# 7AQAM BUSINESS LICENCING LAW, 2021

# TABLE OF CONTENTS

Paqam Business Licencing Law, 2021  PART I  CITATION AND PURPOSE	5 5 5
	5 5
CITATION AND PURPOSE	5
Citation	5
Purpose	J
PART II	6
DEFINITIONS, INTERPRETATION AND APPLICATION	6
Definitions	6
Ku¢inlilat (Interpretation)	8
Nitnumu¢tiłni ?a·knumu¢titłił (Application of Law)	9
PART III	9
BUSINESS LICENCES	9
Licence Required to Carry on a Business	9
Requirement to Post or Carry Licence	9
Business Licence Non-Transferable	0
Amending Terms and Conditions of a Business Licence	0
PART IV 1	0
APPLICATION PROCEDURES 1	
Application to Obtain, Renew or Amend a Business Licence	0
Business Licence Approvals	1
Refusal to Issue Business Licence	1
Application Reviews by ?iłwałna?is ?aqam (Council)1	2
Part V	
SUSPENSIONS AND REVOCATIONS, OFFENCES AND PENALTIES 1	2
Access for Inspection and Enforcement	2
Suspension or Revocation of a Business Licence	3
Cease and Desist Injunction Orders	4
Offences	5
General Penalty1	
Issuance of Violation Ticket 1	5
Disputing a Violation Ticket1	6
Interest on Unpaid Penalties	
Pagam Property Taxation Law Enforcement Measures Apply to Unpaid Penalties 1	

PART VI	18
?iłwałna?is ?aqam (Council) RESOLUTIONS	18
Prescribe Required Provincial and Federal Approvals / Health and Safety Requirements Requisites to the Grant of a Business Licence	
Prescribe Fee and Penalty Schedules	19
Prohibition of Business Operations and Restricting the Location of Businesses	19
Emergency and Health Orders Restricting Business Operations	20
Notice of ?ilwarna?is ?aqam (Council) Resolution to Affected Persons	21
Reconsideration of ?iłwałna?is ?aqam (Council) Resolutions	21
PART VII	22
GENERAL	22
Notice	22
Limitation of Liability	23
PART VIIi	23
COMING INTO FORCE	23
Date Law Comes Into Force	23

#### **WHEREAS**

- **A.** ?aqamnik (members of ?aqam) 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. Pagam 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.** ?aqamnik (members of ?aqam) 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.** ?aqamnik (members of ?aqam) 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 ?aqam Amended Land Code, 2016;
- **G.** Pursuant to sections 6.1 to 6.3 of the *?aq́am Amended Land Code*, 2016, the ?iłwatna?is ?aq́am (Council) of ?aq́am may develop laws in relation to:
  - zoning and land use planning,
  - the regulation, control, authorization and prohibition of the occupation and development of ?aqam ?amak (?aqam Lands),
  - the creation, disposition, regulation and prohibition of interests and licences, and
  - the enforcement of laws;
- **H.** On February 25, 2016, members of ?aqam voted in favour of an ?aqam Community Land Use Plan, which sets forth a vision for how ?aqam ?amak (?aqam Lands) will be used;

- I. The ?iłwatna?is ?aqam (Council) of ?aqam deems it to be in the best interests of ?aqamnik (members of ?aqam) to make a business licencing law; and
- **J.** The ?iłwałna?is ?aqam (Council) of ?aqam has held a community land code meeting regarding this ?aqam Business Licencing Law, 2021 in accordance with sections 7.6 to 7.9 of the ?aqam Amended Land Code, 2016, and has considered comments of ?aqam members, as well as the needs of the community in their development of this ?aqam Business Licencing Law, 2021,

NOW THEREFORE, the ?iłwatna?is ?aqam (Council) of ?aqam duly enacts as follows:

## PART I CITATION AND PURPOSE

#### Citation

1. This ?a·knumu¢titii (Law) may be cited as the ?aqam Business Licencing Law, 2021.

## **Purpose**

- 2. The purposes of this ?a·knumu¢titii (Law) are to:
- (a) contribute to ?aqam achieving the following goals set out in Ka Kniłwitiyała 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 ?aqam ?amak (?aqam Lands) is in accordance with every ?aqam ?a·knumu¢titlil (Law) and the ?aqam 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 DEFINITIONS, INTERPRETATION AND APPLICATION

#### **Definitions**

- 3. All definitions set out in the "definitions" section of the ?aqam Land Use Plan apply in this ?a knumu¢titlil (Law).
  - 4. Unless the context indicates to the contrary, in this ?a·knumu¢titlil (Law):
- "applicant" means a person who makes an application to obtain, renew, transfer or amend a business licence;
- "?aqam" means dense forest, and in this ?a·knumu¢tilil (Law) refers to the ?aqam within the meaning of the *Indian Act*, formerly known as the St. Mary's Indian Band, for whose use and benefit in common ?aqam ?amak (?aqam Lands) have been set apart by Canada;
- "?aqam ?amak (?aqam Lands)" includes:
  - (a) ?aqam Kootenay Indian Reserve No. 1 (07422);
  - (b) kankak Isidore's Ranch No. 4 (07423);
  - (c) qałsan mayuk Cassimayooks No. 5 (07424);
  - (d) kałqakakma?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 Land Use Plan" means the ?aqam Community Land Use Plan, 2016, which ?aqam deems to be ?a knumu¢titlit (Law);
- "business" means an organization or entity engaged in commercial, industrial or professional activities of any kind or nature for the purpose of gain or profit;

- "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 ?iłwałna?is ?aqam (Council) in the capacity of chief administrative officer of ?aqam;
- "?ilwaina?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¢titlil (Law);
- "yaqawxał ?ituqłiłqa kanuhus ?aqłsmaknik ?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;
- "kyaptawxakinił kqałi kniyam ?amak (Lands Department)" means the office established by ?iłwatna?is ?aqam (Council) to assist in the management and administration of ?aqam ?amak (?aqam Lands) pursuant to Part 6 of the ?aqam Amended Land Code;
- "?aqamnik (member of ?aqam)" means people of the dense forest, and in this ?a knumu¢tilil (Law) means a person whose name appears or whose name is entitled to appear on the ?aqam 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;
- "quntkaxu?mik ?amak (parcel of land)" means a parcel of ?aqam Land;
- "person" includes an individual, partnership, corporation, trust, unincorporated association, society, or other entity or agency, whether acting by themselves of 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, ?ałaqałtitmu ?a·kitła?nam (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 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;
- "?ałaqałtitmu ?a·kitła?nam (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;

### Ku¢inlilat (Interpretation)

- 5. This ?a·knumu¢titlil (Law) must be interpreted in a fair, large and liberal manner.
- 6. In this ?a·knumu¢titlil (Law):
- (a) the use of the word "must" denotes an obligation that, unless this ?a·knumu¢titlil (Law) provides to the contrary, must be carried out as soon as practicable after this ?a·knumu¢titlil (Law) comes into effect or an event gives rise to the obligation under this ?a·knumu¢titlil (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¢titlił (Law) and in no way define, limit, alter or enlarge the scope or meaning of any provision of this ?a·knumu¢titlił (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.

# Nitnumu¢tilni ?a·knumu¢titlil (Application of Law)

- 7. This ?a·knumu¢tit†i† (Law) applies to all ?aqam ?amak (?aqam Lands).
- 8. Where any ?a·knumu¢titlil (law) or regulation of Canada or the Province or any other ?aqam law applies to any matter covered by this ?a·knumu¢titlil (Law), compliance with this ?a·knumu¢titlil (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 ?a·knumu¢titlil (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¢titlil (Law).

## PART III BUSINESS LICENCES

## Licence Required to Carry on a Business

- 10. A person must not carry on business on ?aqam ?amak (?aqam Lands) unless:
- (a) they hold a valid and subsisting business licence issued under this ?a·knumu¢titlil (Law) for that business and conduct that business only on the premises to which the 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 ?ilwaina?is ?aqam (Council) under section 11.

# ?ilwałna?is ?aqam (Council) Authority to Prescribe Exemptions

11. ?iłwatna?is ?aqam (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 ?aqam ?amak (?aqam Lands).

#### **Requirement to Post or Carry Licence**

12. The owner of a business on ?aqam ?amak (?aqam Lands) must:

- (a) if they operate their business from a premises on ?aqam ?amak (?aqam 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 ?aqam ?amak (?aqam Lands) but they access ?aqam ?amak (?aqam Lands) to carry on their business, carry their business licence on their person at all times while carrying on business on ?aqam ?amak (?aqam Lands).

#### **Business Licence Non-Transferable**

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

#### **Amending Terms and Conditions of a Business Licence**

- **14.** 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

- 15. (1) Any person who wishes to carry on their business on ?aqam ?amak (?aqam Lands), or who wishes to renew or amend their business licence, must apply to the kyaptawxakinił kqałi·kniyam ?amak (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 ?aqam 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 ?iłwatna?is ?aqam (Council) under section 35; and
- (h) any additional information prescribed by ?iłwatna?is ?aqam (Council) under section 34 or 36.

### **Business Licence Approvals**

- **16.** (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 ?a·knumu¢titlil (Law) or by any other ?aqam Law,
  - (b) the proposed business is consistent with the ?aqam 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**

- 17. 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 ?iłwałna?is ?aqam (Council)

- **18.** (1) Where an applicant is denied a business licence, they may apply for a review of the designated licensing officer's decision by making a written request to ?iłwatna?is ?aqam (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.
- 19. Within twenty-eight (28) days of receiving a request under section 18, ?iłwaina?is ?aqam (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.
- **20.** The decision of ?iłwatna?is ?aqam (Council) in a review of the designated licensing officer's decision is a final decision to refuse to grant a licence in relation to ?aqam ?amak (?aqam Lands).

## PART V SUSPENSIONS AND REVOCATIONS, OFFENCES AND PENALTIES

**Access for Inspection and Enforcement** 

21. During business hours, the designated licensing officer has a right to access any premises or ?aqam ?amak (?aqam Lands) to which a business licence applies for the purpose of monitoring compliance with and enforcing this ?a knumu¢titit (Law).

## Suspension or Revocation of a Business Licence

- **22.** (1) The designated licensing officer may make a written recommendation to ?iłważna?is ?aqam (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 ?a·knumu¢titii (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.
- 23. Where the designated licensing officer makes a recommendation to ?ilwaina?is ?aqam (Council) under section 22, 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 ?iłwatna?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 ?iłwałna?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 ?iłwatna?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.
- **24.** (1) On the date set out in written notice to the licensee under paragraph 23(c), ?iłważna?is ?aġam (Council) must:
  - (a) decide whether to:
    - (i) suspend the licensee's business licence,
    - (ii) revoke the licensee's business licence, or
    - (iii) dismiss the designated licencing officer's recommendation; 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) ?ilwatna?is ?aqam (Council) decision based on the facts presented; and
    - (iv) reasons for the ?ilwaina?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 23(c), ?iłwatna?is ?aqam (Council) may make a final decision on suspension or revocation of the licensee's business licence in the absence of the licensee.
- **25.** A decision by ?iłwałna?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**

- **26.** (1) Where a person contravenes section 10, 12 or 14 of this ?a·knumu¢titlil (Law), ?ilwatna?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
  - (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), ?iłwatna?is ?aqam (Council) must provide the owner of the business with:

- (a) reasonable notice of when ?ilwatna?is ?aqam (Council) will consider the grant of a cease and desist injunction order, and details regarding the criteria ?ilwatna?is ?aqam (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 ?iłwatna?is ?aqam (Council) grants a cease and desist injunction order, reasons for ?iłwatna?is ?aqam (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.

#### Offences

#### **27.** (1) Any person who:

- (a) contravenes section 10, 12 or 14 of this ?a·knumu¢titlil (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 ?iłwatna?is ?aqam (Council) under section 37;
- (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 business licence application, commits an offence.
- (2) Each day that an offence is committed under this this ?a·knumu¢titlil (Law) constitutes a separate offence.

#### **General Penalty**

**28.** A person who is guilty of an offence under this ?a·knumu¢tit†i† (Law) is liable to a penalty 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 offence has been or is being committed under this ?a·knumu¢titlil (Law), they must personally deliver a violation ticket to the person they believe committed or is committing that office, 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 offence and why the designated licencing officer believes the alleged offence was or is being committed by that person;
  - (c) the amount of the penalty due and payable to ?aqam in relation to the alleged offence; and
  - (d) a statement that if the allegation or penalty is not disputed in the manner and within the time provided in this ?a·knumu¢titlil (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 offence, and
    - (iii) the penalty 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 kyaptawxakinił kqałi·kniyam ʔamak (Lands Department), along with an affidavit confirming the manner in which that violation ticket was delivered on the person alleged to have contravened this ʔa·knumu¢titlił (Law).
  - (3) The person on whom a violation ticket is served may:
  - (a) dispute an allegation or the amount of the penalty indicated on that violation ticket in accordance with section 30; or
  - (b) pay the penalty indicated on the violation ticket in accordance with the instruction set out in that violation ticket.
- (4) Where a person pays a penalty or a portion of a penalty 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 penalty contained in the violation ticket by delivering or causing to be delivered to the kyaptawxakinił kqałi·kniyam ?amak (Lands Department) a written notice of dispute.

- (2) A notice of dispute under subsection (1) must contain an address for the person disputing the allegation or penalty and sufficient information to identify the violation ticket and the alleged contravention or the penalty being disputed.
- (3) When a notice of dispute containing the information referred to in subsection (2) is delivered to the kyaptawxakinił kqałi·kniyam ?amak (Lands Department), the kyaptawxakinił kqałi·kniyam ?amak (Lands Department) may:
  - (a) with the approval of ?iłwałna?is ?aqam (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 an application under paragraph (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 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 penalty or portion of the penalty or dispute the allegation or penalty 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 offence and the penalty indicated in the ticket is immediately payable to ?aqam.

### **Interest on Unpaid Penalties**

**32.** If all or any portion of a penalty 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.

## Pagam Property Taxation Law Enforcement Measures Apply to Unpaid Penalties

- 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 *Paqam 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 Paqam for the enforcement of unpaid penalties due under this Parknumu¢titlil (Law), as if those unpaid penalties are in fact unpaid taxes.
- (2) For greater certainty, in executing enforcement measures under subsection (1), all references in the *?aq́am Property Taxation Law*, 2017 to:
  - (a) "debtor" must be interpreted as meaning a "person who owes a penalty under this ?a·knumu¢titlil (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 ?aqamnik in Part V of the ?aqam Property Taxation Law, 2017 do not create a protection for ?aqamnik against the use of the enforcement measures in that ?a·knumu¢titłił (Law) to enforce the payment of unpaid penalties under this ?a·knumu¢titłił (Law).

# PART VI ?IŁWAŤNA?IS ?AQ̈́AM (COUNCIL) RESOLUTIONS

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

- **34.** (1) ?iłwałna?is ?aqam (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 business licence.
- (2) A copy of any schedule prescribed under subsection (1) must be available for viewing and distribution free of charge at the ?aqam administration office during normal business hours.

### **Prescribe Fee and Penalty Schedules**

- 35. (1) ?ilwatna?is ?aqam (Council) must, by Resolution, prescribe:
- (a) a schedule of fees payable pursuant to this ?a·knumu¢titłił (Law) in respect of business licence applications and the issuance of business licences for each classified business type, as well as any circumstances where such fees may be waived; and
- (b) a schedule of minimum penalties payable pursuant to this ?a·knumu¢titlil (Law) in respect of an 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 ?aqam administration office during normal business hours.

## Prohibition of Business Operations and Restricting the Location of Businesses

- 36. ?iłwatna?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¢titlit (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**

- 37. (1) ?iłwatna?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 ?aqamnik (member), or damage to ?aqam ?amak (?aqam 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 ?aqamnik (member), or damage to ?aqam ?amak (?aqam 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 ?ilwatna?is ?aqam (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 ?iłwatna?is ?aqam (Council) Resolution reconsidered.
- (3) Unless ?iłwaina?is ?aqam (Council) deems it necessary to set a longer expiry date, any Resolution approved by ?iłwaina?is ?aqam (Council) under subsection (1) automatically expires fourteen (14) days after the day on which ?iłwaina?is ?aqam (Council) makes that Resolution.

# Notice of ?ilwatna?is ?aqam (Council) Resolution to Affected Persons

**38.** Where ?iłwałna?is ?aqam (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 39.

# Reconsideration of ?itwatna?is ?aqam (Council) Resolutions

- **39.** (1) A person affected by a ?iłwaina?is ?aqam (Council) Resolution under this Part, excluding any Resolution under section 35, may request ?iłwaina?is ?aqam (Council) to reconsider the ?iłwaina?is ?aqam (Council) Resolution if the person
  - (a) has additional relevant information that was not reasonably available to ?iłwałna?is ?aqam (Council) when the Resolution was approved;
  - (b) has a proposal that was not presented to ?iłwałna?is ?aqam (Council) when the Resolution was approved and that, if implemented, would meet the objective of ?iłwałna?is ?aqam (Council) Resolution; or
  - (c) requires more time to comply with the ?ilwatna?is ?aqam (Council) Resolution.
- (2) A request for reconsideration must be made in the form required by ?iłwatna?is ?aqam (Council).
- (3) After considering a request for reconsideration, ?iłwatna?is ?aqam (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 ?iłwatna?is ?aqam (Council) Resolution was approved;
  - (b) delay the date the ?iłwałna?is ?aqam (Council) Resolution is to take effect or suspend the ?iłwałna?is ?aqam (Council) Resolution, if satisfied that doing so would not be detrimental to

?ilwaina?is ?aqam (Council)'s objectives in approving the Resolution; or

- (c) confirm, rescind or vary the ?ilwaina?is ?aqam (Council) Resolution.
- (4) If ?iłwałna?is ?aqam (Council) decides to reject the request under subsection (3) (a) or to confirm or vary the terms of the Resolution under subsection (3)(c), ?iłwałna?is ?aqam (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 ?ilwatna?is ?aqam (Council) agrees, in writing, to suspend it.
  - (7) For the purposes of this section,
  - (a) if a ?iłwałna?is ?aqam (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, ?iłwaina?is ?aqam (Council) may reconsider the Resolutions separately or together.

## PART VII GENERAL

#### Notice

- **40.** A notice or request required to be delivered or provided under this ?a·knumu¢titlił (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 notice or request required to be delivered or provided under this ?a·knumu¢titlił (Law) to the designated licensing officer or to ?iłwałna?is ?aqam (Council) is sufficiently delivered or provided, if delivered personally or sent by registered mail, addressed to the kyapławxakinił kqałi·kniyam ?amak (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.** ?aqam 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 premise to which their business licence relates.

## PART VIII COMING INTO FORCE

## **Date Law Comes Into Force**

<b>44.</b> This ?a·knumu¢titlil (Law) must come into force and effect ninety (90) days after the date on which it is passed by ?ilwatna?is ?aqam (Council), by resolution.		
This ?a·knumu¢titlil (Law) is hereby passed at a c	luly convened meeting of the ?ilwaina?is ?aqam	
(Council) this_day of, 2021.		
Nasu?kin (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 ?iłwameeting of the ?iłwama?is ?aqam (Council).	tna?is ?aqam (Council) present at the aforesaid	
The quorum of the ?iłwałna?is ?aqam (Council) is	s three (3) members.	
Number of members of the ?ilwatna?is ?aaam (Co	ouncil) present at the meeting:	