

**WILLIAMS LAKE INDIAN BAND
CANNABIS LAW 2019-01**

WHEREAS:

- A. WLIB 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 WLIB 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, WLIB has the jurisdiction to address issues such as the right to cultivate or sell cannabis on our Lands, and this inherent right has not been extinguished;
- C. WLIB also chose to assume control of its WLIB Lands pursuant to the *First Nations Land Management Act, S.C. 1999, c. 24* by entering into the *Individual Agreement on First Nation First Nation Land Management between WLIB and Her Majesty the Queen in Right of Canada* and by adopting the Land Code;
- D. Pursuant to the Land Code and the *First Nations Land Management Act*, the Council can make laws with respect to the use of WLIB Land; and
- E. It is essential to the health and survival of WLIB that we maintain our community through the passage of laws.

NOW THEREFORE WLIB hereby enacts the following Law:

1.0 TITLE

- 1.1 This Law may be cited as the “WLIB Cannabis Law 2019-01”.

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) “British Columbia Building Code” means the current *British Columbia Building Code* and any amendments thereto;
 - (b) “Cannabis Act” means the federal act which legalized recreational cannabis and which received Royal Assent on June 21, 2018;
 - (c) “Cannabis Facility” means a facility used for the production or sale of cannabis;
 - (d) “Certificate of Completion” means the certificate issued by the Manager of Lands to the Proponent certifying that the construction of the Project has been completed to the satisfaction of WLIB;

- (e) "Health Canada" means the Department of Health (Canada);
- (f) "Land Code" means the Williams Lake Indian Band Land Code;
- (g) "Lands" means those portions of WLIB Lands to be used for the construction and operation of a cannabis growing or sales facility;
- (h) "Law" means this WLIB Cannabis Law;
- (i) "MMCD" means Master Municipal Construction Documents as prepared by the Master Municipal Construction Documents Association;
- (j) "Permit" means the written authority granted by the Manager of Lands pursuant to this Law for the construction and operation of a cannabis growing facility;
- (k) "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;
- (l) "Project" means the cannabis growing facility to be constructed and operated on the Lands;
- (m) "Proponent" means a Person proposing to construct and operate a cannabis growing facility on WLIB Land or sell cannabis on WLIB Land, or both;
- (n) "Registered Professional" has the same definition as in the *British Columbia Building Code*;
- (o) "Resolution" means a resolution of Council passed at a duly convened meeting;
- (p) "Supreme Court" means the Supreme Court of British Columbia;
- (q) "Williams Lake Indian Band" or "WLIB" means the body of people known as the Williams Lake Band Band of Indians under the Indian Act and for whose use and benefit in common WLIB Lands have been set apart by Her Majesty the Queen in right of Canada; and

- (u) “WLIB Land” or “WLIB Lands” means:
 - (a) the following WLIB Indian Reserves:
 - i) Williams Lake Indian Reserve No. 1;
 - ii) Asahal Indian Reserve No. 2;
 - iii) Five Mile Indian Reserve No. 3;
 - iv) James Louie Indian Reserve No. 3A;
 - v) Tillion Indian Reserve No. 4;
 - vi) Chimney Creek Indian Reserve No. 5;
 - vii) San Jose Indian Reserve No. 6; and
 - viii) Carpenter Mountain Indian Reserve No. 15
 - As further described in the Individual Agreement; and
 - (b) lands set apart by Canada in the future as lands reserved for the use and benefit of WLIB, within the meaning of subsection 91(24) of the *Constitution Act, 1867* and section 2(1) of the *Indian Act*; and
 - (v) “WLIB Law Enforcement Officer” means the person appointed by Council to be primarily responsible for the enforcement of WLIB Laws.

3.0 PURPOSE

- 3.1 The purpose of this Law is to regulate the sale and production of cannabis on WLIB Lands and without limiting the generality of the foregoing, to:
 - (a) to ensure that any facilities on WLIB Lands used or intended for the sale of production of cannabis are constructed and operated in a safe a safe and well-planned manner;
 - (b) to ensure that any sale or production of cannabis on WLIB Lands does not negatively affect the safety and well-being of the WLIB community; and
 - (c) to set out the processes by which WLIB may authorize the sale and production of cannabis on WLIB Lands.

4.0 AUTHORIZATION BY COUNCIL REQUIRED

- 4.1 No Person shall commence the construction of a cannabis growing facility on WLIB Land without first obtaining an authorizing Resolution.
- 4.2 No Person shall sell cannabis, or commence the construction or operation of a cannabis sales facility on WLIB Land, without first obtaining an authorizing Resolution.

5.0 COMPLIANCE WITH THE CANNABIS ACT AND HEALTH CANADA REQUIREMENTS

- 5.1 Any Person proposing to construct and operate a cannabis growing facility on WLIB Land, or sell cannabis on WLIB Land, or both, must obtain all licences and permits required by the Cannabis Act, Health Canada and this Law.

6.0 BUILDING REQUIREMENTS FOR CANNABIS GROWING FACILITIES ON WLIB 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 WLIB, and submit an application to the Manager of Lands in the prescribed form that meets the following requirements:

- (a) it confirms that the Proponent has complied with the Cannabis Act 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 any applicable WLIB Laws or policies;
- (c) it includes a development plan for the Project; and
- (d) it posts any bonds required by the Manager of Lands.

Review by Manager of Lands and other Departments

7.2 As soon as practicable after receiving the prescribed fees and a complete application under this Part, the Manager 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 WLIB departments for comment; and
- (c) seek advice from the Registered Professional chosen by the Manager of Lands.

7.3 The Manager 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 Manager of Lands shall consider the following general principles and factors:

- (a) the economic benefits to be received by WLIB and its members resulting from the Project;
- (b) employment and training opportunities for WLIB members;

- (c) potential contracting opportunities for WLIB and its members;
- (d) the promotion of health, safety, convenience and welfare of the WLIB members and of residents and occupants and other persons who have a lawful interest in WLIB Lands;
- (e) well-planned and orderly development of the Lands;
- (f) compliance with any applicable WLIB land use plan, WLIB zoning and land use law, other WLIB Laws, and applicable federal laws and standards;
- (g) environmental protection and enhancement;
- (h) provision of community benefits including land and/or funds provided to WLIB 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 WLIB community or the WLIB Lands.

Manager of Lands May Request Additional Information

7.5 After reviewing the submitted application the Manager 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 Manager 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 members of WLIB; and
- (c) comments or recommendations from the Manager of Lands and other WLIB 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 Manager of Lands pursuant to subsection 7.3(b).

7.8 If the Council approves the Proponent's application the Manager 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 Manager of Lands for a Certificate of Completion in the manner prescribed by the Manager of Lands.

9.0 CERTIFICATE OF COMPLETION

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

- (a) the Manager of Lands has received final as-constructed drawings and plans in digital form and in accordance with MMCD standards or as otherwise required by the Manager of Lands;
- (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 Manager 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 Manager 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 FEES AND FORMS

- 11.1 Council may, by Resolution passed at a duly convened meeting, establish, correct, revise or update the terms of any applicable fee or fine schedules, forms, protocols or other related documentation which complement and support this Law, and will post notice of same in a public area of the WLIB administration building and make a copy of same available for viewing free of charge at the administrative offices of WLIB and available for distribution at a nominal charge.

12.0 OFFENCES

- 12.1 No person shall obstruct, interfere with or hinder Council, the WLIB Law Enforcement Officer, the Manager of Lands or any authorized employee, officer or agent in the carrying out of their duties and responsibilities under this Law.
- 12.2 The Supreme Court has the authority to grant orders pursuant to this Law.
- 12.3 Every person who violates any provision of this Law, or who permits an act or thing to be done in contravention of this Law, or who fails to do any act or thing required by this Law shall be deemed to have committed an offence against this Law and:
- a) shall be liable to a fine of not less than \$50.00 and not greater than \$10,000;
 - b) shall be liable, upon summary conviction, to the penalties provided by the *Offence Act*; or
 - c) any combination of the above.
- 12.4 Each day a violation of this Law continues will be deemed to be a separate offence for which a fine or imprisonment may be imposed.

13.0 IMMUNITY

- 13.1 No action for damages lies or may be instituted against present or past Council, the WLIB Law Enforcement Officer, or members, employees, servants or agents of either WLIB or Council:
- a) 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 or the exercise of the person's authority; or
 - b) 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.
- 13.2 Section 13.1 does not provide a defence if:
- a) Council, the WLIB Law Enforcement Officer, or members, employees, servants or agents of either WLIB or Council have, in relation to the conduct that is the subject

matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or

b) the cause of action is libel or slander.

13.3 WLIB, present or past Council, or members, employees, servants or agents of any of WLIB or Council are not liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this Law or any other WLIB Law, or from the neglect or failure, for any reason or in any manner, to enforce this Law or any other WLIB Law.

13.4 All actions against WLIB for the unlawful doing of anything that:

a) is purported to have been done by WLIB under the powers conferred by this Law or any WLIB Law, and

b) might have been lawfully done by WLIB if acting in the manner established by law, must be commenced within six (6) months after the cause of action first arose, or within a further period designated by Council in a particular case, but not afterwards.

13.5 WLIB is in no case liable for damages unless notice in writing, setting out the time, place and manner in which the damage has been sustained, is delivered to WLIB, within two (2) months from the date on which the damage was sustained. In case of the death of a person injured, the failure to give notice required by this section is not a bar to the maintenance of the action. Failure to give the notice or its insufficiency is not a bar to the maintenance of an action if the court before whom it is tried, or, in case of appeal, the Court of Appeal, believes:

a) there was reasonable excuse, and

b) WLIB has not been prejudiced in its defence by the failure or insufficiency.

14.0 APPLICATION OF LAW

14.1 Where any federal Act or regulation or any other WLIB 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 WLIB Laws.

14.2 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.

14.3 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.

14.4 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

WLIB, as amended, revised, consolidated or replaced from time to time.

15.0 AMENDING PROCEDURES

Substantive Amendments

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

Minor Amendments

15.2 Despite section 15.1 of this Law, the Council may adopt minor amendments to this Law if approved in writing by a quorum of the Council.

15.3 For the purposes of section 15.2, minor amendments include:

- a) amendments to correct typographical errors;
- b) amendments required to reference any relevant new or amended WLIB 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.

16.0 COMING INTO FORCE

16.1 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 _____, 2019.

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

Chief Willie Sellars

Councillor Lennard Supernault

Councillor Rick Gilbert

Councillor Shawna Philbrick

Councillor Joanne Moiese

Councillor Andrew Meshue