

**WE WAI KAI NATION
CANNABIS and HEMP LAW**

WHEREAS:

- A. We Wai Kai Nation has an inherent right to self-government which emanates from its people, culture, language, aboriginal rights, including title, over its traditional lands, which includes, but is not limited to, our We Wai Kai Nation Land, and is recognized and affirmed by section 35 of the *Constitution Act, 1982*;
- B. As an aspect of our inherent right of self-government, We Wai Kai Nation has the jurisdiction to address issues such as the right to cultivate or sell cannabis and Hemp on our Lands, and this inherent right has not been extinguished;
- C. We Wai Kai Nation also chose to assume control of its reserve lands pursuant to the *First Nations Land Management Act, S.C. 1999, c. 24* by entering into the *Individual Agreement on First Nation Land Management between We Wai Kai Nation and Her Majesty the Queen in Right of Canada* and by adopting the Land Code;
- D. Pursuant to section 5.8 of the Land Code, the Council can make laws with respect to the use of We Wai Kai Lands;
- E. It is essential to the health and survival of We Wai Kai Nation that we maintain our community through the passage of laws; and
- F. This Law will apply in conjunction with applicable federal laws concerning the environment, construction and building, and the construction and operation of a cannabis and hemp growing operation, as well as the sale of cannabis and hemp.

NOW THEREFORE We Wai Kai Nation hereby enacts the following Law:

1.0 TITLE

- 1.1 This Law may be cited as the “We Wai Kai Nation Cannabis and Hemp Law”.

2.0 DEFINITIONS

- 2.1 Unless the context otherwise requires, defined terms have the same meaning as in the Land Code. In this Law:
 - (a) “Bill C-45” means the factual legislation known as “An Act respecting cannabis and hemp and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts”;
 - (b) “British Columbia Building Code” means the current *British Columbia Building Code* and any amendments thereto;
 - (c) “Cannabis” includes all related cannabis product;

- (d) "Certificate of Completion" means the certificate issued by the We Wai Kai Lands Department to the Proponent certifying that the construction of the Project has been completed to the satisfaction of We Wai Kai Nation;
- (e) "Council" means the elected Chief Councillor and Council of the We Wai Kai Nation;
- (f) "Director of Lands" means the We Wai Kai Nation employee responsible for the administration of We Wai Kai Lands and Resources or his or her authorized representative(s), employees or contractors, or a Person authorized by the Council to act as his or her delegate as set forth in the Land Code;
- (g) "Health Canada" means the Department of Health (Canada);
- (h) "Hemp" includes all related hemp product;
- (i) "Land Code" means the We Wai Kai Nation Land Code dated for reference, August 1, 2008 and ratified on September 26, 2009;
- (j) "Lands" means those portions of We Wai Kai Land designated from time to time by Council for the construction and operation of a cannabis and hemp growing facility legally described as: We Wai Kai Nation Lands.
- (k) "Law" means this We Wai Kai Nation Cannabis and Hemp Law;
- (l) "Laws" means laws, bylaws, and regulations passed by the Council of We Wai Kai Nation;
- (m) "MMCD" means Master Municipal Construction Documents as prepared by the Master Municipal Construction Documents Association;
- (n) "Permit" means the written authority granted by the Director of Lands pursuant to this Law for the construction and operation of a cannabis and hemp growing facility;
- (o) "Person" includes a natural Person, a company, corporation, partnership, firm, association, society, or party and the personal or other legal representatives of a Person to whom the context can apply according to law;
- (p) "Project" means the cannabis and hemp growing facility to be constructed and operated on the Lands;
- (q) "Proponent" means a Person proposing to construct and operate a cannabis and hemp growing facility on We Wai Kai Land or sell cannabis and hemp on We Wai Land, or both;
- (r) "Registered Professional" has the same definition as in the British Columbia Building Code;

- (s) "Resolution" means a resolution of Council passed at a duly convened meeting;
- (t) "Supreme Court" means the Supreme Court of British Columbia
- (u) "We Wai Kai" means the We Wai Kai Nation legally registered as Cape Mudge Indian Band;
- (v) "We Wai Kai Nation" means the body of people who comprise the entity also known as the Cape Mudge Indian Band of Indians under the *Indian Act* and for whose use and benefit in common We Wai Kai Lands have been set apart by her Majesty the Queen;
- (w) "We Wai Kai Lands" means:
 - a) The following We Wai Kai Nation Indian Reserves:
 - i. Village Bay Indian Reserve # 7;
 - ii. Open Bay Indian Reserve # 8;
 - iii. Drew Harbour Indian Reserve #9;
 - iv. Cape Mudge Indian Reserve #10
 - v. Quinsam Indian Reserve #12; and
 - b) Lands set apart by Canada in the future as lands reserved for the use and benefit of We Wai Kai, within the meaning of subsection 91(24) of the *Constitution Act, 1867* and section 2(1) of the *Indian Act*;
- (x) "Supreme Court" means the Supreme Court of British Columbia.

3.0 PURPOSE

3.1 The purpose of this Law is to allow for the construction and operation of a cannabis and hemp facility or facilities on the Lands in a safe and well-planned manner through the implementation of appropriate building standards for structures placed on the Lands as set out in this Law and for the sale of cannabis and hemp on the Lands, including online sales.

4.0 AUTHORIZATION BY COUNCIL REQUIRED

4.1 No Person shall commence the construction of a cannabis and hemp growing facility on We Wai Kai Nation Land except by way of an authorizing Resolution and in compliance with the Land Code.

4.2 No Person shall sell cannabis and hemp on We Wai Kai Land except by way of an authorizing Resolution.

4.3 No person shall process or produce cannabis or hemp products for the purpose of selling except by way of an authoring Resolution.

4.4 No person shall dispose of cannabis or hemp products except by way of an authoring Resolution.

5.0 COMPLIANCE WITH BILL C-45 AND HEALTH CANADA REQUIREMENTS

5.1 Any Person proposing to construct and operate a cannabis and hemp growing facility on We Wai Kai Nation Land, or sell cannabis and hemp on We Wai Kai Nation Land, or both, must meet or exceed the health and safety requirements of Bill C-45, Health Canada and this Law.

5.2 Any Person authorized to grow, sell or produce cannabis or hemp products must meet or exceed the health and safety requirements of Bill C-45, Health Canada and this Law.

5.3 Any Person authorized to grow cannabis or hemp will be limited to the four (4) plants that mirrors the Provincial law.

6.0 BUILDING REQUIREMENTS FOR CANNIBIS AND HEMP GROWING FACILITIES ON WE WAI KAI LAND

6.1 Upon passage of the requisite Resolution approving a Project in principle the Proponent may apply for a Permit.

7.0 APPLICATIONS AND APPROVALS

7.1 Every Proponent applying for a Permit shall pay the prescribed fees, including the costs of the Registered Professional retained by We Wai Kai, and shall submit an application to the Director of Lands in the prescribed form that meets the following applicable requirements:

- (a) it confirms that the Proponent has complied with Bill C-45 and the requirements of Health Canada;
- (b) it confirms that all construction will comply with the highest standards of the British Columbia Building Code and the MMCD;
- (c) it submits a development plan for the Project which requires the approval of the Director of Lands and the Registered Professional;
- (d) it posts any bonds required by the Director of Lands.

Review by Director of Lands and other Departments

7.2 As soon as practicable after receiving the prescribed fees and a complete application under this Part, the Director of Lands shall:

- (a) review the application along with all relevant information and documentation;
- (b) circulate the application and all relevant information and documentation to internal We Wai Kai departments for comment;
- (c) seek advice from the Registered Professional chosen by the Director of Lands.

7.3 The Lands Director of Lands shall provide recommendations to the Council about:

- (a) whether the application should be approved; and
- (b) suggested modifications, terms or conditions that should be set by the Council.

Principles and Factors in Reviewing Applications

7.4 For each application, the Director of Lands shall consider the following general principles and factors:

- (a) the economic benefits to be received by We Wai Kai and its citizens resulting from the Project;
- (b) employment and training opportunities for We Wai Kai citizens;
- (c) potential contracting opportunities for We Wai Kai and its citizens;
- (d) the promotion of health, safety, convenience and welfare of the We Wai Kai citizens and of residents and occupants and other persons who have a lawful interest in We Wai Kai Nation Lands;
- (e) well-planned and orderly development of the Lands;
- (f) compliance with any applicable We Wai Kai Nation land use plan, We Wai Kai Nation zoning and land use law, other Laws, and applicable federal laws and standards;

- (g) environmental protection and enhancement;
- (h) provision of community benefits including land and/or funds provided to We Wai Kai Nation for the development of community amenities;
- (i) protection and enhancement of cultural and heritage resources and sites;
- (j) protection or improvement of views, aesthetics and visual qualities;
- (k) ensuring adequate parking, access and emergency access;
- (l) minimalization of excessive noise, sound or odour;
- (m) potential impacts on adjacent uses, owners and occupants; and
- (n) any other factors that may affect the We Wai Kai community or We Wai Kai Nation Lands.

Director of Lands May Request Additional Information

7.5 After reviewing the submitted application the Director of Lands may request additional information, plans, reports, or other relevant material from the Proponent which the Proponent shall provide forthwith.

Timelines

7.6 The Director of Lands shall as soon as practicable after having reviewed the application, or within ten (10) business days of having received the additional information requested under section 7.5, forward the application to the Council along with:

- (a) relevant documents, maps, plans, reports and other information;
- (b) comments received from adjacent land-owners, interest-holders or citizens of We Wai Kai Nation; and
- (c) comments or recommendations from the Director of Lands and other We Wai Kai managers or departments.

Council Decisions

7.7 As soon as practicable after receiving the application and information set out in section 7.6, the Council shall decide whether or not to approve the application and, without limiting the generality of the Council's authority, the Council may:

- (a) approve the application;
- (b) reject the application; or
- (c) approve the application subject to any reasonable terms or conditions, including, but not limited to, terms or conditions recommended by the Director of Lands pursuant to subsection 7.3(b).

7.8 If the Council approves the Proponent's application the Director of Lands may issue the Permit to the Proponent and the Proponent may then commence construction on the Project.

8.0 COMPLETION OF CONSTRUCTION OF THE PROJECT

8.1 Upon completion of construction of the Project the Proponent shall apply to the Director of Lands for a Certificate of Completion in the manner prescribed by the Director of Lands.

9.0 CERTIFICATE OF COMPLETION

9.1 The Director of Lands shall not issue a Certificate of Completion until:

- (a) the Director of Lands has received final as-constructed drawings and plans in digital form and in accordance with MMCD standards;
- (b) each Registered Professional of record for the Project has approved of the Project;
- (c) water and sanitary sewer connection permits have been issued, unless waived in writing by the Director of Lands;
- (d) the Proponent and Registered Professional has certified that any conditions of the Permit have been complied with; and
- (e) the Proponent has fulfilled all other reasonable requirements of the Council.

10.0 INSPECTOR POWER

10.1 The Director of Lands and any contractor or employee acting under his or her authority may, at all reasonable times, enter upon any property for the purpose of administering and enforcing this Law. No person shall prevent or obstruct, or attempt to prevent or obstruct, the entry of any authorized official upon any property as authorized under this Law.

11.0 PENALTIES

11.1 A Person who contravenes this Law, the terms or conditions of any authorization issued under this Law, or an order made by the Supreme Court pursuant to this Law, is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 daily and accruing daily until rectified or to imprisonment for a term of not more than three months, or to both.

11.2 The Supreme Court has the authority to grant orders pursuant to this Law.

12.0 APPLICATION OF LAW

12.1 Where any federal Act or regulation or any other Laws may apply to any matter covered by this Law, compliance with this Law will not relieve the Person from also complying with the provisions of the other applicable Laws.

- 12.2 If any section of this Law is for any reason held invalid by a decision of a court of competent jurisdiction, the invalid section or subsection will be severed from and not affect the remaining provisions of this Law.
- 12.3 The headings given to the sections and paragraphs in this Law are for convenience of reference only. They do not form part of this Law and will not be used in the interpretation of this Law.
- 12.4 Unless otherwise noted, any specific statute named in this Law is a reference to an enactment of Canada and the regulations thereto, as amended, revised, consolidated or replaced from time to time, and any Law referred to herein is a reference to a law of We Wai Kai Nation, as amended, revised, consolidated or replaced from time to time.

13.0 AMENDING PROCEDURES

Substantive Amendments

- 13.1 Substantive amendments to this Law may only be made in accordance with the Land Code.

Minor Amendments

- 13.2 Despite section 13.1 of this Law, the Council may adopt minor amendments to this Law if approved in writing by a quorum of the Council.
- 13.3 For the purposes of section 13.2, minor amendments include:
- (a) amendments to correct typographical errors;
 - (b) amendments required to reference any relevant new or amended Laws;
 - (c) amendments ordered by any court of competent jurisdiction; and
 - (d) amendments which serve to clarify the Law, where there is no reasonable dispute about the intention underlying the original provision.

14.0 COMING INTO FORCE

- 14.1 This Law shall come into force and effect on the date that it is enacted pursuant to the Land Code.

THIS LAW IS HEREBY ENACTED BY THE approval of a quorum of the Council on the ____ day of _____, 201_.

Voting in favour of the law are the following members of Council:

Chief Councillor Brian Assu

Councillor Ted Assu

Councillor Daniel Billy

Councillor Jonathan Chickite

Councillor Ronnie Chickite

Councillor Kim Duncan

Councillor Cindy Inrig

Councillor Ted Lewis

Councillor Keith Wilson

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