

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;

“home-based business” means any business carried out in a dwelling which is secondary to the residential use of the dwelling;

“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.

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- (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.
- (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

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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.
- (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.

Commented [SJ1]: Suggest keeping as is and get community feedback when the law is presented instead of conducting a survey.

Commented [SJ2]: Suggest keeping as is and get community feedback when the law is presented. Instead of conducting a survey.

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

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

- (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, ~~as amended~~, 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)~~(d) 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)~~(e) 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)~~(f) subject to any Law that regulates access to LNIB Land, delivery of food including pizza and fast foods;

~~(h)~~(g) non-commercial, periodic fund-raising events by Members or organizations or occupants of LNIB Land;

~~(i)~~(h) selling carvings, crafts, and other art-work created by Members;

~~(j)~~(i) 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; or

~~(k)~~(j) courier or postal services; ~~or~~

~~— small scale home based activities by Members or occupants of LNIB Land including, but not limited to,~~

~~— 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;~~

~~i. — Avon, Herbalife, and Tupperware.~~

Commented [SJ3]: What about home-based services like hairdressing, logging truck drivers, marshal arts classes etc.?

Commented [HV4R3]: Instructions to remove this exception (and the home-based business described at paragraph d – teaching music, etc) so that LNIB will be aware of the different business activities taking place on reserve. In addition, requiring these business owners to obtain a licence means LNIB will have access to additional regulatory and enforcement remedies set out in this law (municipalities all tend to require a business licence for home-based businesses). LNIB may set a reduced licence fee for home-based businesses.

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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:

- (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
 - ii-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
 - iii-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:

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- (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;
- (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

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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 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.

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- (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.
- (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

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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.

(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 Manager.

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
 - (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

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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
- (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, ~~the~~
 - (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, ~~the~~
 - (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.

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- (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

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

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- (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 with 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.

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- (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.

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- (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.
- (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.

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- (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 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 Tax^{ation} Law, or has otherwise failed to comply with the LNIB Property Tax^{ation} 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

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- (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:

- (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

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- (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.
- (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

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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:
- (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 <u>other than for a home-based business</u> s. 37(1)	\$ <u>200</u>
Application fee for a standard business licence for a home-based business s. 37(1)	\$100
Annual fee for a standard business licence <u>other</u> <u>than for a home-based business</u> s. 37(1)	\$ <u>100</u>
Annual fee for a standard business licence for a home-based business s. 37(1)	\$50
Application fee for a retail cannabis business licence s. 37(1)	\$ <u>1000</u>
Annual fee for a retail cannabis business licence s. 37(1)	\$ <u>500</u>
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	\$ <u>50</u>

Commented [HV5]: Needs formatting to resemble LNIB's other laws.

Commented [HV6]: Remove this row if you only want to provide a reduced annual licence fee for home-based businesses.