aqam ?amak (?aqam Lands).

7. Where any ?a·knumu?titit? (law) or regulation of Canada or the Province or any other ?aqam law applies to any matter covered by this ?a·knumu?titit? (Law), compliance with this ?a·knumu?titit? (Law) does not relieve the person from also complying with the provisions of the other applicable laws or regulations.

8. If any provision of this ?a·knumu?titit? (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 ?a·knumu?titit? (Law).

(j) the creation and sale of carvings, crafts, and other art work and crafts by any Ṣaqamnik (member);

(k) small-scale, Ṣalaqatitmu Ṣa-kitlaṢnam (residential home)-based business activities undertaken by any Ṣaqamnik (member) or occupant of Ṣaqam Ṣamak (Ṣaqam Lands) including the sale of Avon, Herbalife, Tupperware, locally made crafts, etc., or

(l) any Ṣaqamnik (member) operating a small-scale, Ṣalaqatitmu Ṣa-kitlaṢnam (residential home)-based business with no more than one (1) work station, such as professional services, or health and wellness services.

Requirement to Post or Carry Licence

10. The owner of a business on Ṣaqam Ṣamak (Ṣaqam Lands) must:

(a) if they operate their business from a premises on Ṣaqam Ṣamak (Ṣaqam Lands), ensure their 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 Ṣaqam Ṣamak (Ṣaqam Lands) but they access Ṣaqam Ṣamak (Ṣaqam Lands) to carry on their business, carry their business licence on their person at all times while carrying on business on Ṣaqam Ṣamak (Ṣaqam Lands).

Business Licence Non-Transferable

11. A business licence is a personal, non-transferrable interest held by the owner of a business.

Amending Terms and Conditions of a Business Licence

12. A licensee must obtain an amendment to their 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 business licence; or

(b) they change the location of their business.

PART IV APPLICATION PROCEDURES

Application to Obtain, Renew or Amend a Business Licence

13. (1) An owner who wishes to carry on their business on Ṣaqam Ṣamak (Ṣaqam Lands), or who wishes to renew or amend their business licence, must apply to the kyaptawxakinif kqali·kniyam Ṣamak (Lands Department) for a new business licence.

(2) An 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 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 yaqał hankatiliłki ʔamak (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 application relates is registered with WorkSafeBC and in good standing with WorkSafeBC;

(g) a non-refundable application fee, as prescribed by ʔitwatnaʔis ʔaqam (Council) under section 34; and

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

Business Licence Approvals

14. (1) If the designated licensing officer is satisfied that the following conditions exist, they may issue a 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·knumuɕtitilił (Law) or by any other ʔaqam Law,

(b) the proposed business is consistent with the ʔaqam yaqał hankatiliłki ʔamak (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 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.

Refusal to Issue Business Licence

15. Where the designated licensing officer refuses to issue a business licence, they must:

(a) return the application to the applicant; and

(b) provide the applicant with written reasons setting out why their application has been refused.

Application Reviews by ʔitwatnaʔis ʔaqam (Council)

16. (1) A person may apply for a review of the designated licensing officer's decision regarding an application for a business licence by making a written request to ʔitwatnaʔis ʔaqam (Council) that includes:

(a) a copy of the application for a business licence;

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

(c) the reasons why the applicant believes the designated licensing officer should have issued them a 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 application is refused.

17. Within twenty-eight (28) days of receiving a request under section 17, ʔitwatnaʔis ʔaqam (Council) must review the designated licensing officer's decision and do one of the following:

(a) issue the applicant a business licence; or

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

18. 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 ʔaqam ʔamak (ʔaqam Lands).

PART V
SUSPENSIONS AND REVOCATIONS, OFFENCES AND PENALTIES

Access for Inspection and Enforcement

19. During business hours, the designated licensing officer has a right to access any premises or ʔaᓗam ʔamak (ʔaᓗam Lands) to which a business licence applies for the purpose of monitoring compliance with and enforcing this ʔa·knumuᓗtitᓗᓗ (Law).

Suspension or Revocation of a Business Licence

20. (1) The designated licensing officer may make a written recommendation to ʔiᓗwaᓗnaʔis ʔaᓗam (Council) that a business licence be suspended or revoked if they reasonably believe the licensee:

- (a) fails to comply with a term or condition of the business licence;
- (b) is convicted of, or deemed guilty of, an offence under this ʔa·knumuᓗtitᓗᓗ (Law); or
- (c) ceases to comply with a law of Canada or British Columbia in relation to their business operations.

(2) A recommendation under subsection (1) must include:

- (a) the name of the licensee;
- (b) the name of the business and a copy of the business licence;
- (c) the belief that the designated licensing officer holds under subsection (1); and
- (d) the basis of the designated licensing officer's belief, along with any supporting documentation that might provide evidence as to the truth of the designated licensing officer's belief.

21. Where the designated licensing officer makes a recommendation to ʔiᓗwaᓗnaʔis ʔaᓗam (Council) under section 21, they must deliver to the licensee a written notice that states:

- (a) the details of the business licence proposed for suspension or revocation;
- (b) the reasons for the proposed suspension or revocation;

(c) the date, time and location at which ?i?watna?is ?aqam (Council) will make a final decision regarding the proposed suspension or revocation, which must not be earlier than thirty (30) days from the date on which the notice in this section is delivered to the licensee;

(d) the licensee is entitled to have their views heard by ?i?watna?is ?aqam (Council) with regard to the proposed suspension or revocation of their business licence;

(e) if the licensee wishes for their views to be heard by ?i?watna?is ?aqam (Council), they must deliver their written submissions to the designated licensing officer no later than thirty (30) days after the date on which they receive the notice from the designated licensing officer; and

(f) instructions regarding the manner in which the licensee must deliver any written submissions to the designated licensing officer.

22. (1) On the date set out in written notice to the licensee under paragraph 22(c), ?i?watna?is ?aqam (Council) must:

(a) decide whether to suspend or revoke the licensee's 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) ?i?watna?is ?aqam (Council) decision based on the facts presented; and

(iv) reasons for the ?i?watna?is ?aqam (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 22(c), ?i?watna?is ?aqam (Council) may make a final decision on suspension or revocation of the licensee's business licence in the absence of the licensee.

23. A decision by ?i?watna?is ?aqam (Council) at a suspension or 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

24. (1) Where a person contravenes section 10, 11 or 13 of this ?a·knumu?titli? (Law), ?i?watna?is ?aqam (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 ?aqam ?amak (?aqam Lands); and

(3) When a notice of dispute containing the information referred to in subsection (2) is delivered to the address set out in the violation ticket, a copy of the violation ticket shall be referred to the Provincial Court of British Columbia for a hearing.

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

29. Where:

(a) a person is served with a violation ticket under section 28;

(b) they do not pay the fine or portion of the fine or dispute the allegation or fine in accordance with section 29; 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 offence and the fine indicated in the ticket is immediately payable to *ᑭᐱᐱ*.

Interest on Unpaid Fines

30. 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.

***ᑭᐱᐱ* Property Taxation Law Enforcement Measures Apply to Unpaid Fines**

31. (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 *ᑭᐱᐱ*

Prohibition of Business Operations and Restricting the Location of Businesses

34. ?itwatna?is ?aqam (Council) may in the best interests of ?aqamnik, by Resolution, absolutely prohibit the following types of businesses from operating on ?aqam ?amak (?aqam Lands) or prescribe restrictions regarding the locations at which the following types of businesses may operate on ?aqam ?amak (?aqam Lands), and if such order or prescribed restrictions are in effect, a person who does not comply with that order or restriction commits an offence under this ?a·knumu?titih (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 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 Regulations, are shown;
- (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;
- (e) the manufacture, purchase, sale, services and consumption of liquor or cannabis; and
- (f) any other business similar in nature to those described in paragraphs (a) to (c).

Emergency and Health Orders Restricting Business Operations

35. (1) ?itwatna?is ?aqam (Council) may in the best interests of ?aqamnik, by Resolution, absolutely prohibit the operation of a business, or add conditions to a business licence, in circumstances where such prohibition or condition is necessary for ?aqam to prepare for, respond to, or recover from:

(a) a disaster, meaning any event caused by accident, fire, explosion, or technical failure or by the forces of nature, that results in serious harm to the health, safety or welfare of ʔaqamnik (member), or damage to ʔaqam ʔamak (ʔaqam Lands);

(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 ʔaqamnik (member), or damage to ʔaqam ʔamak (ʔaqam Lands); or

(c) a health hazard, meaning a condition, thing or activity that endangers, or is likely to endanger public health, or interferes, or is likely to interfere with, the suppression of: a hazardous agent or infectious agent, as those terms are defined in the *Public Health Act* [SBC 2008] Chapter 28.

(2) Where ʔitwatnaʔis ʔaqam (Council) passes a Resolution under subsection (1) that Resolution must state:

(a) who must comply with that prohibition or condition;

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

(c) the date on which, or the circumstances under which, the prohibition or condition is to expire; and

(d) information regarding how a person affected by the prohibition or condition may have the ʔitwatnaʔis ʔaqam (Council) Resolution reconsidered.

(3) Unless ʔitwatnaʔis ʔaqam (Council) deems it necessary to set a longer expiry date, any 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

36. 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 business licence, along with instructions on how they may request a reconsideration under section 38.

Reconsideration of ʔitwatnaʔis ʔaqam (Council) Resolutions

37. (1) A person affected by a ʔitwatnaʔis ʔaqam (Council) Resolution under this Part, excluding any Resolution under section 34, 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

**PART VIII
YISUSAE ĆINAKNIĒKI
COMING INTO FORCE**

Date Law Comes Into Force

42. This ʔa·knumuĉtitiĥ (Law) must come into force and effect ninety (90) days after the date on which it is passed by ʔiĥwatnaʔis ʔaĉam (Council), by resolution.

This ʔa·knumuĉtitiĥ (Law) is hereby passed at a duly convened meeting of the ʔiĥwatnaʔis ʔaĉam (Council) this__day of_____, 2020.

Nasuʔkin (Chief) Joe Pierre Jr

Councillor Julie Birdstone

Councillor Codie Morigeau

Councillor Vickie Thomas

Councillor Jason Andrew

Being the majority of those members of the ʔiĥwatnaʔis ʔaĉam (Council) present at the aforesaid meeting of the ʔiĥwatnaʔis ʔaĉam (Council).

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

Number of members of the ʔiĥwatnaʔis ʔaĉam (Council) present at the meeting: _____