

LOWER NICOLA **INDIAN BAND**

Lands Management Advisory Committee

LMAC Virtual Meeting Monday, July 13, 2020

Details to Join Skype Meeting by Phone:

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Dial-in toll number: 1 (647) 260-0507

Conference ID: 896 872 181 #

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If you would like to join by Skype to see meeting materials as we discuss them, find details on the LNIB website or email Jerrica.Joe@lnib.net for more information.

Note: *To maintain audio quality and meeting flow, non-LMAC attendees may be muted during the meeting.*

Note: *Attendees may enter a “waiting room” as LMAC members get set up; everyone is let in as soon as we are ready to start (typically 5-10 minutes after 4:00pm).*

Note: *Questions and comments can be submitted to Jerrica.Joe@lnib.net prior to the meeting to be addressed during or after the meeting.*

**Lower Nicola Indian Band
Lands Management Advisory Committee
Meeting Agenda**

July 13, 2020, 4:00pm
Virtual Skype Meeting

TIME	ITEM	PRESENTER
4:00	1. MEETING OPENING 1.1. Opening Prayer 1.2. Introductions	
4:10	2. ADMINISTRATION 2.1. Adoption of Agenda 2.2. Adoption of Minutes <i>Reference Materials: 2020-06-29 LMAC Meeting Minutes draft</i>	
4:20	3. PRESENTATIONS 3.1. Solid Waste Management Plan <i>Reference Materials: LNIB SWM Presentation Present; LNIB SWM Presentation Future; 2020-02-22 Open House Pamphlet</i>	Lindsay Hutchinson, Land Forest People
5:20	4. TRAINING AND OPPORTUNITIES 4.1. Upcoming Webinars <i>Reference Materials: LABRC Webinar & Workshop 2020 Schedule</i>	Stephen Jimmie & Jerrica Joe
5:40	5. UNFINISHED BUSINESS 5.1. Lot 11 Dispute Resolution Process <i>Reference Materials: Lot 11 Draft Dispute Resolution Process; Draft LMAC Resolution 2020-05</i>	Stephen Jimmie
6:30	6. FOR INFORMATION AND DISCUSSION 6.1. Enforcement Law Review: Community Justice Process 6.2. Business Licensing Law Review <i>Reference Materials: LNIB Business Licensing Law Draft 01</i>	Stephen Jimmie
6:55	7. MEETING CONCLUSION 7.1. Next LMAC Meeting	

Lower Nicola Indian Band Lands Management Advisory Committee Meeting Minutes

June 29, 2020, 4:00 pm
Virtual Skype Meeting

Present:	Bill Bose (Chair)	Gene Moses	Louise Moses	Madeline Lanaro
	Hrolfe Joe (Co-Chair)	Robert Sterling	Sondra Tom	
Council:	Robin Humphrey	William Sandy (4:29)		
Guests:	Shawn Speirs, Lands Advisory Board Resource Centre (LABRC)			
	Laura Bouchard, First Nations Financial Management Board (FMB)			
Staff:	Stephen Jimmie	Brandi O'Flynn	Jerrica Joe	Kristopher Por

1. MEETING OPENING

The meeting was called to order at 4:09 PM. All attendees participated via phone or computer.

1.1. OPENING PRAYER

An opening prayer was offered by Bill Bose.

2. ADMINISTRATION

2.1. ADOPTION OF AGENDA

Motion (01): That the LMAC Meeting Agenda dated June 29, 2020 be adopted as circulated.

Moved: Madeline Lanaro Seconded: Louise Moses

Motion Carried

2.2. ADOPTION OF MINUTES

Reference Materials: 2020-06-01 LMAC Meeting Minutes draft

Motion (02): That the LMAC Meeting Minutes dated June 01, 2020 be adopted as circulated.

Moved: Madeline Lanaro Seconded: Gene Moses

Motion Carried

3. TRAINING AND OPPORTUNITIES

3.1. CONFLICT OF INTEREST TRAINING PRESENTATION

Reference Materials: FMB Managing Conflicts of Interest Presentation Slides

Laura Bouchard, from the First Nations Financial Management Board (FMB), provided an introduction of herself, the FMB, and presented the reference materials through sharing her screen.

Discussion ensued on the closeness of family members concerning conflicts of interest and determination of whether there is a real or perceived conflict. A question and discussion arose regarding the FMB's

Financial Management System (FMS) Certification, which shows that a First Nation has demonstrated good governance and finance practices through developing and fully enacting its Financial Administration Law.

Comments and points of discussion included:

- Past misunderstandings regarding potential conflicts of interest, real conflicts of interest, voting, and perceptions of guilt when someone declares a conflict of interest;
- Participating in the discussion when in a conflict of interest and only leave for the vote; Laura recommended that those in conflict not participate in the discussion either, to avoid the perception that they may sway the opinion by participating in the discussion; one would typically declare a conflict when the topic arises and recuse themselves at that time;
 - LNIB's Financial Administration Law may address the particulars of declaring a conflict of interest and recusing oneself from the discussion;
- Stephen clarified the LMAC's role as a recommendation body for Chief and Council, and whether that precludes LMAC members from being in a conflict of interest; they could still be in a conflict of interest as Chief and Council may make decisions based on the LMAC recommendation, and processes should be transparent, fair, and accountable the whole way through;
 - LMAC members should, therefore, be aware of and declare their conflicts of interest with items discussed to provide recommendations to Chief and Council;
- Whether post-decision determination that a voter was in a conflict of interest would nullify a decision; this should be laid out in a conflict of interest policy;
- Consequences for a board or committee not holding members to their known conflicts of interest, and for people who may persistently make false or baseless accusations of conflicts of interest;
- Role of attending staff in reporting conflicts of interest if they are aware of a conflict of interest by a meeting member; would be best to have a clear process in the conflict of interest policy to define the steps for staff to take in this situation;
- What a whistleblower is and whistleblower policies;
- Conflict of interest for non-voting committee members (i.e.: ex-officio); preferred that they declare their conflict and remove themselves from the discussion to avoid possibly influencing opinions;

3.2. WEBINARS FOLLOW-UP

Invites were shared with LMAC members this month for two webinars hosted by the Lands Advisory Board Resource Centre in their *National Online Conversation on Indigenous Laws* series: *The Federal Contraventions Act: a possible tool for enforcement?* on June 19 and *Enforcement of Indigenous Environmental Laws* on June 26.

Louise Moses took part in the June 19 webinar, and found it very informative; making it clear that the issue of enforcement of First Nations' laws is a big challenge faced by many First Nations, with numerous people all working to find practicable and legislative solutions, and that at this time it seems that people need to want to follow the laws given the difficult process of enforcement follow-through. Sondra also attended the first hour of this webinar, noting some technical issues, and found the information beneficial.

Discussion ensued on enforcement abilities, changes to property maintenance levels around the reserve, and initiatives for cleaning up properties on reserve. Shawn Speirs shared some of the avenues that communities are exploring for enforcement, that it isn't a lost cause and the 'teeth' of Indigenous Law enforcement are being worked towards.

Stephen reminded LMAC members that Jerrica Joe will continue to share future opportunities to participate in webinars, and participants will be compensated for their time per their LMAC remuneration.

4. FOR INFORMATION AND DISCUSSION

4.1. LANDS SECTOR QUARTERLY REPORT

Reference Materials: 2019-2020 Lands Quarterly Report for Q4

Brandi presented the reference materials, providing a brief overview of the contents, which will be sent to the Executive Director and Chief and Council for informational purposes.

Discussion ensued on the LMAC's desires for lands planning for future housing to be prioritized by staff and on delivery of the Land Use Plan, which is in a draft form awaiting community input and engagement which has been put on hold at this time of physical distancing.

4.2. ENFORCEMENT LAW REVIEW: COMMUNITY JUSTICE PROCESS

Stephen reminded LMAC that it was requested of them at the last LMAC meeting to look into options for the Community Justice Process to be included in the LNIB Enforcement Law and asked if any members had input at this time. Discussion ensued on the xitlix, the feasibility of inclusion of the xitlix in the Community Justice Process, and determining what should be included in this process. LMAC members will continue to look into possibilities for the Community Justice Process.

Stephen mentioned that Lands staff can circulate a document of compiled research of what other communities have implemented regarding Community Justice Processes.

5. NEW BUSINESS

5.1. LOT 11 DISPUTE RESOLUTION PROCESS

Reference Materials: Lot 11 Draft Dispute Resolution Process; Draft LMAC Resolution 2020-05

Stephen shared background information and the purpose of the reference materials.

Robert Sterling recused himself given the potential and/or perceived conflict of interest he may have regarding this item. The committee chose to discuss this item after item 6.1 for Robert Sterling to participate in the discussion of item 6.1. Robert left the meeting at 7:10 PM.

Stephen overviewed the reference materials and the next steps regarding this item. Discussion ensued on the background information and this dispute resolution process being used as an interim measure for this case, given that LNIB has not yet enacted a Dispute Resolution Law.

Discussion ensued on not all LMAC members having had a chance to review the reference materials before this meeting, due in part to a lack of clarity regarding new agenda items. It was discussed that LMAC members should review these materials before the next meeting so that an informed decision can be made at that time.

6. MEETING CONCLUSION

6.1. SUMMER MEETINGS SCHEDULE

Discussion ensued on the scheduling of LMAC meetings over the summer, given that several agenda items have been delayed due to postponed meetings, though some items may need to go to Council, who will be taking a break during part of the summer. Members expressed an openness to continue with regular meetings during the summer, given the number of meetings which have been postponed recently. It was discussed that LMAC meetings could be scheduled for the first and second weeks in July and the third and fourth weeks in August, to allow for a break, or continue as they have been.

Decision (01): LMAC meetings will continue regularly during the summer.

Discussion ensued on when the committee will be able to meet in person; Stephen mentioned that a *Return to Work Plan* may be brought forward to Council soon, which might allow the reopening of some LNIB facilities to the public, including LMAC.

6.2. NEXT LMAC MEETING

Discussion ensued on when to hold the next LMAC meeting.

Decision (02): Next Meeting: Monday, July 13, 2020 at 4:00 PM.

Kristopher Por, the new Lands Researcher with the LNIB Lands Department provided an introduction of himself and his role to the LMAC.

Motion (03): That the Lands Management Advisory Committee meeting be concluded at 7:32 PM.

Moved: Sondra Tom

Seconded: Louise Moses

Motion Carried



Solid Waste Management Plan Goals



Reduce the volume of solid waste produced by the community;



Divert as much material as possible from the residual waste stream;



Eliminate inappropriate waste disposal on LNIB lands; and



Reduce the financial burden of solid waste management on LNIB.



Residential Curbside Collection

- Once per week on Wednesday
- In Blue Bins
- Recycling to be out by 9:00 AM
- LNIB Card will be left on bin noting:
 - Recycling will not be picked up if items from NOT accepted list is placed in blue bins
 - Reminder of what is not accepted
- Shredded paper accepted in blue bin but must be placed in clear plastic bag or brown recycle bag and placed on top
- Any questions or concerns, please contact:
 - Public Works Dept at 250.378.5157
 - visit recyclebc.ca



Merritt Return-it Depot

2352 Clapperton Avenue,
Merritt, BC

Ph: (250) 280-2359

Open Tues - Sat, 10:00am – 4:00pm

- Beverage Containers Refund
- Other items Free Drop Off



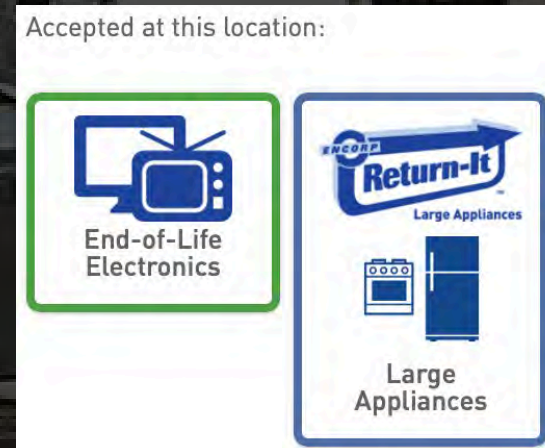
Lower Nicola Eco-Depot

2348 Woodward Road,
Merritt, BC

Ph: (250) 377-2596

Open 7 days a week, 8:00am – 4:00pm

- Beverage Containers NO Refund
- Other items Free Drop Off






Did you know deposit refunds have increased?



Aluminum

Leave tabs on


SIZE	CRF FEE	DEPOSIT / REFUND	NEW DEPOSIT / REFUND NOV 1 ST
0 - 1L	NO FEE	5¢	10¢



Plastic

Caps on, labels on

SIZE	CRF FEE	DEPOSIT / REFUND	NEW DEPOSIT / REFUND NOV 1 ST
0 - 1L	3¢	5¢	10¢



Glass

Caps on, labels on


SIZE	CRF FEE	DEPOSIT / REFUND	NEW DEPOSIT / REFUND NOV 1 ST
0 - 1L	6¢	5¢	10¢



Bi-Metal

Leave labels on

SIZE	CRF FEE	DEPOSIT / REFUND	NEW DEPOSIT / REFUND NOV 1 ST
0 - 1L	4¢	5¢	10¢



Drink Box

Caps on, push the straws in

SIZE	CRF	DEPOSIT / REFUND	NEW DEPOSIT / REFUND NOV 1 ST
0 - 500mL	NO FEE	5¢	10¢
501mL - 1L	5¢	5¢	10¢



Gable Top

Caps on

SIZE	CRF FEE	DEPOSIT / REFUND	NEW DEPOSIT / REFUND NOV 1 ST
0 - 1L	NO FEE	5¢	10¢



Pouch

Leave Bag in Box

SIZE	CRF FEE	DEPOSIT / REFUND	NEW DEPOSIT / REFUND NOV 1 ST
0 - 1L	NO FEE	5¢	10¢



Plastic

Polystyrene cup with foil lid.

SIZE	CRF FEE	DEPOSIT / REFUND	NEW DEPOSIT / REFUND NOV 1 ST
0 - 454mL	3¢	5¢	10¢



Did you know that?

- Approximately 30% of household garbage is food waste, which could be composted.
- The Shulus Gardens on LNIB lands are community-run food and medicinal gardens that may benefit from the products of a kitchen organics composting.
- There are 3 composting options to meet your needs.
 - Backyard Composters
 - Worm Composters, and
 - Green Cone Food Digesters





Backyard Composters

- Garden Waste,
- Leaves,
- Grass Clippings (in moderation),
- Fruit & Vegetables, and
- Citrus

\$25 (tax-free subsidized rate)

Can be purchased at the **Lower Nicola Eco-Depot**



Worm Composter

- Leaves,
- Fruit & Vegetables, and
- Bread & Grains

\$50 (Subsidized rate) + cost of Red Wiggler worms

**Can be purchased at TNRD 660 Mission Flats Rd.
Kamloops, please call ahead (250) 377-8673**

- Great for people in apartments or concerned about bears



Green Cone Food Digester

- Fruit & Vegetables,
- Citrus,
- Bread & Grains,
- Cooked Food Scraps & Sauces,
- Meat & Bones,
- Dairy, and
- Pet Waste

\$100 (Subsidized rate)

**Can be purchased at TNRD 660 Mission Flats Rd. Kamloops,
please call ahead (250) 377-8673**

- Great for people that don't want to harvest finished soil



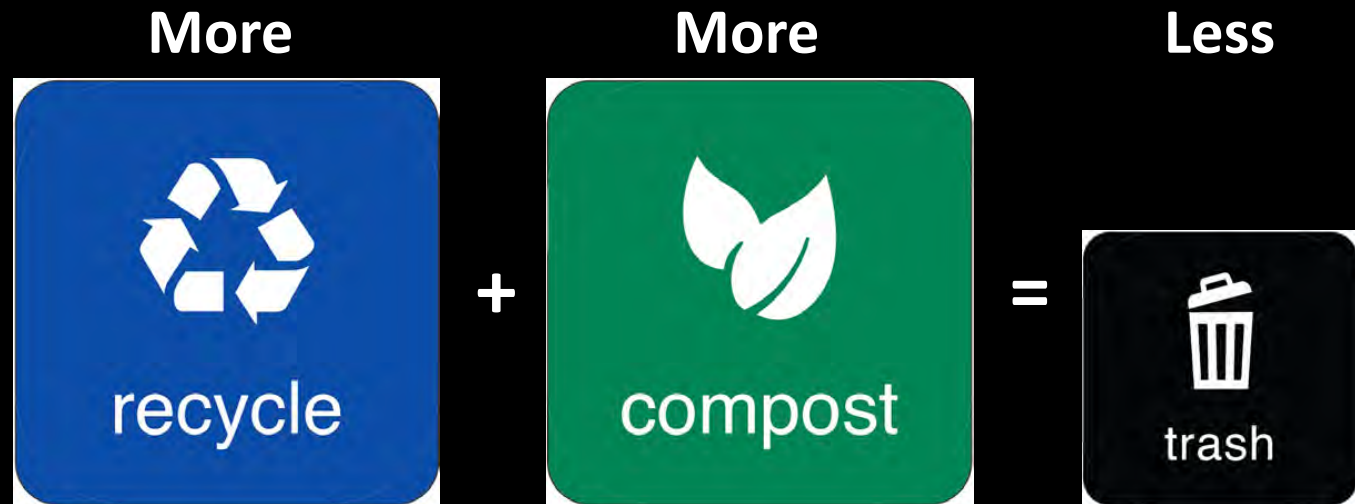
Organics Diversion Fact table



	Backyard Composter	Worm Composter	Green Cone Digester
			
Accepted Materials	\$25 (subsidized rate)	\$50 (subsidized rate) + cost of Red Wiggler Worms	\$100 (subsidized rate)
Garden Waste	✓	✗	✗
Leaves	✓	✓	✗
Grass Clippings (in moderation)	✓	✗	✗
Fruit & Vegetables	✓	✓	✓
Citrus	✓	✗	✓
Bread & Grains	✗	✓	✓
Cooked Food Scraps & Sauces	✗	✗	✓
Meat & Bones	✗	✗	✓
Dairy	✗	✗	✓
Pet Waste	✗	✗	✓

Why should I Recycle and Compost?

- Recycling and Composting is good for the environment
- Recycling and composting is free
- Recyclable and Compostable items that get thrown into the trash cost LNIB money
 - \$30,000/year that could be used elsewhere





Return-it School Benefits

- Official Return-it 101 Certificate to let everyone know your school runs a responsible recycling program
- Free Recycling Bins & Support, 3 free Return-it Bins
- New Contest – Share Your Story, share schools great recycling story for a chance to win 1st prize \$5,000 and 2nd Prize \$2,500
- Tools & Tips, resources to help with recycling programs
- New Return-it Man Presentation, recycling superhero and sidekick educate students on recycling.





Other Educational Programs



The GREENS is a site for kids about sustainability and green living. They have created Green Games and a rich array of supporting content for teachers. The games entertain and engage kids in learning about conservation, re-use, and saving energy (<http://www.meetthegreens.org/>).



“Road to Zero Waste!” is an educational outreach program designed by the Recycling Council of BC as a resource for teachers to incorporate environmental education in their class curriculum. “Its goal is to empower schools and educators in bringing environmental learning to their students through a variety of activities.” (<http://www.rcbc.ca/services/road-to-zero-waste>).



Compost in a Bottle Experiment (<http://everybedofroses.blogspot.com/2013/10/compost-in-bottle-science-experiment.html?m=1>)



2019: Solid Waste Management Plan Goals



Reduce the volume of solid waste produced by the community



Divert as much material as possible from the residual waste stream



Eliminate inappropriate waste disposal on LNIB lands



Reduce the financial burden of solid waste management on LNIB



2019: Summary of Findings

Solid waste collection and disposal services cost LNIB **\$30,000 per year**, and is increasing. Currently **members do not pay**.

The communal garbage bins are problematic, and the **constant repairs and replacements** cost LNIB.

Without a community-wide compost program LNIB **unnecessarily pays** to dispose of compostable materials.

Illegal dumping continues to be a problem, and the associated cleanup **costs and effort are significant**.

There was some support for a new **annual user fee**, especially if it means upgrading the services provided.



2020:
New project to
further investigate
recommendations



Cost to upgrade our garbage bins and implement home curbside garbage collection



New strategies to combat illegal dumping



How we could start a community-wide composting program



Educate and engage with community members on these potential changes

Residual Waste (Garbage): What We Found

It will **cost about 70% LESS** to implement residential **curbside collection** than to upgrade all communal bins to a new steel model.

We could still upgrade the bins at **public and administration buildings** (e.g. band office, school, community centre, etc.)

These upgrades would cost approximately **\$30,000 - \$40,000**

Proposed **annual user fee** would be in line with other jurisdictions and help make the upgrades and continue providing high-quality service to our members.

Residual Waste (Garbage): Annual User Fee

Municipalities across BC charge an annual fee for garbage collection and disposal to offset the cost of providing the service

We looked at 10 municipalities and found an average annual user fee of between \$170 and \$307, depending on the size of the container

LNIB is proposing an annual user fee of \$175 per household, for any container size



Illegal Dumping: Negative Impacts



- Environmental damage, including groundwater pollution
- Public health and safety issues
- Social stigma and people's enjoyment of natural spaces
- Significant financial and human resources to monitor and clean up
- Enforcement challenges



Illegal Dumping: Did you know?

Much of what is illegally dumped can be recycled at the Eco-Depot

FOR FREE!

Like refrigerators, freezers, air conditioners, dryers, ovens, dishwashers, paint, tires, furniture and mattresses, used oil, batteries, propane tanks, small appliances, etc.





Illegal Dumping Mitigation Strategy: Gates



- Control access to certain areas with steel gates
- Members who require access can request the key or lock code from LNIB
- Will also help combat poaching, an issue in some areas

Illegal Dumping Mitigation Strategies: Other Tools

- Wildlife or trail cameras to monitor who accesses the dump sites
- New LNIB Enforcement Law that imposes fines or other penalties
- Reporting tool(s), like a web application or dedicated phone number
- **NOTE:** must adhere to freedom of information and privacy laws








Composting: Why Should We Do It?

- Approximately 30% of our household trash is compostable
- LNIB pays unnecessarily to dispose of material that could otherwise be used to enrich our soil and grow food for our community
- Improper disposal of compostable matter produces greenhouse gases such as methane
- Access to locally secure, healthy food is an important factor in the health and wellness of our members'



Composting: Home Methods

- Composters are available at tax-free subsidized rates from the TNRD, ranging from \$25 - \$100
- Different models suit different needs and circumstances

	Backyard Composter	Worm Composter	Green Cone Digester
			
Accepted Materials	\$25 (subsidized rate)	\$50 (subsidized rate) + cost of Red Wiggler Worms	\$100 (subsidized rate)
Garden Waste	✓	✗	✗
Leaves	✓	✓	✗
Grass Clippings (in moderation)	✓	✗	✗
Fruit & Vegetables	✓	✓	✓
Citrus	✓	✗	✓
Bread & Grains	✗	✓	✓
Cooked Food Scraps & Sauces	✗	✗	✓
Meat & Bones	✗	✗	✓
Dairy	✗	✗	✓
Pet Waste	✗	✗	✓

Composting: Community-Wide Program

We are looking at installing compost facilities in a few locations around the community (size and type to be decided), at:

- Shulus
- Rocky Pines
- Springs
- Zoht IR 4
- Joeyaska IR 2

What do you think? Would you use one in your neighborhood?





Since early
2019, we have
been looking for
ways to improve
all aspects of
our solid waste
management

Conclusion

Costs are unsustainable. An annual user fee will help us make important improvements for users, and allow LNIB to continue offering solid waste services.

We must consider new strategies for combating illegal dumping.

Composting is an important element of good solid waste management. We encourage all members to learn more and participate in composting.

Above all, let us know what you think of these proposed changes. Tell us your ideas for how we might improve our system for everyone!



2019

LNIB secured \$50,000 to conduct a Phase I study into our solid waste management program and services.

We looked at:

- *Garbage*
- *Recycling*
- *Illegal Dumping*
- *Financial costs of service delivery*

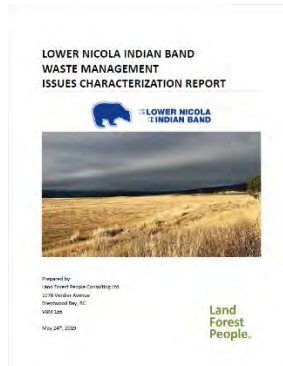
Our goals were to:

- **Reduce** the volume of solid waste produced by the community
- **Divert** as much waste as possible from the garbage stream
- **Eliminate** illegal dumping on LNIB land
- **Reduce** the financial burden of solid waste management on LNIB

The outcome was two reports and a number of recommendations to improve our solid waste.

Issues Characterization Report

A look into the current state of our solid waste management, including where we have the biggest issues and challenges.



Main findings:

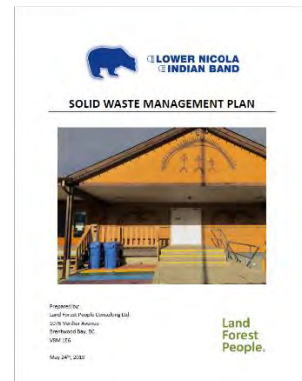
- Poor rates of diversion
- Inadequate communal bins
- No composting programs
- Widespread illegal dumping
- Lack of community engagement
- Unsustainable service delivery costs incurred by LNIB

Solid Waste Management Plan

Building on the *Issues Characterization Report*, makes recommendations to improve the current system.

Main Recommendations:

- **Garbage:** Upgrade some or all of our communal garbage bins with a more durable steel model, look into curbside collection for household garbage, consider instituting an annual household collection fee (\$175)
- **Recycling:** Encourage greater participation among members in recycling, negotiate an agreement with the City of Merritt to access available funding
- **Composting:** Educate members on backyard composting, look into the feasibility of building a composting facility in partnership with the Shulus Community Garden
- **Other waste:** make use of existing programs in the wider community for scrap vehicles, other recyclables, and consider implementing new programs, such as recyclable glass pickup
- **Education and Engagement:** Make a comprehensive plan for community education and engagement, and leverage existing resources at our disposal





2020

LNIB secured another \$50,000 to build on the work done in 2019. At the end of Phase II, we will receive:

- Illegal Dumping Mitigation Strategy
- LNIB Enforcement Law
- Composting Investigation Report
- Residual Waste Improvement Strategy
- Community Education and Engagement Plan, including outreach materials

With these plans and tools, we will be able to begin to consider implementing changes to our solid waste management system that will improve services for members, protect our environment, and potentially lower LNIB's costs.

Illegal Dumping Mitigation Strategy

A look into different strategies to combat illegal dumping at a number of known sites.



LNIB Enforcement Law

Gives us the legal means to enforce the law and impose penalties for offences such as illegal dumping.

Composting Investigation Report

A closer look at the feasibility of building a community-wide compost facility in partnership with the Shulus Community Garden. Includes a summary of other First Nations' experience with composting programs and facilities.



Residual Waste Improvement Strategy

An investigation into the costs and other considerations associated with upgrading our garbage collection and disposal services.



VIRTUAL WEBINARS 2020		Save the Date
1.	TMPD Strategy Update & Technical Needs Survey	Apr 23
2.	Impacts COVID 19 – Part 1 – Signatory Impacts & RC Support	May 7
3.	Impacts COVID 19 – Part 2 – Emergency Planning	May 21
4.	Impacts COVID 19 – Part 3 – Emergency Law Development	Jun 4
5.	First Nation Hub for Land Governance Planning – Updated Strategy	Jun 18
6.	GIS Needs Assessments	Jul 2
7.	Community Engagement (techniques, online tools, data collection)	Jul 16
8.	Impacts COVID 19 – Part 4 – TBD	Jul 30
9.	Framework Agreement Background	Aug 13
10.	Matrimonial Real Property Laws under Land Code	Aug 27
11.	Mines and Minerals, Oil and Gas, Surface Access – Title & OIC	Sep 10
12.	Planning, Planning Types and Integrated Planning	Sep 24
13.	Property Transfer Tax, TULO Partnership (Tzeachten Case Study)	Oct 8
14.	Impacts COVID 19 – Part 5 – TBD	Oct 22
15.	Lands Advisory Board – Annual General Meeting	Oct 27-28
16.	Different meanings of Consultation & Engagement across Canada	Nov 5
17.	ATR/TLE, TULO Partnership (Brokenhead Case Study)	Nov 19
18.	Individual Agreement – Roles, Responsibilities & Expectations	Dec 3
19.	Historical Treaties	Dec 17

VIRTUAL WORKSHOPS 2020		Save the Date
1.	Community Perspectives & Partnership Panel Discussions	As determined
2.	First Nation Land Registry	1:1, Summer 2020
3.	Climate Change	TBD
4.	Understanding & Facilitating Land Development	Fall 2020
5.	Addition Workshop Topics	As determined

Schedule is subject to change

Please visit our website for updated schedule and registration details as they become available

[LABRC.com/Events](https://labrc.com/events)

Proposed Lot 11 Dispute Resolution Procedure - Process

1. The Director of Lands will present the following dispute resolution procedure to the Lands Management Advisory Committee for:
 - a. their review and consideration in the context of the Nlaka'pamux culture, traditions, laws, and the community's history;
 - b. feedback as to the form and contents of the procedure; and
 - c. if acceptable, their approval of same.
2. Once approved by the Lands Management Advisory Committee, the Lands Manager will present the dispute resolution procedure to Council and:
 - a. seek approval in principal to its contents;
 - b. set the specific dates noted in the procedure; and
 - c. direct the Lands Manager to present same to Lisa Sterling and Frederick Sterling (collectively, the "**Sterlings**").
3. At the Lands Manager's request, LNIB Legal Counsel shall attend the meeting and provide assistance/information to the Chief and Council as required.
4. At this time, Council Members will declare whether they consider themselves to be in a position of conflict of interest and the basis for why they feel that may be the case. The purpose of this declaration is to determine who will hear the dispute and decide the matter and to confirm that quorum will be achieved.
5. If the dispute resolution procedure is approved by Council, the Lands Manager will provide a copy of the procedure to the Sterlings and invite their comment on the procedure and dates set out therein by a certain deadline. The Sterlings will be afforded a reasonable period of time to comment. 14 days may be considered reasonable.
 - a. The request for comment must be clear that this is not a request to argue the substantive merits of the issue but solely to comment on the procedure itself and allow the Sterlings a role in setting the process.
 - b. The Sterlings should be advised that if they do not take a position on the process and/or simply try to argue the merits, the Lands Department will proceed with the dispute resolution process as written.
6. If the Sterlings do not provide substantive comments/feedback on the process, proceed as written.
7. If the Sterlings provide substantive feedback, review and consider same.
 - a. If the feedback is acceptable, provide the Sterlings with a revised procedure implementing their proposed changes and advise them that same will be presented to Council for approval and implementation.
 - b. If the feedback is not acceptable, seek legal advise as to next steps.

Guiding Principles for Council

As the arbiters in this process, Council shall:

1. Review the Information Packages provided to them in advance of the Special Hearing;
2. Attend the Special Hearing;
3. Strive to not be influenced by fear of criticism or partisan interests; and
4. At all times bear in mind Nlaka'pamux culture, traditions, and laws and the importance of fair and transparent dealings.

Proposed Lot 11 Dispute Resolution Procedure

1. The Lands Department under the supervision of the Lands Manager will prepare an information package (the “**Information Package**”) containing the following:
 - a. Details of the lands in question – description, history, significance (if any);
 - b. Details of the specific land instrument;
 - c. Details of every person who may be affected by a possible change in the allotment of the land instrument;
 - d. A copy of the land instrument and a copy of any Band Council Resolution(s) related to the issuing or allotting of that land instrument;
 - e. Identification of the issues in question;
 - f. Copies of any documents that relate to the issuing or allotment of the land instrument, including all:
 - i. written or electronic correspondence;
 - ii. court documents and submissions;
 - iii. text messages; and
 - iv. historical records;
 - g. A timeline of events, including all relevant facts/events whether they support or refute a finding that the allotment was made in error, by mistake or by fraud; and
 - h. A summary of the dispute from the Lands Department’s perspective.
2. On or before [●date], the Lands Manager will provide a copy of the Information Package to the Chief and Council. Copies shall also be provided to all Affected Parties via regular mail or courier to their last known addresses with copies to any known email addresses.
 - a. “Affected Parties” means:
 - i. Lisa Sterling and Frederick Sterling; and
 - ii. Any other person who may be affected by a possible change in the allotment of the land instrument and/or has or had an interest in the subject lands.
3. On or before [●date], the Affected Parties are at liberty to submit to Council (with a copy to the Lands Department) a response document package (the “**Response Package**”) which sets out:
 - a. the Affected Parties’ position on the issues in question;
 - b. revisions/additions to the timeline of events;

- c. a summary of the dispute from the Affected Parties' perspective; and
 - d. copies of any relevant documents not already contained in the Information Package.
4. Council will review and consider the Information Package and Response Package.
5. On [●date], a Special Chief and Council meeting (a "**Special Meeting**") will be convened where the issues regarding the allotment are to be considered.
- a. While the Special Meeting will be open to Band Members, only Affected Persons, and/or their legal counsel (if any) may actively participate in meeting.
 - b. Attendance at the Special Meeting is mandatory for all Council Members not previously excused for being in a conflict of interest position.
 - c. Notice of the Special Meeting is to be provided to all Affected Parties.
 - d. All Affected Parties shall be afforded the opportunity to attend and make oral submissions at the Special Meeting.
 - i. At the outset of the Special Hearing, the order in which Affected Parties may speak and the time limits for same will be allotted.
 - e. The Lands Manager and LNIB Legal Counsel shall attend the meeting and provide assistance/information to the Chief and Council as required.
6. [●note to draft – is setting a specific meeting for the Council to meet and make their decision necessary or can the matter be added to the end of an agenda for an upcoming Chief and Council meeting where the Council will meet in camera and discuss?]
7. Within 30 days after the Special Meeting, the Council will render their decision with respect to the allotment and provide to the Lands Department and Affected Persons written reasons setting out the basis for same.

LOWER NICOLA INDIAN BAND
LANDS MANAGEMENT ADVISORY COMMITTEE
181 NAWISHASKIN LANE, MERRITT, BRITISH COLUMBIA V1K 0A7
TEL.: 250-378-5157 FAX: 250-378-6188

RESOLUTION No. 2020-05

WHEREAS

- A. The Lower Nicola Indian Band Land Code (the “**Land Code**”) came into force on December 01, 2016.
- B. Relevant subsections of the Land Code state the following:
- 14.7 *Council may, subject to an applicable ruling under PART 8 or by a court of competent jurisdiction, cancel or correct any Interest or Licence issued or allotted in error, by mistake or by fraud.*
- 43.2 *The Council shall, within a reasonable time after this Land Code comes into effect, enact a Law establishing a process for the resolution of disputes in relation to LNIB Land.*
- 43.3 *The Law enacted under section 43.2 [Dispute Resolution Law] shall provide for the following matters:*
- (a) *the appointment of an individual, body or bodies to hear disputes in relation to LNIB Land, and the powers and duties of the individual, body or bodies;*
- (b) *persons who may initiate a dispute, which shall include persons whose rights or interests in LNIB Land is affected by a land management decision;*
- (c) *procedures for initiating a dispute;*
- (d) *the establishment of process steps for the resolution of disputes;*
- (e) *limitation periods;*
- (f) *whether appeals from decisions are available; and*
- (g) *costs.*
- 43.5 *In the absence of a Law under section 43.2 [Dispute Resolution Law], disputes in relation to LNIB Land may be referred to a court of competent jurisdiction.*
- C. In 2001, Sophie Sterling died, willing a parcel of land on the Joeyaska Indian Reserve (“**IR**”) No.2 (“**Lot 11**”) to her grandchildren; including Lisa Sterling, and her son, Fred Sterling (the “**Sterlings**”). Sophie Sterling did not hold a certificate of possession (“**CP**”) to Lot 11.
- D. In 2012, Lisa Sterling built a home on Lot 11, with a BCR approving a BC Hydro hookup to her home. In 2014, she applied for an allotment of Lot 11. Council has no record of approving the allotment.
- E. In July 2016, Ms. Sterling applied again for the allotment of Lot 11 and was informed by the LNIB Lands Department of the need for further research to be conducted, given the lack of CP and competing interests in relation to the lot.
- F. At an October 28, 2016 meeting, a motion was purportedly passed, allotting Lot 11 to the Sterlings by BCR. This meeting did not comply with LNIB Chief and Council Policy requirements for a duly convened meeting.
- G. On October 31, 2016, Indian and Northern Affairs Canada (“**INAC**”) approved the Sterlings’ CP. However, at a duly convened meeting on November 01, 2016, Council passed a motion rescinding the October 28, 2016 BCR; and LNIB subsequently sent a letter to INAC requesting cancellation of the erroneously issued CP.
- H. In December 2016, with Land Code in effect, INAC informed LNIB that INAC no longer had jurisdiction to cancel the CP issued to the Sterlings, and that LNIB now had the authority over this issue.

LMAC Resolution No. 2020-05 - draft

- I. A Council meeting was scheduled for February 28, 2017 to discuss cancellation of the CP, though this meeting was subsequently cancelled. Helder Ponte, former Executive Director of LNIB, informed the Sterlings of this meeting by email on February 24, 2017, stating that the evidence before Council was that the allotment of Lot 11 was not made at a duly convened meeting, therefore the CP was issued in error.
- J. At the Chief & Council meeting held March 07, 2017 the cancellation of the CP was tabled.
- K. On March 07, 2017, Council received a letter from the Sterlings' counsel disputing the CP cancellation. On March 08, 2017, Ms. Sterling emailed all of Council with submissions regarding the potential CP cancellation. Minutes of the March 14, 2017 Chief & Council meeting state that Council had an in-camera discussion regarding Lot 11.
- L. At the Chief & Council meeting held March 15, 2017, a motion was passed to approving a BCR to cancel the CP for Lot 11. On March 17, 2017, Council informed the Sterlings of Council's decision to cancel the CP.
- M. On April 13, 2017, the Sterlings filed a Notice of Application for judicial review contesting Council's decision. Calling into question the interpretation of section 14.7 of the Land Code, the Sterlings took the position that since LNIB has not passed a dispute resolution law under Part 8 of the LNIB Land Code, a ruling by a court of competent jurisdiction was required before Council could exercise its jurisdiction to cancel a CP.
- N. On March 26, 2019, the Federal Court held that Council's decision violated the principles of procedural fairness and natural justice, and repealed the decision.
- O. On September 3, 2019, Chief and Council passed a motion to engage in a new decision-making process to reconsider the issuance of the CP of Lot 11 to the Sterlings, in compliance with the Land Code.

NOW THEREFORE BE IT RESOLVED THAT the LMAC supports and recommends that Chief and Council approve the Proposed Lot 11 Dispute Resolution Procedure, setting specific dates noted in the procedure.

This resolution is supported by the undersigned and passed this July 13, 2020.

Quorum of Committee: 4

William Bose, Chair

Madeline Lanaro

Gene Moses

Louise Moses

Hrolfe Joe

Robert Sterling

Sondra Tom

BUSINESS LICENSING LAW

Enacted on _____

Authorized signatory for LNIB

[NAME]

DEPOSITED IN THE REGISTRY OF LAWS
ON ____/____/____ (Day/Mo/Year)
_____ Signature of Law Clerk

BUSINESS LICENSING LAW

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PREAMBLE

WHEREAS:

- A. Under sections 6.1 and 6.2 of the Land Code, Council may make laws in relation to LNIB Land, including relating to the regulation, licensing and control of businesses on LNIB Land;
- B. Under section 14.2 of the Land Code, Council may, after full and fair consideration of any recommendations of the Lands Management Advisory Committee, establish mandatory standards, criteria and forms for Interests and Licences in LNIB Land;
- C. Under section 31.2 of the Land Code, Council may, by enacting a Law, delegate administrative authority in relation to the Land Code or a Law to an individual or body established or authorized under the Land Code;
- D. Following consultation with its Members, LNIB has decided to allow retail cannabis businesses to operate on LNIB Land;
- E. The province regulates the retail sale of cannabis in British Columbia under the *Cannabis Control and Licensing Act* (the "Act"). The Act provides the following:
 - (i) a provincial cannabis licence is required for a Person to sell cannabis, including on LNIB Land,
 - (ii) the province must not issue, or in certain cases, must not amend, a provincial cannabis licence for a retail cannabis business proposed to be located on LNIB Land unless LNIB recommends the province issue, or amend, the licence,
 - (iii) where LNIB decides to give comments and recommendations on an application to issue or amend a provincial cannabis licence, if the issuance of the licence may affect nearby residents, LNIB must gather the views of residents of an area determined by LNIB in respect of the application, and
 - (iv) LNIB may, by law, impose fees on the applicant in order to recover the costs incurred in assessing the application;
- F. In order to facilitate the process for licensing retail cannabis businesses on LNIB Land, LNIB intends to coordinate its review with the province's review of the related provincial cannabis licence;
- G. Council wishes to implement
 - (i) a business licensing system to track and regulate the conduct of business on LNIB Land, and
 - (ii) a process to govern how LNIB provides comments and recommendations on provincial cannabis licences.

NOW THEREFORE the Council enacts as follows:

PART 1 - CITATION, APPLICATION, DEFINITIONS AND INTERPRETATION

BUSINESS LICENSING LAW

Citation

1. This Law may be cited as the Business Licensing Law.

Application

2. This Law applies to all LNIB Land.

Definitions

3. (1) In this Law:

"adult entertainment store" means a portion of or the entire premises where:

- (a) the business of selling or offering for sale sex paraphernalia or graphic sexual material is carried on,
- (b) one or more pornographic film viewers are made available for use by the public, or
- (c) where "adult films" as defined by the *Motion Picture Act* (British Columbia), and any regulations enacted under that Act are made available to any person for sale or rent;

"adult movie theatre" means a motion picture theatre where adult or restricted designated motion pictures, as defined by the *Motion Picture Act* (British Columbia), and any regulations enacted under that Act, are shown;

"applicable laws" means applicable Laws and applicable federal and provincial enactments;

"B.C. Building Code" means the British Columbia Building Code established under the *Building Act* (British Columbia) or related legislation;

"business" means carrying on a commercial or industrial activity or undertaking of any kind or nature, and providing professional, personal or other services for the purpose of gain or profit, but does not include an activity carried on by the governments of LNIB, British Columbia or Canada, the agencies of said governments or corporations owned by said governments or by any public transit authority or its subsidiaries;

"cannabis" has the same meaning as in the *Cannabis Act*, S.C. 2018, c. 16, subject to any prescribed modifications;

"*Cannabis Control and Licensing Act*" means the *Cannabis Control and Licensing Act*, SBC 2018, c 29

"community consultation" means gathering the views of residents of LNIB Land in accordance with section 25;

"daycare" means a day care or child care service or facility, not including a school, where a person, in exchange for payment of some form, offers or provides care for at least three children who are not related to the care giver by blood or marriage;

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“enforcement officer” means the Lands Manager and any person appointed by Council, from time to time, to ensure compliance with this Law, and includes any delegate, the RCMP and any peace officer;

“licence” means either a standard business licence or a retail cannabis business licence;

“licensee” means a Person who holds a valid licence;

"non-resident business" means a business that is carried out on LNIB Land by a Person who does not have a premises on LNIB Land;

"operator" means the owner or proprietor of a business;

"premises" means a store, office, shop, building, 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;

“province” means the British Columbia Liquor and Cannabis Regulation Branch within the Ministry of the Attorney General, or any branch, department or ministry that becomes responsible for provincial regulation of retail cannabis businesses;

“provincial cannabis licence” means a “licence” for a “retail store” as those terms are defined in the *Cannabis Control and Licensing Act* and the *Cannabis Licensing Regulation*, BC Reg 202/2018;

“retail cannabis business” means any business that sells cannabis or products containing cannabis directly to the public on LNIB Land, but does not include the sale of medical cannabis whether through a compassion club, a non-profit society or as a dispensary;

“retail cannabis business licence” means a licence to carry on a retail cannabis business on or within LNIB Land issued by LNIB in accordance with this Law;

“standard business licence” means a licence to carry on any business that operates on LNIB Land issued in accordance with this Law other than a retail cannabis business.

- (2) In addition to the terms defined in this Law, terms used in this Law may be defined in the Land Code.

Interpretation

4. (1) A reference in this Law to an enactment is to be construed as including a reference to that enactment as it may be amended from time to time.
- (2) A reference in an enactment to a section is a reference to a section of this Law.
- (3) A reference in this Law to a subsection or paragraph is a reference to a subsection or paragraph of the section or subsection in which the reference occurs.

BUSINESS LICENSING LAW

- (4) A word in the singular form may be read in the plural form if the context allows it and a word in the plural form may be read in the singular form if the context allows it.
- (5) Unless otherwise expressly provided, the structures, organizations, bodies, principles and procedures established or used in this Law will be guided and interpreted in accordance with the culture, traditions and customs of LNIB.

Severability

5. The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

Validity

6. Nothing under this Law must be rendered void or invalid by
 - (a) an error or omission in a notice, form, permit or other document given or authorized under this Law; or
 - (b) a failure of LNIB or their delegate to do something within the required time.

PART 2 – ADMINISTRATIVE PROVISIONS

Delegation of authority to Lands Manager

7. Council delegates to the Lands Manager Council's authority to
 - (a) grant a standard business licence and otherwise exercise the necessary administrative authority to administer standard business licences in accordance with this Law; and
 - (b) suspend or revoke a licence in accordance with section 40.

Delegation of Lands Manager's duties

8. With the exception of the authority delegated by Council to the Lands Manager under section 7, the Lands Manager may delegate any of his or her duties under this Law to any employee in the LNIB Lands Department.

PART 3 – GENERAL REQUIREMENTS

Prohibitions

9. (1) Except as set out in this Law and subject to section 11, a Person must not carry on a business on or within LNIB Land unless the Person holds a valid licence for the carrying on of the business and any conditions of the licence have been met.

BUSINESS LICENSING LAW

- (2) For certainty, the prohibition under subsection (1) applies to a Person carrying on a non-resident business, including any Person carrying on a business for any purpose on or within LNIB Land that is not being carried out from or within a premises.
- (3) A Person must not carry on a business at a premises other than at the premises specified for that business in a valid licence.
- (4) Unless otherwise authorized under a Law or applicable federal or provincial law, a Person must not carry on a business or solicit for charity, or any other purpose, on any road or highway that is wholly or partially on or within LNIB Land.
- (5) The following businesses are prohibited on or within LNIB Land:
 - (a) adult entertainment stores;
 - (b) adult movie theatres;
 - (c) a place that is kept or occupied, or resorted to by one or more persons, for the purpose of prostitution (or a “common bawdy-house” as defined in the *Criminal Code of Canada*);
 - (d) the sale, offering for sale, or delivery for sale of alcohol;
 - (e) the propagation, compounding or production of a controlled substance as defined in the *Controlled Drugs and Substances Act (Canada)* except in strict compliance with a Law or applicable federal or provincial law; and
 - (f) the sale of any controlled substance as defined in the *Controlled Drugs and Substances Act (Canada)*, except by a licensed pharmacist or in strict compliance with a Law or applicable federal or provincial law.

Persons ineligible to hold licence

10. A Person is not eligible to be issued a licence if

- (a) the Person is not in good standing with LNIB with regard to any financial debts or arrears, including in relation to property tax owing under the LNIB Property Taxation Law;
- (b) the Person has been convicted under any Law or an applicable law of another First Nation, or under provincial or federal laws in relation to the activities of the business for which the applicant has applied; or
- (c) the applicant is the owner of a business whose licence was suspended or revoked under this Law and that suspension or revocation was not reversed or set aside.

Scope, exemptions and authority to waive

11. (1) The exemptions set out in this section are subject to any Law enacted in relation to:

BUSINESS LICENSING LAW

- (a) removal and punishment of a Person trespassing on LNIB Land or frequenting LNIB Land for prohibited purposes;
 - (b) prevention of nuisance; or
 - (c) protection of the community.
- (2) A licence is not required for any of the following, provided the Person undertaking the business complies with all applicable laws and LNIB policies, including the LNIB Housing Policy, in addition to all federal and provincial health and safety standards:
- (a) renting apartment suites or units where not more than two (2) suites or units are made available for rent;
 - (b) door-to-door sale of newspapers published in Canada;
 - (c) public schools;
 - (d) teaching music, handicrafts or art as a home occupation where such teaching involves not more than one class of five (5) students at one time;
 - (e) garage sales or yard sales held by Members or occupants of LNIB Land where there are fewer than four (4) days per year of sales;
 - (f) sales of catered foods or baked goods cooked or prepared in a Member's home or the home of an occupant of LNIB Land;
 - (g) subject to any Law that regulates access to LNIB Land, delivery of food including pizza and fast foods;
 - (h) non-commercial, periodic fund-raising events by Members or organizations or occupants of LNIB Land;
 - (i) selling carvings, crafts, and other art work created by Members;
 - (j) providing or delivering services by a licensed professional including a doctor, lawyer, accountant, consultant, dentist, nurse, ophthalmologist, optometrist, registered massage therapist, physiotherapist or similar professional;
 - (k) courier or postal services; or
 - (l) small-scale home-based activities by Members or occupants of LNIB Land including, but not limited to, Avon, Herbalife, and Tupperware.

Application for a licence

- 12.** (1) A Person may apply for a licence for the first time to carry on a new business or for a business that exists at the time this Law comes into force by submitting an application to the Lands Manager in the form specified by Council and paying the applicable fee.
- (2) An application under subsection (1) must include, at a minimum:

BUSINESS LICENSING LAW

- (a) the name, address, phone number, incorporation number (if applicable), nature and location of the business including the legal description of any premises from which the business operates;
 - (b) the name, address, and phone number of the operator or owner of the business;
 - (c) if the premises are located on LNIB Land that is subject to a Certificate of Possession, a letter of authorization from the holder of the Certificate of Possession (if not the applicant) consenting to the operation of the business from the premises.
 - (d) an acknowledgement that the licence does not provide authorizations for land use or other matters and that other permits or authorizations may be required;
 - (e) an acknowledgement that the holder of the licence must allow access to enforcement officers and other individuals authorized by Council or authorized by a Law to monitor compliance with the conditions set out in the licence;
 - (f) an acknowledgement that
 - i. the Person has not been convicted under any Law or an applicable law of another First Nation, or under provincial or federal laws in relation to the activities of the business for which the applicant has applied, and
 - ii. if the applicant is the owner of a business, the applicant has not had its licence suspended or revoked under this Law that was not reversed or set aside; and
 - (g) a signed release and waiver releasing and indemnifying LNIB against any claims in relation to the business or premises for which the licence is being sought.
- (3) The application form under this section must be signed by the Person who is the owner of the business, or by their duly authorized agent, or in the case of a corporation, signed by a director of the corporation or a duly authorized agent of the corporation or in the case of partnerships, joint ventures, or multiple owners, signed by any one of such partners or owners and such partner or owner will be deemed to be duly authorized by all the remaining partners or owners.

Preconditions

- 13.** If a business requires approvals from other regulatory agencies in order to operate in compliance with all applicable laws and other requirements, the applicant must include with the application proof that the applicable preconditions have been met, including, but not limited to, the following:
- (a) for any business, proof of all applicable insurance policies;
 - (b) for any premises, confirmation from the Lands Department that the proposed use of the land or premises complies with a law that regulates development on LNIB Land, and any applicable land use plan or zoning law;
 - (c) for any premises, proof of compliance with all applicable fire safety, sanitation and building regulations;

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- (d) for an automobile dealership, proof of licensing under the *Motor Dealers Act* (British Columbia);
- (e) for a daycare facility, proof of licensing under the *Child Care Licensing Regulation* (British Columbia);
- (f) for the construction or alteration of a restaurant or food premises, as defined in the *Food Premises Regulation* (BC) or its successor, proof of approval by a health official under the *Health Act* (British Columbia);
- (g) for the preparation, distribution and selling of foods other than pre-packaged or pre-bottled foodstuffs, proof of a food service permit under the *Food Premises Regulation* (British Columbia);
- (h) for gaming facilities, proof of licensing under under a Law or applicable federal or provincial law;
- (i) for the provision of professional services, proof of applicable professional certifications, licensing and insurance.

PART 4 - REQUIREMENTS FOR STANDARD BUSINESS LICENCES

Application of Part 4

14. This Part applies only to standard business licences.

Preliminary review of application

15. (1) As soon as practicable after receiving a standard business licence application and the applicable fees, the Lands Manager will review the application to determine the following:

- (a) the applicant is eligible to obtain a licence under section 10; and
 - (b) the application is complete in accordance with section 12 and complies with all applicable preconditions listed at section 13.
- (2) If an application complies with the requirements listed at subsection (1), the Lands Manager will provide the application and any other relevant materials to the Lands Management Advisory Committee.
- (3) If an application fails to comply with subsection (1)(a) or (b), the Lands Manager will provide written notice to the applicant that the application fails to meet the Law's requirements and advising of any steps that may be taken to qualify for a licence in a future application.

Lands Management Advisory Committee review

16. (1) Subject to subsection (2), as soon as practicable following their receipt of an application and all applicable materials provided by the Lands Manager under section 15, the Lands Management Advisory Committee must, acting reasonably, make a recommendation to the

BUSINESS LICENSING LAW

Lands Manager on whether to approve or refuse to approve the application for a standard business licence supported with reasons.

(2) If the Lands Management Advisory Committee recommends the Lands Manager approve an application for a licence, the Lands Management Advisory Committee may recommend that the approval be subject to certain terms and conditions, which may include, without limitation the following requirements:

- (a) that specified insurance be obtained;
- (b) restricting the number of occupants allowed on the premises of the business; or
- (c) specifying hours of operation.

(3) The Lands Management Advisory Committee's recommendation must be provided to the Lands Manager within 14 calendar days of making their recommendation.

Lands Manager's decision

17. (1) As soon as practicable following the Lands Manager's receipt of the Lands Management Advisory Committee's recommendation on a standard business licence, upon consideration of the recommendation, the application and all applicable materials, the Lands Manager may

- (a) approve the application for a standard business licence, of which approval may include any reasonable terms or conditions; or
- (b) despite any other provision in this Law, refuse to approve an application for a standard business licence, setting out written reasons.

(2) The Lands Manager must provide notice of their decision by

- (a) issuing a standard business licence to the applicant that shows all applicable terms or conditions; or
- (b) notifying the applicant that the application for the standard business licence has been refused with a copy of the Lands Manager's written reasons.

Start date and term

18. (1) Subject to subsections (2) and (3), a standard business licence will be granted for one calendar year commencing on the 1st day of January and will terminate on the 31st day of December in the year the licence was issued.

(2) The Lands Manager may authorize a standard business licence to commence after January 1st with a term not to extend beyond the 31st day of December in the year the licence was issued.

(3) The Lands Manager may grant a seasonal or temporary standard business licence to a Person who intends to carry on a business on a seasonal or temporary basis.

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- (4) For certainty, a Person seeking a seasonal or temporary licence is subject to the same application and approval process as required for a standard business licence in accordance with this Law.

Annual renewals

- 19.** (1) A licensee may apply to renew their standard business licence each year by submitting an application to renew to the Lands Manager in the form specified by Council and paying the applicable fee on or before December 31st of the year the licence is set to terminate.
- (2) An application under subsection (1) must include the information provided at section 12(2).
- (3) The Lands Manager will issue a standard business licence to the licensee for a renewed one-year term if
- (a) the application information required at sections 12(2)(a) and (b) has not changed from the licensee's previous licence application; and
 - (b) the business is in compliance with all applicable laws and requirements.
- (4) The licensee must apply for a new licence in accordance with this Law if any of the information required at sections 12(2)(a) and (b) has changed from the licensee's previous licence application.

Changing the premises

- 20.** (1) A licensee may apply to change the premises in which they carry on the licensed standard business by submitting an application to the Lands Manager in the form specified by Council and paying the applicable fee.
- (2) The Lands Manager will approve an application to change the premises under subsection (1) where the Lands Manager is satisfied that the applicant has complied with all applicable laws and other requirements.
- (3) The Lands Manager must provide notice of their decision by
- (a) issuing an amended standard business licence to the applicant that shows all applicable terms or conditions; or
 - (b) notifying the applicant that the application to amend the standard business licence has been refused with a copy of the Lands Manager's written reasons.

Licence cancelled

- 21.** (1) The Lands Manager will cancel a standard business licence and provide notice to the licensee if:
- (a) the associated application is approved in error; or
 - (b) the associated application is approved due to a misrepresentation or concealment of fact.

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- (2) In the event an application is approved under circumstances described at subsection (1), the applicant is not entitled to a refund of any fees.

PART 5 – REQUIREMENTS FOR RETAIL CANNABIS BUSINESS LICENCES

Application of Part 5

22. This Part applies only to retail cannabis business licences.

Licence application

23. In addition to the licence application requirements under section 12, an application for a retail cannabis business must be made by the occupier of the premises at which the retail cannabis business will be located and must be accompanied by:

- (a) proof that the applicant has applied for a provincial cannabis licence and an indication of the status of the province's review, or proof that the applicant has been issued a valid provincial cannabis licence;
- (b) proof that the retail cannabis business is not within 300 metres of any school, youth centre, daycare, cultural area, or religious area;
- (c) a plan satisfactory to the Lands Manager that addresses:
 - i. 24-hour security coverage of the premises for which the licence is issued,
 - ii. a robbery prevention plan, and
 - iii. management and control of noise, odour, traffic and patron conduct;
- (d) proof that the retail cannabis business is not a part of another business retail operation;
- (e) a plan demonstrating how the applicant will prevent minors from entering the premises;
- (f) a list of all associates of the applicant and employees of the retail cannabis business that includes their contact information; and
- (g) an acknowledgment by the applicant that the applicant is responsible for the cost of community consultation on the proposed retail cannabis business in a manner specified by the Lands Manger.

Preliminary review

24. (1) As soon as practicable after receiving an application for a retail cannabis business licence and the applicable fees, the Lands Manager will review the application to determine the following:

- (a) the applicant is eligible to obtain a licence under section 10; and

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- (b) the application is complete in accordance with sections 12,13 and 23.
- (2) Subject to subsection (4), if an application complies with the requirements listed at subsection (1), the Lands Manager will provide the application and any other relevant materials to the Lands Management Advisory Committee.
- (3) If an application fails to comply with subsection (1)(a) or (b), the Lands Manager will provide written notice to the applicant that the application fails to meet the Law's requirements and advising of any steps that may be taken to qualify for a licence in a future application.
- (4) Where the province requires LNIB's recommendation before issuing a provincial cannabis licence for the proposed retail cannabis business, the Lands Manager will carry out the necessary steps to comply with the province's requirements, which may include conducting community consultation.

Community consultation

- 25.** (1) Where LNIB carries out community consultation on a provincial cannabis licence associated with a proposed or licensed retail cannabis business, the community consultation will be carried out as follows:
- (a) in a manner directed by the Lands Manager and that complies with the *Cannabis Control and Licensing Act*; and
 - (b) at the expense of the applicant.
- (2) Upon completion of community consultation held under this section, the Lands Manager will compile the feedback obtained from the community consultation in a written report which will be provided to the Lands Management Advisory Committee under section 26 for a new application or to Council under section 30 for an application to change the premises of the retail cannabis business.

Lands Management Advisory Committee review application

- 26.** (1) Subject to subsection (2), as soon as practicable following their receipt of an application for a retail cannabis business licence and the written report of community consultation under section 25, if held, the Lands Management Advisory Committee must, acting reasonably, and in consideration of the materials provided, make a recommendation to Council on whether to approve or refuse to approve the application supported with reasons.
- (2) If the Lands Management Advisory Committee recommends Council approve an application for a retail cannabis business licence, the Committee may recommend that the approval be subject to certain terms and conditions, which may include, without limitation the following requirements:
- (a) that specified insurance be obtained;
 - (b) restricting the number of occupants allowed on the premises of the business;
 - (c) specifying hours of operation; or

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- (d) if applicable, measures to address specific concerns raised during community consultation held under section 25.
- (3) The Lands Management Advisory Committee's recommendation must be provided to the Lands Manager within 14 calendar days of making their recommendation.

Council decision and issuance of licence

27. (1) Within 14 calendar days of the Lands Management Advisory Committee's recommendation under section 26(1), the Lands Manager will provide to Council their recommendation, the application for a retail cannabis business and the written report of community consultation under section 25, if held.
- (2) As soon as practicable following their receipt of materials provided under subsection (1) and taking into account the Lands Management Advisory Committee's recommendation and feedback received during community consultation, if held,
 - (a) subject to subsection (3), Council may approve the application subject to any reasonable terms and conditions; or
 - (b) despite any other provision in this Law, refuse to approve the application, setting out written reasons.
 - (3) Where the province requires LNIB's recommendation before issuing the provincial cannabis licence associated with the proposed retail cannabis business,
 - (a) Council's approval of an application for a retail cannabis business licence must not take effect until the licensee has provided the Lands Manager with evidence of the provincial cannabis licence for the retail cannabis business; and
 - (b) LNIB will take all necessary steps to comply with the province's requirements.
 - (4) For certainty, Council must not recommend that the province issue a provincial cannabis licence if the applicant does not comply with this Law.
 - (5) The Lands Manager will provide notice of Council's decision on an application under subsection (1) to the applicant and, subject to subsection (6), issue the licence.
 - (6) For an application considered under subsection (3), the Lands Manager must notify the applicant that the retail cannabis business licence will not be issued until the applicant has provided the Lands Manager with evidence of the provincial cannabis licence for the retail cannabis business.
 - (7) Upon the Lands Manager receiving evidence of a provincial cannabis licence for a retail cannabis business that received conditional approval under this section, the Lands Manager must issue the retail cannabis business licence to the licensee.
 - (8) The term of a retail cannabis business licence must correspond with the term of the provincial cannabis licence.

Conditions of every retail cannabis business licence

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28. (1) A licensee for a retail cannabis business must notify the Lands Manager of any changes to
- (a) the provincial cannabis licence for the retail cannabis business; and
 - (b) the list of associates provided with the licence application under section 23(f).
- (2) In accordance with the *Cannabis Control and Licensing Act* and regulations, a retail cannabis business is prohibited from engaging in any other business activities in the premises that are licensed as a retail cannabis business. For clarity, this includes hosting an automated teller machine, offering cheque cashing services, and offering liquor sales.
- (3) When a retail cannabis business is closed, all floor inventory must be removed from display areas and placed in a secure locked storage vault at the premises.
- (4) The owner and operator of a retail cannabis business is required to ensure the safety of their employees, patrons and neighbours.
- (5) Subject to Council limiting the hours in a retail cannabis business licence, operating hours for a retail cannabis on LNIB Lands must be between 9:00am and 9:00pm and during operating hours, a retail cannabis business must have no fewer than two (2) employees working at any given time.

Annual renewals

29. (1) A licensee may apply to renew their retail cannabis business licence each year by submitting an application to renew to the Lands Manager in the form specified by Council and paying the applicable fee on or before the expiry date set out on their licence.
- (2) An application under subsection (1) must
- (a) include the information provided at section 12(2); and
 - (b) evidence of the licensee's renewed provincial cannabis licence.
- (3) The Lands Manager will issue a retail cannabis business licence to the licensee for a renewed one-year term if
- (a) the application information required at sections 12(2)(a) and (b) has not changed from the licensee's previous licence application;
 - (b) the business is in compliance with all applicable laws and requirements; and
 - (c) the provincial cannabis licence has been renewed for another year.
- (4) The term of a renewed retail cannabis business licence must correspond with the term of the provincial cannabis licence.
- (5) The licensee must apply for a new retail cannabis business licence in accordance with this Law if any of the information required at sections 12(2)(a) and (b) has changed from the licensee's previous licence application .

Changing the premises

30. (1) Subject to subsection (2), a licensee may apply to change the premises in which they carry on the licensed retail cannabis business by submitting an application to the Lands Manager in the form specified by Council and paying the applicable fee.
- (2) Except where the province requires LNIB's recommendation before changing the premises of the retail cannabis business in the provincial cannabis licence, a licensee's application under subsection (1) must include evidence of the associated provincial cannabis licence showing the address of the new premises.
- (3) Subject to subsection (5), the Lands Manager will confirm the application to change the premises under subsection (1) is complete and provide the application and any applicable materials to Council.
- (4) As soon as practicable following its receipt of the application and any materials under subsection (3), Council may
- (a) subject to subsection (5), approve an application to change the premises if the proposed change will comply with all applicable laws and other requirements; or
 - (b) despite any other provision in this Law, refuse to approve the application, setting out written reasons.
- (5) Where LNIB's recommendation is required before the province will change the premises in a provincial cannabis licence associated with a retail cannabis business,
- (a) LNIB will carry out the necessary steps to comply with the province's requirements, which may include community consultation in accordance with section 25; and
 - (b) Council's approval to change the premises of a retail cannabis business licence must not take effect until the licensee has provided the Lands Manager will evidence of the amended provincial cannabis licence showing the address of the new premises.
- (6) For certainty, Council must not recommend that the province change the premises in a provincial cannabis licence if the applicant does not comply with this Law.

Issuing the amended licence

31. (1) The Lands Manager will provide notice of Council's decision on an application under section 30 to the licensee and subject to subsection (2), issue an amended licence.
- (2) For an application considered under section 30(5), the Lands Manager must notify the applicant that the retail cannabis business licence will not be amended until the applicant has provided the Lands Manager with evidence of the amended provincial cannabis licence showing the address of the new premises.
- (3) Upon the Lands Manager receiving evidence of an amended provincial cannabis licence for a retail cannabis business that received conditional approval under this section, the Lands Manager must issue the retail cannabis business licence to the licensee.

Licence cancelled

32. (1) Council will cancel a retail cannabis business licence and provide notice to the licensee if:
- (a) the associated application is approved in error; or
 - (b) the associated application is approved due to a misrepresentation or concealment of fact.
- (2) In the event an application is approved under circumstances described at subsection (1), the applicant is not entitled to a refund of any fees.

PART 6 – GENERAL REQUIREMENTS FOR ALL LICENCES

Separate business

33. For the purposes of this Law, where a business is carried on, within, or from more than one premises on or within LNIB Land, the business carried on within or from each premises is deemed to be a separate business.

Business purchases and licence transfers

34. (1) Every licence issued under this Law is specific and exclusive to the Person and premises named in the licence and may not be transferred, given, lent or sold to another Person or used at another premises.
- (2) Where any Person purchases from another Person the controlling interest in a business licensed under this Law, the existing licence of that business will expire sixty (60) days after the purchase and if the purchaser wishes to continue operating the business, the purchaser must submit a new licence application in accordance with this law.

Access for inspection and enforcement

35. Every licence is deemed to grant access to the business or premises by an enforcement officer for inspections and enforcement in relation to this Law.

Requirement to post or carry

36. (1) A holder of a licence must post the licence and keep it posted in a conspicuous place on the premises for which it was issued.
- (2) A holder of a licence for a non-resident business must carry the licence on their person at all times while carrying on the business on or within LNIB Land.

Fees

37. (1) An applicant for a licence is responsible for paying the applicable application fee and annual licence fee set out at Schedule A.

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- (2) The fee to apply for a licence on a seasonal or temporary basis under section 18(3) will be prorated to reflect the applicable term of the licence.
- (3) Annual licence fees are not refundable except:
 - (a) if the licence application is withdrawn prior to the issuance of the licence; or
 - (b) the licence application is refused.

Licence no longer required

38. (1) Every licensee must notify the Lands Manager in writing when the licence is no longer required.
- (2) The licence will be cancelled upon receipt of notification under subsection (1) or on the date indicated in the notification as the end of business operations.
- (3) A licensee is not entitled to a refund or partial refund of the licence fee.

Liability

39. The Lands Manager's or Council's approval or refusal to approve a licence
 - (a) is not evidence that a business, premises or any associated approvals are valid or legal; and
 - (b) does not create any liability on behalf of LNIB.

PART 7 - ENFORCEMENT

Suspending or revoking a licence

40. (1) In addition to any other remedies or penalties under this Law or any other applicable laws, if the Lands Manager has reasonable cause, the Lands Manager may, after giving notice to the holder of the licence
 - (a) suspend the licence for all or part of the year; or
 - (b) revoke the licence.
- (2) Upon suspending or revoking a licence under subsection (1), the Lands Manager may restrict a Person from holding a licence for up to three years for reasonable cause.
- (3) Without limiting the interpretation of "reasonable cause" under subsections (1) or (2), the following may serve as grounds to suspend or revoke a Person's licence or restrict a Person from holding a licence:
 - (a) the Person is convicted of an indictable offence;
 - (b) the Person is convicted of an offence under a Law, an applicable law of another First Nation, or under provincial or federal laws in relation to the activities of the business

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for which the licensee is licensed or with respect to the premises named in the licence;

- (c) the Person has ceased to meet the lawful requirements to carry on the business for which they are licensed or relating to the premises named in the licence;
- (d) the Person has failed to renew their licence within thirty (30) days of the expiry date;
- (e) the Person has failed to pay property tax pursuant to the LNIB Property Taxation Law, or has otherwise failed to comply with the LNIB Property Taxation Law or an order issued under that law; or
- (f) the Person has, in the reasonable opinion of the Lands Manager:
 - (i) engaged in such gross misconduct relating to the business or to the premises named in the licence as to warrant the suspension, revocation or restriction of the licence,
 - (ii) conducted business, performed a service, or displayed, offered for sale, or sold or distributed to a Person actually or apparently under the age of sixteen years anything that may be harmful or dangerous to the health or safety of a Person actually or apparently under the age of sixteen years, or
 - (iii) carried on any business without a licence.

Authority of enforcement officers

41. (1) In addition to any powers set out in a Law addressing the enforcement of Laws and the authority of enforcement officers and without limiting an enforcement officer's powers at law, an enforcement officer is authorized to do the following for the purpose of performing his or her duties or exercising his or her powers in relation to this Law:

- (a) issue a stop work order to any Person who carries out a business without receiving a licence if required under this Law, which includes for certainty, carrying out a business if the Person's licence is suspended or was revoked under section 40 or has been rendered invalid under section 44;
 - (b) where a business is being carried out without a licence, an enforcement officer may:
 - (i) order that a premises, or a portion of a premises, be closed, shut down, sealed off, or otherwise made unavailable for business use until there is a valid licence in place for that premises, or
 - (ii) order any vehicle entering LNIB Land for what the enforcement officer believes is a prohibited purpose under this Law to turn around or comply with this Law before entering LNIB Land.
- (2) An order under subsection (1)
- (a) may be registered in court and enforced as a court order; and
 - (b) continues in force until

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- (i) the condition that led to the order is remedied, or
- (ii) the activity that is the subject of the order receives a valid licence under this Law.

PART 8- RIGHT OF RECONSIDERATION

Right of Reconsideration by Council

- 42.** (1) An applicant or licensee who wishes reconsideration of a decision of the Lands Manager made under this Law must, within thirty (30) business days of receipt of notice of the decision, deliver to Council a written request stating the grounds upon which the request for reconsideration is based, together with any relevant supporting information or evidence and the applicable fee as set out in Schedule A.
- (2) Council must consider the request within thirty (30) days of receipt of the notice.
- (3) Council may concur with, modify, or reverse the decision of the Lands Manager, and must provide written notification to the applicant or licensee and to the Lands Manager of the decision.
- (4) For certainty, there is no right of reconsideration of Council's decision to refuse to approve an application for a retail cannabis business licence or an application to change the premises of a licensed retail cannabis business.

PART 9 - OFFENCES AND PENALTIES

Offences

- 43.** (1) A Person who does any of the following commits an offence:
- (a) provides false or misleading information in order to obtain a licence;
 - (b) carries out an activity prohibited under this Law without having first received a valid authorization;
 - (c) neglects or refrains from doing anything required to be done pursuant to the provisions of this Law;
 - (d) otherwise contravenes this Law; or
 - (e) obstructs, interferes with or denies access to an enforcement officer or other individual who is designated to enforce this Law.
- (2) A Person who commits an offence or who contravenes an order made by a court in relation to this Law is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 or to imprisonment for a term of not more than three months, or to both.

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- (3) A fine payable under subsection (2) must be remitted to LNIB by the court, after reasonable court costs have been deducted.
- (4) Despite subsection (2), LNIB may also authorize the Lands Manager or enforcement officer to issue a ticket or violation notice to impose a sanction or fine for contraventions of this Law.

Contravention renders licence invalid

44. In addition to any other remedies or penalties under this Law, or any other applicable laws, any Person who contravenes, violates or permits any act or thing to be done in contravention of, or neglects or refrains from doing anything required to be done pursuant to the provisions of this Law renders their licence invalid.

PART 10 – Regulations

Regulations

45. (1) Council may make any regulations it considers necessary or advisable for purposes under this Law.
- (2) For certainty, the powers of the Council under subsection (1) include the power to make regulations:
- (a) respecting the form and content of applications, notices, reports, licences and other documents that are required or permitted under this Law;
 - (b) prescribing consultation and public input requirements in respect of applications provided for in this Law;
 - (c) defining words and expressions that are used but not defined in this Law; and
 - (d) generally for the purpose of giving effect to this Law.
- (3) Subsection (2) does not restrict Council from approving matters listed in that subsection by Resolution.

PART 11- AMENDMENT

Substantive amendments to this law

46. With the exception of a minor amendment described at section 47, an amendment or repeal of this Law must only be made by Council as recommended by the Lands Management Advisory Committee in accordance with the Land Code.

Minor amendments

47. (1) Council may approve a minor amendment to this Law by Resolution.
- (2) For the purposes of subsection (1), minor amendments mean:

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- (a) amendments to correct typographical errors;
- (b) amendments required to reference any relevant new or amended Law;
- (c) amendments ordered by any court of competent jurisdiction; and
- (d) amendments which serve to clarify this Law, where there is no reasonable dispute about the intention underlying the original provision.

PART 12 – Coming Into Force

Coming Into Force

48. This Law comes into force on the date it is passed by Resolution.

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

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SCHEDULE "A"

ADMINISTRATIVE FEES

Application fee for a standard business licence s. 37(1)	\$200
Annual fee for a standard business licence s. 37(1)	\$100
Application fee for a retail cannabis business licence s. 37(1)	\$1000
Annual fee for a retail cannabis business licence s. 37(1)	\$500
Application to reconsider a decision of the Lands Manager (refusal to approve an application for a standard business licence; suspension or suspension of standard business licence or retail cannabis business licence) s. 42	\$50