

YAKWEAKWIOOSE FIRST NATION

CANNABIS LAW

SEPTEMBER 2018



SYUWÁ:LELH - Stó:lō Laws

“S’ólh Téméxw te ikw’elo. Xolhmet te mekw’stam it kwelat”

This is Our Land, we have to take care of everything that belongs to us

“Xaxastexw te mekw’stam”

Respect all Things

“Ewe chexw qelqelit te mekw’stam loy qw’ esli hokwex yexw lamexw ku:t”

Don’t waste, ruin or destroy everything; only take what you need

“T’xwelátse”

Do things in a good way; respect each other

WHEREAS:

- A. Yakweakwioose First Nation (“Yakweakwioose”) has an inherent right to self-government which emanates from our people, culture and land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*;
- B. Yakweakwioose had traditional laws and mechanisms to ensure the responsible and sustainable use of lands within Yakweakwioose First Nation’s traditional territory;
- C. Yakweakwioose has taken over control and management of Yakweakwioose Lands pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Yakweakwioose First Nation Land Code* effective the 1st day of May, 2014;
- D. Under Part 3 of the *Yakweakwioose First Nation Land Code*, the Yakweakwioose Council is authorized to pass various laws including laws relating to the regulation, control, authorization and prohibition of access of Yakweakwioose Lands and public and private nuisance;
- E. Council wishes to implement a law to regulate key aspects of Cannabis cultivation, propagation, use and sale on Yakweakwioose Lands to protect the health and safety of Yakweakwioose Members;

NOW THEREFORE this *Yakweakwioose First Nation Cannabis Law* is hereby enacted at a duly convened Council meeting as a Law of the Yakweakwioose First Nation.

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PART 1. INTRODUCTORY PROVISIONS

Short title

1. This Law may be cited as the Yakweakwioose *Cannabis Law*.

Purpose

2. The purpose of this Law is to regulate key aspects of Cannabis cultivation, propagation, use and sale on Yakweakwioose Lands to protect the health and safety of Yakweakwioose Members.

Definitions

3. (1) In this Law,

For the purposes of this Law, terms have the same definitions as in the Yakweakwioose Land Code, the Canada *Cannabis Act*, the BC *Cannabis Control and Licensing Act* and the BC *Cannabis Distribution Act*.

In addition, the following definitions apply:

- (a) "**Business**" means business as defined in the Yakweakwioose *Business Permit Law*;
- (b) "**Cannabis Business Permit**" means a Cannabis Business Permit as provided for in PART 7 of this Law;
- (c) "**Dwelling unit**" means any house, townhome, apartment unit, condominium unit or other similar secure structure or unit thereof that is primarily used as a residence;
- (d) "**Liability**" means the obligation to pay a judgment, settlement, claim, damages, loss, penalty, or fine, or reasonable expenses incurred with respect to a proceeding; and
- (e) "**Proceeding**" means any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.

PART 2. PROHIBITIONS AGAINST BUSINESS EXCEPT AS AUTHORIZED UNDER ALL LAWS

- 2.1 No person may carry on cannabis-related business on Yakweakwioose Lands unless that person has:
 - (a) applied to the Yakweakwioose Lands Office to carry out the business in an area where such business is permitted under this Law, the Yakweakwioose Zoning and other laws;
 - (b) applied for and received a valid and subsisting development permit, if necessary, under the Yakweakwioose *Subdivision, Development and Servicing Law*;
 - (c) applied for and received a valid and subsisting Cannabis Business Permit for

cannabis-related businesses issued by Yakweakwioose under this law or another Yakweakwioose Law; and

- (d) either:
 - (i) applied for and received valid and subsisting authorizations under the Canada *Cannabis Act*, the B.C. *Cannabis Control and Licensing Act* and the B.C. *Cannabis Distribution Act* and any other applicable federal or provincial legislation, as appropriate; or
 - (ii) received authorizations under an agreement between Yakweakwioose and B.C. under section 141 of the provincial legislation.

PART 3. PROHIBITIONS AGAINST UNAUTHORIZED USE OF CANNABIS ON YAKWEAKWIOOSE LANDS

- 3.1 No person may use, consume, smoke or vape cannabis in any area or place:
 - (a) where that person is prohibited from smoking tobacco under provincial law or any Yakweakwioose Law;
 - (b) on Yakweakwioose Community Lands;
 - (c) in public areas on Yakweakwioose Lands;
 - (d) in social housing, rental housing or other homes owned or insured by Yakweakwioose; or
 - (e) within 30m of a person younger than nineteen (19) years or age, including within any dwelling unit;except
 - (f) in areas prescribed by Council.

PART 4. REQUIREMENTS FOR PERSONAL POSSESSION, PRODUCTION AND CONSUMPTION OF CANNABIS ON YAKWEAKWIOOSE LAND

- 4.1 Subject to subsection 4.2, below, each person, group or family in a dwelling unit may cultivate up to four cannabis plants per dwelling unit for recreational use at their dwelling unit in accordance with the requirements of the applicable federal, provincial and Yakweakwioose law.
- 4.2 No person shall use any land on Yakweakwioose Lands for the growing, cultivation or propagation of cannabis, unless the person has registered the land with the Yakweakwioose Lands Office as a residential cannabis production site.
 - (a) Any application for registration for a residential production site shall be forwarded to all immediate neighbours on Yakweakwioose Reserve lands for their comments (but the Lands Office will keep the information in a confidential data-base).
- 4.3 The non-commercial growing, cultivation, propagation, storage or production of cannabis or cannabis products may only be done:
 - (a) on lands registered with the Yakweakwioose Lands Office as a residential cannabis production site; and
 - (b) as a non-primary use in a residential zone, or in the residential portion of a planned development; and
 - (i) in secure sheds or greenhouses on lands held by CP-holders or interest-holders on CP lands where the CP-holder has sufficient security and is paying for their own home insurance;
 - (ii) in natural soil without chemicals, nutrients or artificial additives;
 - (iii) in a strata, townhome or other shared development in compliance with the

bylaws or rules for the homeowners' association; or
(iv) in other dwelling units or structures prescribed by Council.

- 4.4 For greater certainty, no growing, cultivation, propagation or production of cannabis is permitted in dwelling units, rental housing, social housing or other homes owned by Yakweakwioose.
- 4.5 No uses of cannabis shall cause odors, smoke, heat, glare or light that is detectable by a reasonable person beyond the property line of the lot upon which the use is being conducted, or in an adjacent dwelling unit or public area.

PART 5. CANNABIS BUSINESS PERMITS REQUIRED FOR CANNABIS-RELATED BUSINESSES

- 5.1 A person must not carry on cannabis-related business on Yakweakwioose Lands unless, in addition to any other authorizations or permits required under this or other laws, the person holds valid Cannabis Business Permit issued under the provisions of this Law and the Yakweakwioose *Business Permit Law*.
- 5.2 For greater certainty, a Cannabis Business Permit is required under this Law even if a person already has an existing permit under the *Business Permit Law*.
- 5.3 A person applying for the issuance or renewal of a Cannabis Business Permit to carry on a cannabis-related business where cannabis is kept or present on the premises must:
 - (a) make application to the Lands Office in the form provided for that purpose;
 - (b) pay to the Yakweakwioose Lands Office the applicable permit fee as set out in Schedule 'A' or otherwise prescribed by Council;
 - (c) provide a security plan for the premises that describes adequate security measures to mitigate risk of theft or tampering at the premises;
 - (d) provide proof of a security alarm contract that includes regular monitoring at all times during the period for which the license is being sought;
 - (e) if requested by the Lands Manager, provide an odor impact assessment and odor control plan;
 - (f) provide proof of ownership or legal possession of the premises; and
 - (g) provide a current police information check for:
 - (i) the applicant;
 - (ii) if the applicant is a corporation, each shareholder, officer and director; and
 - (iii) each on-site manager.
- 5.4 Each Cannabis Business Permit shall include, at a minimum:
 - (a) the premises authorized under the permit and the exact area and site and structures in which the business may be carried out;
 - (b) the name or names of the approved business operators, including the name of any incorporated entities and the name of the owner or manager responsible for the operations of the business;
 - (c) the contact information for the owner or manager including 24-hour emergency contact information;
 - (d) the estimated number of plants projected to be cultivated per month or the estimated number of grams of product estimated to be stored and to be sold at the premises per month;
 - (e) the security measures required for the business;

- (f) the contact information for the third party provider of security alarm and fire alarm services;
- (g) the signage requirements;
- (h) the measures required to prevent sales to minors;
- (i) the insurance requirements;
- (j) the method by which sales will be tracked and reported to the Yakweawkwoose Lands Office or Taxation Office on a monthly basis;
- (k) an acknowledgement that Yakweawkwoose officials and enforcement officials have a right of entry to monitor and enforce this Law;
- (l) a release and indemnity to save Yakweawkwoose and all Yakweawkwoose Councillors, board members, committee members, staff, agents, and contractors harmless from any claims, losses, damages; and
- (m) any other information or requirements prescribed by regulation.

5.5 Council will limit the total number of Cannabis Business Permits to a maximum of one (1) sales permit and one (1) growing permit during the first two (2) years after the effective date of this law and may, in their sole discretion, at any time, limit the total number of Cannabis Business Permits available on Yakweawkwoose Lands.

5.6 In addition to the limits set out in subsection 5.5, no Person shall carry out any type of Cannabis Business on Yakweawkwoose Lands unless that Person has:

- (a) paid for a community ratification vote in advance and in accordance with the Land Code and any applicable regulations, to determine if Yakweawkwoose Members support the proposed Cannabis Business and the proposed location; and
- (b) achieved a successful result in the ratification vote of at least 50% plus one of the Members who turn out and cast valid ballots.

5.5.7 The application fees and annual permit fees are set out in the attached Fee Schedule.

PART 6. REQUIREMENTS FOR ALL CANNABIS-RELATED BUSINESSES

- 6.1 A person carrying on a cannabis-related business must not:
- (a) allow a person under the age of nineteen (19) on the premises;
 - (b) advertise or promote the use of a cannabis to a person under the age of nineteen (19);
 - (c) allow a person to smoke, vape, consume or otherwise ingest cannabis or products containing cannabis on the premises; or
 - (d) display any advertising or sign that is visible from outside of the premises except for a maximum of two signs which display no images and contain only:
 - (i) alpha-numeric characters;
 - (ii) the business name; and
 - (iii) is in a size as permitted under any Yakweawkwoose Sign Law or Bylaw or as permitted by the Lands Manager.

PART 7. REQUIREMENTS FOR BUSINESSES THAT KEEP CANNABIS ON THE PREMISES

- 7.1 In addition to the requirements of PART 7 and PART 8, a person carrying on a business where cannabis is kept or present on the premises must:
- (a) install high quality video surveillance cameras that monitor all entrances and exits and the interior of the business premises at all times;

- (b) retain video camera data for at least sixty (60) days after it is gathered;
- (c) install a security and fire alarm system that is, at all times, monitored by a licensed third party;
- (d) not allow cannabis, products containing cannabis or other valuables to remain on the premises when the business is not open to the public, unless the cannabis, products and other valuables are securely locked in a safe on the premises;
- (e) install and maintain an air filtration system that effectively minimizes odour impacts on neighbouring properties;
- (f) provide contact information to Yakweawkwoose to ensure 24/7 communication;
- (g) allow for inspections by the Yakweawkwoose Lands Department, or any designated Enforcement Official; and
- (h) meet any other requirements prescribed by regulation.

PART 8. REQUIREMENTS FOR STOREFRONT CANNABIS RETAILERS

8.1 In addition to the requirements set out in PART 7, PART 8 and PART 9, a person carrying on the business of a storefront cannabis retailer or dispensary must:

- (a) only conduct the business on Yakweawkwoose Lands currently zoned exclusively Commercial, Industrial or Mixed Use (and not Residential) and in areas designated by regulation or Council Resolution;
- (b) not conduct the business within 150 meters of the property line of any existing and operational daycare, school or future school, park, office or other community facility;
- (c) prominently display a sign on the premises indicating that no persons under nineteen (19) years of age are permitted on the premises;
- (d) ensure that two employees are present on the premises at all times when the business is open to the public, including one manager;
- (e) not use the premises to carry on business other than the cannabis-related business and accessory uses;
- (f) not use the premises for online sales, home delivery or other delivery;
- (g) ensure that all products are tested before being sold by a licensed laboratory that follows quality assurance testing protocols at least as restrictive as provincial law;
- (h) allow for Yakweawkwoose members to use their Indian Status cards as identification;
- (i) not allow for the sale of more than thirty (30) grams of dried cannabis flower or equivalent to an individual, or otherwise exceed the maximum possession amounts established by Federal or Provincial Law;
- (j) ensure that windows on any street frontage of the premises are not blocked by translucent or opaque material, artwork, posters, shelving, display cases or similar elements;
- (k) not be open for business between the hours of 8:00 p.m. and 7:00 a.m. the next day;
- (l) promptly bring to the attention of the Lands Manager or General Manager:
 - (i) the name of any new on-site manager, officer, director or shareholder of the permittee; and
 - (ii) any criminal charge brought against the permittee or an on-site manager, officer, director or shareholder of the permittee;
- (m) promptly provide to the Lands Manager a current police information check for any new on-site manager, officer, director or shareholder of the permittee; and
- (n) meet any other requirements prescribed by Regulation.

PART 9. REQUIREMENTS FOR CANNABIS PRODUCTION FACILITIES

- 9.1 In addition to the requirements set out in PART 7, PART 8 and PART 9, a person carrying on the business of a cannabis production facility must:
- (a) be located on industrial-zoned lands and in areas designated by regulation or Council Resolution;
 - (b) a lot larger than 3 acres;
 - (c) not conduct the business within 500 meters of the property line of any residence, existing and operational daycare, school or future school, park, office or other community facility;
 - (d) ensure detailed record-keeping and have records of all production and all procedures available for inspection by Yakweawkwoose upon forty-eight (48) hours written request;
 - (e) ensure adequate security features, video cameras, intrusion detection systems, etc.;
 - (f) ensure that no minors are permitted on the premises;
 - (g) ensure that no consumption of cannabis takes place on the premises;
 - (h) provide air filtration requirements to control odour and, if required the Yakweawkwoose Lands Office, provide and odour impact assessment and control plan;
 - (i) ensure an adequate supply of water for cultivation and fire suppression in accordance with a servicing agreement approved by Yakweawkwoose;
 - (j) not use any growth medium, fertilizer, nutrients, hydroponic chemicals, or other chemicals or potentially hazardous materials unless specifically approved within their permit;
 - (k) provide a waste management plan and ensure chemicals, nutrients, waste soil and other potential contaminants are disposed of in accordance with a waste management plan approved by Yakweawkwoose; and
 - (l) meet other requirements prescribed by Regulation or set out in their permit.
- 9.2 For greater clarity, Cannabis production facilities may be located indoor or outdoors, provided that the required security, odour control and all other regulatory matters are addressed.
- 9.3 Any sales to provincial wholesale distribution branch must meet the testing, packaging, and labeling requirements otherwise required under Federal and Provincial Law, and such sales must be input into the provincial traceability system;
- 9.4 Copies of any and all provincial and federal inspection reports must be provided to the Lands Manager.

PART 10. LANDS MANAGER'S AUTHORITY TO REFUSE, REVOKE OR SUSPEND A PERMIT

- 10.1 The Lands Manager or his or her delegate may suspend revoke, or refuse to issue or renew a license for a business where cannabis is kept on the premises if:
- (a) the applicant or permittee, or a shareholder, officer, director or on-site manager of the applicant or permittee;
 - (b) was convicted anywhere in Canada of an offence involving dishonesty, theft or fraud;
 - (c) was convicted, found guilty of, or liable for any contravention or offence relating to the conduct of a business similar to that to which the license relates;

- (d) was convicted, found guilty of, or liable for any contravention or offence against this Law or against any law or bylaw authorizing the issuance of a business license or regulating the conduct of a business; or
- (e) was guilty of misrepresentation, nondisclosure or concealment of any material fact, relating to the subject matter of the license or required to be stated in, the application.

10.2 A decision of the Lands Manager under subsection 8.1 may be appealed to Council by submitting a request in writing to the General Manager within 30 days of the decision.

PART 11. PENALTIES AND STOP-WORK ORDERS

11.1 Any person who violates any provision of this Law is guilty of an offence and liable upon summary conviction to a fine of up to ten thousand (\$10,000) dollars or to a term of imprisonment not exceeding thirty (30) days, or both.

11.2 In addition to the fine set out in subsection 13.1, any person who carries on a cannabis-related business without a Cannabis Business Permit, is liable to a fine of double the annual Cannabis Business Permit fee set out in Schedule 'A'.

11.3 In addition to any other applicable fine, penalty or remedy, Council, the Lands Manager, or a designated official or Enforcement Officer may:

- (a) issue a Stop Work Order to order any Person, who has not received full and proper authorization under this Law, to cease carrying out any activity, use or business listed under subsection 7(1) or 7(2) or any related activity or use; or
- (b) order any structures, works or installations carried out in violation of this Law to be removed within 30 days, failing which Council may order them to be removed at the expense of the CP-holder or the Person who constructed or installed the structures, works or installations without proper authorization.

11.4 A Stop Work Order imposed under subsection 9(4) may be registered in court and enforced as a court order and continues in force until the condition that led to it is remedied or until the activity that is the subject of the Stop Work Order receives a permit or authorization under this Law.

PART 12. OFFENCES

12.1 A person commits an offence and is subject to the penalties imposed by this Law, the Enforcement and Ticketing Law if that person

- (a) contravenes a provision of this Law,
- (b) consents to, allows, or permits an act or thing to be done contrary to this Law, or
- (c) neglects or refrains from doing anything required by a provision of this Law.

12.2 Each day that a contravention of a provision of this Law continues is a separate offence.

PART 13. LEGAL

13.1 Each section of this Law shall be severable. If any provision of this Law is held to be illegal or invalid by a Court of competent jurisdiction, the provision may be severed and the illegality or invalidity shall not affect the validity of the remainder of the Law.

- 13.2 No action lies and no proceeding may be brought against Yakweakwioose, Yakweakwioose Council members, board members, managers, employees, and contractors because of any role carried out or decision or non-decision made under this Law against all claims, losses, damages, lawsuits or personal liability of any kind:
- (a) for any act in relation to this Law;
 - (b) for anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty under this Law;
 - (c) for the exercise of the person's authority under this Law, including providing advice, making recommendations, or the failure to provide advice or make recommendations under this Law; or
 - (d) for any alleged neglect or default in the performance or intended performance of the person's duty or the exercise of the person's authority under this Law.
- 13.3 Each applicant, permittee, user, grower, and seller releases and indemnifies all Yakweakwioose Council members, board members, managers, employees, and contractors made party to any proceeding because of any role carried out or decision or non-decision made under this Law against all claims, losses, damages, lawsuits or personal liability of any kind if:
- (a) the individual acted in his or her official capacity;
 - (b) the individual acted in good faith;
 - (c) the individual believed his or her conduct was in the best interests of Yakweakwioose; and
 - (d) the individual acted in accordance with the laws, regulations, and policies of Yakweakwioose.
- 13.4 This Law is without prejudice and will not abrogate, derogate from, diminish or suspend any of Yakweakwioose's aboriginal rights or title.
- 13.5 Where any federal Act or regulation or provincial Act or regulation or any other Yakweakwioose Law or Law 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 Act, regulation, bylaw or law.
- 13.6 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.

PART 14. REGULATIONS

- 14.1 Council may make regulations it considers necessary or advisable for purposes of implementing or administering this Law.
- 14.2 Without prejudice to the generality of subsection 17.1, Council may make regulations:
- (a) for any purpose in relation to which regulations are provided for in this Law,
 - (b) prescribing any matter or thing referred to in this Law as prescribed or to be prescribed,
 - (c) defining words and expressions that are used but not defined in this Law,
 - (d) setting or clarifying permit requirements,
 - (e) setting or clarifying requirements for applications,

- (f) approving forms, fees or processes,
- (g) prescribing areas where specified activities can or cannot take place under this Law;
- (h) setting or clarifying penalties, and
- (i) generally for the purpose of giving effect to this Law.

PART 15. COMING INTO FORCE

Date Law Comes into Force

15.1 This Law shall come into force and effect on the date it is passed by Council Resolution.

BE IT KNOWN that this Law entitled the *Yakweakwioose Cannabis Law* is hereby enacted by a quorum of Council at a duly convened Council of the Yakweakwioose First Nation held on _____, 2019.

(A quorum is 2)

.....
(Chief Terry Horne)

.....
(Councillor – Nicole LaRock)

.....
(Councillor – Jason Malloway)



**YAKWEAKWIOOSE FIRST NATION
CANNABIS LAW**



**SCHEDULE 'A'
Fee Schedule (March 26, 2019)**

TYPE OF APPLICATION OR PERMIT	APPLICATION FEE	+ ANNUAL PERMIT FEE
1. Registration of dwelling unit as residential cannabis production site	\$0	\$0
2. Cannabis Business Permit for business with cannabis kept on the premises, including dispensaries	\$5000	\$25,000
3. Cannabis Business Permit for sale of medicinal cannabis, cannabis oil or related products in accordance with federal laws and regulations	\$ 5000	\$10,000
4. Cannabis Business Permit for commercial cannabis production	\$5000	\$10,000